multifamily program compliance manual



chfa asset management

March 2021

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table of contents

Preface 3

How To Use This Manual 4

Chapter 1: Multifamily Programs Overview 5

Chapter 2: Owner Responsibilities 14

Chapter 3: Required Submissions 22

Chapter 4: Program Compliance 31

Chapter 5: Determining Household Members and Income 50

Chapter 6: Household Assets and Asset Income 72

Chapter 7: Household Certifications 83

Chapter 8: Students 103

Chapter 9: Assisted Living Developments 110

Chapter 10: Program Compliance Reviews 116

Chapter 11: Risk Sharing Program 127

Chapter 12: Restricted Accounts And Surplus Cash Distributions 136

Chapter 13: Tax-exempt Bonds 144

Chapter 14: Post Year 15 Lihtc Compliance 151

Chapter 15: Developments With Multilayered Programs 159

Chapter 16: Post Loan Payoff 164

Chapter 17: Noncompliance 167

Chapter 18: Ownership and Management Agent Changes 174

Glossary 179

Photos above left to right:

Desert Springs Apartments, CHFA Rental Housing Customer, Cortez
Elisabetta Apartments, CHFA Rental Housing Customer, Denver
Upland Townhomes, CHFA Rental Housing Customer, Pueblo
Village on Fields, CHFA Rental Housing Customer, Fort Collins

preface

The CHFA Multifamily Program Compliance Manual ("manual") is a reference guide for compliance with the following multifamily affordable housing programs ("the Programs") that Colorado Housing and Finance Authority offers and administers.

Program	Governing Document	Laws and Regulations
Federal Low Income Housing Tax Credit (LIHTC)	Land Use Restriction Agreement	26 U.S.C. § 42; 26 C.F.R. § 1.42
Colorado state Affordable Housing Tax Credit (state AHTC)	Land Use Restriction Agreement	C.R.S. 39-22-2101 et seq.
Tax-exempt Bonds (Private Activity Bonds)	Regulatory Agreement	26 U.S.C. § 142
CHFA Loans	Regulatory Agreement	n/a
Risk Sharing Program	Regulatory Agreement	12 U.S.C. § 1707; 24 C.F.R. § 266
Capital Magnet Fund	Regulatory Agreement	12 C.F.R. § 1807.401
Colorado Healthy Housing Fund	Regulatory Agreement	n/a

The manual serves as a resource to property owners/developers, borrowers, tax credit investors, management companies, and onsite management personnel of multifamily affordable housing projects in meeting the compliance obligations under their agreements. It is designed to help answer questions regarding the procedures, rules, and regulations that govern developments following allocation of tax credits, issuance of tax-exempt bonds, and/or funding of a multifamily mortgage.

While this manual supplements existing laws and rules, it is not a comprehensive guide to the Programs and all of their requirements. It should be used in conjunction with the Land Use Restriction Agreement and/or Regulatory Agreement and with Sections 42 and 142 of the Internal Revenue Code, if applicable. The requirements set forth in the manual are subject to change from time to time.

Compliance monitoring by Colorado Housing and Finance Authority (CHFA) is administered by the Asset Management Division. Questions or concerns regarding CHFA's administration of the Programs should be directed to the Manager of Multifamily Program Compliance at 303.297.2432 or toll free at 800.877.2432.



Owners and managers are advised to consider retaining the services of an attorney and/or accountant who specializes in the LIHTC and Private Activity Bond programs, etc. to counsel them on any complex problems that may arise.



Should a conflict occur between the terms of the Land Use Restriction Agreement and/or Regulatory Agreement and the CHFA Multifamily Program Compliance Manual, the terms of the Land Use Restriction Agreement and/or Regulatory Agreement shall supersede.

how to use this manual

Program Icons

The CHFA Multifamily Program Compliance Manual includes guidance for developments with housing tax credits and/or multifamily loan financing through CHFA. Many of the rules are the same for the housing tax credit and multifamily loan financing programs. However, there are differences between the Programs and between different types of properties within the Programs. To assist the reader in determining whether specific guidance applies to a particular development, the manual uses the program icons listed below.

Program	Icon(s)
All Programs	ALL PROG
Federal Low Income Housing Tax Credit: Years 1-15	TC Y 1-15
Federal Low Income Housing Tax Credit: Post Year 15	PY 15+
Colorado Affordable Housing Tax Credit	CO AHTC
CHFA Multifamily Loan	CHFA LOAN
Colorado Healthy Housing Fund	HHF CO
Capital Magnet Fund	CM FUND
Risk Sharing Program	RS LOAN

Tax-exempt Bonds (Private Activity Bonds)

Both housing tax credits and multifamily loan financing may be paired with tax-exempt bond/Private Activity Bond financing. In general, compliance for tax-exempt bonds follows the federal LIHTC program. Instances where tax-exempt bond rules are different from or in addition to LIHTC rules are called out as applicable within each chapter.

At-a-Glance Tables

Each chapter of the manual begins with an At-a-Glance table listing its sections and the following symbols to indicate whether a section applies to a property with the listed program types.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section Headers

Each section header also includes icons indicating the program types to which that section applies.

Section 1 Example

TC Y 1-15 PY 15+ CO AHTC CHFA LOAN RS LOAN



To identify your property's program type(s), use CHFA's Insight application or contact your Program Compliance Officer.

chapter 1

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Multifamily Programs Overview

This chapter summarizes the multifamily affordable housing programs that Colorado Housing and Finance Authority (CHFA) offers and administers. Please look at the chart below to see the programs to which each section in this chapter is applicable.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
1.1 Overview	✓							
1.2 Federal LIHTC Program		✓	✓	✗	✗	✗	✗	✗
1.3 Colorado Affordable Housing Tax Credit Program		✗	✗	✓	✗	✗	✗	✗
1.4 TCAP and TCEP		⇆	⇆	✗	✗	✗	✗	✗
1.5 Tax-exempt Bond Financing		⇆	⇆	✗	⇆	✗	✗	⇆
1.6 CHFA Loans		✗	✗	✗	✓	✗	✗	✓
1.7 Capital Magnet Fund		✗	✗	✗	✗	✗	✓	✗
1.8 Colorado Healthy Housing Fund		✗	✗	✗	✗	✓	✗	✗
1.9 Denver Revolving Affordable Housing Loan Fund		⇆	✗	✗	✗	✗	✗	✗

Section 1.1 Overview

ALL PROG

Colorado Housing and Finance Authority (CHFA) offers and administers programs to help develop multifamily affordable housing in Colorado. These include the following, which are described in more detail below.

- Housing credits
    - Federal Low Income Housing Tax Credit (LIHTC) program
    - Colorado State Affordable Housing Tax Credit (state AHTC) program
    - Tax Credit Assistance Program (TCAP) and the Tax Credit Exchange Program (TCEP)
- Tax-exempt bond financing
- Loans
    - CHFA Multifamily Loan programs
        - SIMPLE, SMART, CAPABLE, PAIRABLE, HOF
        - Risk Share – 542(c) Credit-enhanced Loans
    - Capital Magnet Fund
    - Colorado Healthy Housing Fund
    - Denver Revolving Affordable Housing Loan Fund

Section 1.2 Federal LIHTC Program

TC Y 1-15 PY 15+

Congress enacted the Low Income Housing Tax Credit program (the "LIHTC Program") through the Tax Reform Act of 1986. The United States Department of Treasury is responsible for the administration of the LIHTC Program nationwide. The LIHTC Program is governed by Section 42 of the Internal Revenue Code (the "Code") as amended and by related regulations. Under the Code, each state is required to designate a "housing credit agency" to allocate the credits. The State of Colorado has designated CHFA to allocate federal tax credits and monitor compliance.

The Low Income Housing Tax Credit is a dollar-for-dollar reduction in tax liability to the owner for the construction or acquisition/rehabilitation of a qualified low-income rental housing development. The amount of credit allocated is based directly on the number and affordability of qualified low-income units that meet federal rent and income-targeting requirements.

The Omnibus Budget Reconciliation Act of 1990 amended the Code to require that state agencies allocating federal tax credits provide a procedure for monitoring developments for noncompliance with the requirements of the LIHTC Program under Section 42(m)(1)(B) of the Code and for notifying the Internal Revenue Service of such noncompliance. To offset the costs of compliance monitoring, CHFA charges a reasonable monitoring fee as allowed by the Code.



26 U.S.C. § 42
26 C.F.R. § 1.42

Land Use Restriction Agreement (LURA)

To receive LIHTC, a project must have an extended low-income housing commitment (i.e., an agreement between the taxpayer and the housing credit agency) in effect, which is recorded in the real property records of the county where the project is located. In Colorado, this commitment is the Land Use Restriction Agreement (LURA) between the project owner and CHFA. The LURA requires the development to comply with LIHTC Program requirements for the entire Extended Use Period (as defined below).



26 U.S.C. § 42(h)(6)



Each LIHTC development's LURA is available to review in CHFA's Insight System.

LIHTC Definitions: Extended Use, Credit, Compliance, and Post Year 15 Periods

The Code defines the Credit Period, Compliance Period, and Extended Use Period related to the LIHTC Program. Although not defined by the Code, the affordable housing industry also uses the term "Post Year 15 Period" in relation to the LIHTC Program.

LIHTC developments are subject to Section 42 of the Code throughout the Extended Use Period. CHFA monitors developments with LIHTC for compliance with Section 42 of the Code and the LURA throughout the Extended Use Period.

Type	Definition	Length	Citation
Credit Period	▪ With respect to any building, the period of 10 taxable years beginning with – o the taxable year in which the building is placed in service, or o 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 first year of such period.	10 yrs	26 U.S.C. § 42(f)(1)
Compliance Period	▪ With respect to any building, the period of 15 taxable years beginning with the first taxable year of the Credit Period with respect thereto.	15 yrs	26 U.S.C. § 42(i)(1)

Type	Definition	Length	Citation
Extended Use Period	▪ Beginning on the first day in the Compliance Period on which such building is part of a qualified low-income housing project, and ▪ Ending on the later of – o the date specified by such agency in such agreement, or o the date which is 15 years after the close of the Compliance Period.	Minimum of 30 yrs	26 U.S.C. § 42(h)(6)(D)
Post Year 15 Period	• Beginning on the first day of the year beginning after the close of the Compliance Period, and • Ending when the Extended Use Period terminates.	Minimum of 15 yrs	n/a



The first year of the Credit Period is determined by the owner and may be found on line 10a of the first IRS Form 8609 completed and filed by the owner with the IRS.

Section 1.3 Colorado Affordable Housing Tax Credit Program

Colorado's Affordable Housing Tax Credit (state AHTC) program is modeled after the federal LIHTC program. The state AHTC program was originally established in 2001 and later renewed in 2014, 2016, and 2018. In 2019, the program was expanded, authorizing CHFA to allocate $10 million in state AHTC annually from 2020 through 2024.

The Colorado Department of Revenue is responsible for the administration of the state AHTC program. The State of Colorado has designated CHFA to allocate the state AHTC and monitor compliance. CHFA monitors multifamily projects that receive state AHTC for compliance according to the rules and policies of the federal LIHTC program. Under the authorizing legislation, CHFA and the Colorado Department of Revenue may promulgate additional rules for the state AHTC program.



C.R.S. 39-22-2101 through 2108

Colorado State AHTC Definitions: Compliance and Credit Periods

The Colorado Revised Statutes define the Credit and Compliance Periods related to the state AHTC program.

Type	Definition	Length	Citation
Credit Period	The period of six taxable years beginning with the taxable year in which a qualified development is placed in service.	6 yrs	C.R.S. 39-22-2101
Compliance Period	▪ The period of 15 years beginning with the first taxable year of the Credit Period.	15 yrs	C.R.S. 39-22-2101

Section 1.4 TCAP and TCEP

TC Y 1-15 PY 15+

In 2009, through the American Recovery and Reinvestment Act (ARRA), Congress created two programs, the Tax Credit Assistance Program (TCAP) and the Tax Credit Exchange Program (TCEP), to assist developers holding allocations of federal LIHTC. These programs were created to sustain affordable housing developments by providing gap financing to those projects that were stalled due to the downturn of the LIHTC equity market. Through TCAP and TCEP, CHFA deployed $58 million in gap financing to enable the completion of 23 affordable rental housing projects across the state, with over 1,500 units.

CHFA monitors multifamily projects that received TCAP and TCEP financing for compliance according to the rules and policies of the LIHTC Program. However, owners of projects who received TCAP or TCEP funding are also subject to additional compliance and reporting requirements established in the TCAP written agreement or TCEP sub-award agreement.



American Recovery and Reinvestment Act of 2009
Pub. L. 111-5

Section 1.5 Tax-exempt Bond Financing

TC Y 1-15 PY 15+ CHFA LOAN

CHFA as an authorized issuer of tax-exempt bonds may issue Private Activity Bonds (qualified residential rental bonds) or other forms of qualified tax-exempt bonds to support affordable rental housing developments. CHFA issues tax-exempt bonds either on a conduit basis (as a Conduit Issuer) or as a Direct Issuer and Lender. Private Activity Bonds issued for qualified residential rental activities may be used to fund a CHFA Loan and/or may be paired with 4 percent federal LIHTC and state AHTC.

Due to the tax-exempt status of their financing, tax-exempt bond-financed developments are subject to certain additional Internal Revenue Service requirements, beyond LIHTC and CHFA Loan program requirements, throughout the Qualified Project Period. See Chapter 13, Tax-exempt Bonds, for detailed information.



26 U.S.C. § 142

CHFA Bond Regulatory Agreement

Bond requirements are outlined in the CHFA Bond Regulatory Agreement executed between the borrower and CHFA at bond closing. Such Regulatory Agreement requires the development to comply with the program requirements for the entire Qualified Project Period.



Each CHFA Bond Regulatory Agreement is available for review in CHFA's Insight System.

Tax-exempt Bond Definition: Qualified Project Period

The Internal Revenue Code defines the Qualified Project Period of a tax-exempt bond-financed affordable rental development as follows.

Type	Definition	Length	Citation
Qualified Project Period	▪ Beginning on the first day on which 10 percent of the residential units in the project are occupied and ▪ Ending on the latest of – o the date which is 15 years after the date on which 50 percent of the residential units in the project are occupied, o the first day on which no tax-exempt Private Activity Bond issued with respect to the project is outstanding, or o the date on which any assistance provided with respect to the project under Section 8 of the United States Housing Act of 1937 terminates.	Minimum of 15 yrs	26 U.S.C. § 142(d)(2)(A)

Section 1.6 CHFA Loans

CHFA LOAN RS

CHFA's Community Development Division provides financing for the purchase, rehabilitation, new construction, and refinance of rental housing targeted to low- and moderate-income households across Colorado. CHFA's multifamily loans include insured, uninsured, tax-exempt, and taxable financing and may or may not be paired with LIHTC and state AHTC. Loans are funded by CHFA's General Fund or with taxable or tax-exempt bonds. Loan types in CHFA's active multifamily loan portfolio of over 180 developments include: SIMPLE, SMART, CAPABLE, PAIRABLE, and HOF. The SMART, CAPABLE, and PAIRABLE programs are credit-enhanced through Risk Share 542(c) mortgage insurance.

With some exceptions as noted in this manual, CHFA monitors multifamily projects that receive CHFA Loan financing for compliance according to the rules and policies of the LIHTC Program and any additional loan-type program requirements. As noted below, CHFA's agreements with HUD require Asset Management staff to conduct additional monitoring actions in relation to Risk Share-enhanced loans beyond those associated with CHFA's standard program requirements. Please refer to the property's Regulatory Agreement for additional information regarding monitoring and reporting requirements.

CHFA Loan Regulatory Agreement and Loan Agreement

The borrower's obligations related to CHFA multifamily loan financing are documented in the CHFA Loan Regulatory Agreement (and/or sometimes the "Loan Agreement") executed between the borrower and CHFA at loan closing. The agreement(s) requires the development to comply with loan program requirements for the loan term or Qualified Project Period, as defined in the agreement. In certain instances, the CHFA Loan Regulatory Agreement and the CHFA Bond Regulatory Agreement may be combined into one document.



Each CHFA Loan Regulatory Agreement is available to review in CHFA's Insight System.

CHFA Loan Definitions: Qualified Project Period and Loan Term

Depending on the loan type and financing source, regulatory agreements for CHFA multifamily loans remain in effect for the loan term or the Qualified Project Period ("QPP"), as defined in each agreement.



In some cases where the loan term or QPP are not yet complete, a Regulatory Agreement may remain in effect after a loan is paid in full. CHFA will continue to monitor compliance "post-loan payoff" in these cases until the loan term or QPP expires, or until CHFA formally terminates the Regulatory Agreement. For more information, see Chapter 16 – Post Loan Payoff.

Type	Definition	Length	Citation
Qualified Project Period (applicable only to CHFA loans financed with tax-exempt bonds)	▪ Beginning on the first day on which 10 percent of the residential units in the project are occupied and ▪ Ending on the latest of – o the date which is 15 years after the date on which 50 percent of the residential units in the project are occupied, o the first day on which no tax-exempt Private Activity Bond issued with respect to the project is outstanding, or o the date on which any assistance provided with respect to the project under Section 8 of the United States Housing Act of 1937 terminates.	Minimum of 15 yrs	26 U.S.C. § 142(d)(2)(A)
CHFA Loan Term (example)	▪ In effect from the date of the CHFA Regulatory Agreement for the longer of: o the period during which any part of the loan remains unpaid, or o 15 years (may be longer)	Minimum of 15 yrs	Defined in the "Term of Agreement" or "Term of Restrictions" section of each project's CHFA Regulatory Agreement

Risk Share 542(c) Credit Enhancement

The federal Risk Sharing Program was created under Section 542 of the Housing and Community Development (HCD) Act of 1992 to provide new forms of credit enhancement for multifamily housing loans. In April 1994, CHFA entered into a Risk Sharing Agreement with HUD to originate and service loans under the Section 542(c) Risk Sharing Program, referred to as Section 542(c) or Risk Share-enhanced Loans. In August 2015, CHFA, HUD, and the Federal Financing Bank (FFB) entered into a FFB Risk Sharing Agreement by which FFB acquires a participation interest in the mortgage loan. The Risk Share-enhanced loans made under both agreements are insured through the Federal Housing Administration, and CHFA agrees to share 50 percent of the risk in the event of loan default. Since CHFA is sharing the risk of loss with HUD, the underwriting and servicing of the loans are delegated to CHFA, allowing for a faster HUD approval time for mortgage insurance.

CHFA is responsible for executing and enforcing the Regulatory Agreement with the mortgagor. It is the responsibility of CHFA Asset Management staff to monitor all Risk Share-enhanced loans in accordance with the requirements of the Risk Sharing Agreement between CHFA and HUD, and the FFB Risk Sharing Agreement between CHFA, HUD, and FFB (collectively referred to as the "Agreements"). It is critical that CHFA's Asset Management Division ensure that owners comply with the terms set forth in the CHFA Regulatory Agreement and with other HUD requirements. This manual along with the CHFA Regulatory Agreement will assist borrowers in meeting compliance obligations.

See Chapter 11, Risk Sharing Program, for specific compliance information.

12 U.S.C. § 1707
24 C.F.R. § 266

Section 1.7 Capital Magnet Fund

The Capital Magnet Fund (CMF) provides gap financing for construction and preservation of affordable rental properties. CHFA has received four allocations of these federal funds from the Community Development Financial Institution Fund (CDFI Fund), a division of US Treasury. CHFA uses the Capital Magnet Fund in conjunction with 4 and 9 percent LIHTC programs to support the development and preservation of affordable rental properties in Colorado.

CHFA generally monitors multifamily projects that receive CMF financing for compliance according to the rules and policies of the LIHTC Program. Please refer to Section 7.15, Capital Magnet Fund Certifications, and to the property's Regulatory Agreement for additional information regarding monitoring and reporting requirements.

12 C.F.R. § 1807.401

Section 1.8 Colorado Healthy Housing Fund

The Colorado Healthy Housing Fund (CO HHF) was capitalized by The Colorado Health Foundation and is administered by CHFA. The program is designed to provide flexible financing to developments across Colorado that incorporate healthy housing design features to encourage healthy living for its residents. The proceeds can be paired with or without tax

credits and target households who earn no more than 60% of Area Median Income. CHFA serves as the lender, servicer, and compliance-monitoring agency.

CHFA monitors multifamily projects that receive CO HHF financing for compliance according to the rules and policies of the LIHTC Program. Please refer to the property's Regulatory Agreement for additional information regarding monitoring and reporting requirements.

Section 1.9 Denver Revolving Affordable Housing Loan Fund

The Denver Revolving Affordable Housing Loan Fund (Denver RAHLF) is intended to stimulate the development and preservation of affordable rental properties located in the City and County of Denver. The loan proceeds may be paired with or without the tax credit program and target households earning no more than 80% of Area Median Income. CHFA has been designated as fund administrator and is responsible for monitoring the developments for compliance.

CHFA monitors multifamily projects that receive Denver RAHLF financing for compliance according to the rules and policies of the LIHTC Program. Please refer to the property's Regulatory Agreement for additional information regarding monitoring and reporting requirements.

chapter 2

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Owner Responsibilities

The following chapter outlines the owner's responsibilities to maintain each project's eligibility for tax credits or CHFA Loan financing. Please look at the chart below to see the programs to which each section in this chapter is applicable.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
2.1 Owner Responsibilities	✓							
2.2 Reporting Responsibilities	✓							
2.3 LIHTC Owner Obligation to Comply with Monitoring Requirements		✓	✓	✗	✗	✗	✗	✗
2.4 Contact Information Updates	✓							
2.5 Physical Compliance of the Development	✓							
2.6 Vacant Units	✓							
2.7 Property Damage	✓							
2.8 Methamphetamine Contamination	✓							
2.9 Program Compliance Online Resources	✓							
2.10 Program Compliance Updates	✓							
2.11 Program Compliance Training	✓							
2.12 Program Compliance Officer Role	✓							

Section 2.1 Owner Responsibilities

ALL PROG

Tax Credits

In applying for tax credits, the owner provides comprehensive development information with evidence of the project's overall economic feasibility and a commitment to meet requirements that will benefit low-income residents as specified in the Qualified Allocation Plan (the "QAP"). Prior to issuance of a final tax credit allocation on IRS Form 8609, Low Income Housing Credit Allocation Certification, the owner must certify that the total development costs and all requirements of the LIHTC program have been met.

When executing the Land Use Restriction Agreement (LURA), the owner commits to meeting the compliance requirements in CHFA's Program Compliance Manual. Violations of LIHTC Program requirements may result in a loss of tax credits, disqualification from future CHFA financing, and legal action.

Loan

Similarly, when receiving a multifamily loan financed and/or administered by CHFA, the owner provides comprehensive development information with evidence of the project's overall economic feasibility and a commitment to meet requirements that will benefit low-income residents as specified in the statutory requirements of the Colorado Housing and Finance Authority Act or the requirements of the originating agency.

When executing the Regulatory Agreement, the owner commits to meeting the compliance requirements in CHFA's Program Compliance Manual. Violations of CHFA's loan program requirements may result in a prohibition of any modification to existing financing terms, disqualification from future CHFA financing, and legal action.

Section 2.2 Reporting Responsibilities

ALL PROG

Throughout all phases of development, lease-up, and operation, it is the owner's responsibility to notify and provide certain information to CHFA, including:

- the placed-in-service date for each building;
- the first year of the Credit Period;
- the date the development achieves full occupancy;
- material changes in ownership or management;
- significant physical damage to the development;
- any litigation to which the owner was a party on health and/or safety matters of past or present households;
- any litigation to which the owner was a party that would materially impact the owner's ability to comply with the terms of the LURA or Regulatory Agreement;
- submissions; and
- other information requested by CHFA.

All documentation must be submitted within the requested timeframe.



Placed-in-Service and Credit Period dates are not applicable to the Loan program.

Section 2.3 LIHTC Owner Obligation to Comply with Monitoring Requirements

TC Y 1-15 PY 15+

In the LURA, the LIHTC property owner acknowledges that CHFA is required to monitor the compliance of the owner and the development with the requirements of applicable laws, regulations, and this compliance manual.

In addition to its specific agreements and undertakings in the LURA, the owner shall take or cause to be taken all other and further actions CHFA determines in its sole discretion (i) are not required under the LURA (either explicitly or implicitly) but (ii) are necessary to satisfy the monitoring requirements of the tax credit program. Such actions shall be designated in writing by CHFA to the owner not less than 60 days (or such other period as may be required by law) prior to the date by which such actions must first be taken.

Section 2.4 Contact Information Updates

ALL PROG

To alert CHFA of contact information updates for the property manager, management agent, or ownership entity, owners must submit a Notification of Change in Contact Information Form to the Program Compliance Officer who monitors the property with 30 days of the change.



Notification of Change in Contact Information Form: www.chfainfo.com/arh/asset/LIHTCForms/Notification_Change_Contact_Information.pdf

Section 2.5 Physical Compliance of the Development

ALL PROG

The owner is also responsible for ensuring that the development is:

- suitable for occupancy;
- compliant with local health, safety, and building codes;
- compliant with local and federal regulations; and
- compliant with the terms of the LURA, Regulatory Agreement, and CHFA's policies.



For LIHTC and CHFA Loan properties, CHFA uses HUD's Uniform Physical Conditions Standards (UPCS) to assess physical compliance.

Section 2.6 Vacant Units

ALL PROG

Owners of all LIHTC and CHFA Loan developments must make and maintain vacant units as suitable for occupancy within a reasonable timeframe. Vacant units that are not made ready for occupancy in a reasonable time are noncompliant.

Guidelines for a Reasonable Amount of Time to Make Units Ready

Unit Condition	Reasonable Timeframe
Normal wear and tear	30 days
Unusual repair or replacement due to tenant or other damage	60 days
Remediation required due to methamphetamine or asbestos contamination, or other environmental hazards	3 months for basic remediation 6 months for extensive remediation

Vacant LIHTC Units Not Suitable for Occupancy

For LIHTC properties within the 15-year Compliance Period, all vacant units not made suitable for occupancy in a reasonable timeframe are out of compliance and are reported on IRS Form 8823, line 11c.



For additional guidance on the tax credit implications of vacant-unit noncompliance, consult a tax attorney or accountant.

Section 2.7 Property Damage

ALL PROG

Tax Credit: Casualty Loss

Casualty loss is defined by the IRS as: damage, destruction, or loss of property that renders a LIHTC unit/building/common area unsuitable for occupancy and results from an identifiable event that is sudden, unexpected, or unusual.

Below are some examples of casualty loss and a summary of the owner and CHFA's reporting obligations. Any loss that causes a unit, common area, etc., to be unsuitable for occupancy must be reported to the PCO. If an owner fails to report a casualty loss to CHFA within 10 days, CHFA may report the incident as a noncompliance to the IRS using Form 8823.

Examples

- Floods, wildfires, earthquakes, tornados
- Methamphetamine contamination, kitchen fires, vandalism

Reporting	Due
Owner who experiences a loss of unit(s), common areas, etc., for any length of time must inform CHFA of the loss in writing.	Within 10 days of the loss
Owner must submit a plan to CHFA that sets a timeframe for reconstruction or replacement of property.	Within 30 days of the loss
CHFA must report the loss and replacement of the property to the IRS. If the areas have not been fully restored, CHFA will attach a copy of the owner's plan and timeframe for replacement to the uncorrected IRS Form 8823 report.	No later than 45 days after the end of the time allowed the building owner to correct the condition(s) that caused noncompliance.
Owner must inform CHFA when all property has been restored and made available for occupancy/use by residents.	Within 10 days of restoration
Once all units have been restored and available for occupancy, CHFA will file a corrected IRS Form 8823 to show the units are back in compliance.	Within 30 days of restoration notice

Loan: Hazard Insurance Claims

All property owners with a CHFA Loan are required to maintain hazard insurance and to list CHFA as a co-insured party. CHFA's approval is required before hazard insurance claim payments may be deposited. When an owner files a hazard insurance claim, he or she must notify the CHFA PCO within 10 days and provide a description of the reason for the claim, i.e., hail damage, water penetration, fire damage, etc. The Asset Management Division then reviews and processes claim requests according to CHFA's internal Hazard Insurance Claim policy.

Once CHFA receives notice of a claim, the PCO and CHFA's Construction Services team will work with the owner to coordinate an inspection, process the insurance adjustment check(s), and disburse payments to the owner and/or contractor(s). Please note that, even if an insurance claim is not filed, the owner is required to notify the PCO of any significant damage to a property.

Section 2.8 Methamphetamine Contamination

ALL PROG

For all LIHTC and CHFA Loan program units that are not habitable for occupancy due to methamphetamine contamination, CHFA requires the property owner to:

- Comply with all state and local laws relating to methamphetamine testing and clean-up, including hiring a certified third-party consultant;
- Follow all recommendations of such third-party consultant (any variations from those recommendations must be approved by the local authority); and
- Provide CHFA with the following.
    - Certification that the property owner followed the above noted provisions prior to opening the unit for occupancy
    - A post-decontamination report clearing the impacted unit (or link to online report)



Owner Certification of Methamphetamine Decontamination:
www.chfainfo.com/arh/asset/LIHTCForms/Owner_Cert_Methamphetamine-Decontamination.pdf

Tax Credit: Casualty Loss Due to Methamphetamine Contamination

When contamination renders a LIHTC unit, common area, etc., unsuitable for occupancy, it must be reported to the PCO within 10 days. See Section 2.7, Property Damage, for more information.

Colorado Department of Public Health & Environment: Guidance and Resources

The Colorado Department of Public Health & Environment provides online guidance regarding the environmental clean-up of methamphetamine-affected properties, including the following.

- Certified third-party consultant lists
- State regulations and policies
- Training information
- Frequently asked questions
- Instructions on how to submit assessment and decontamination reports



CO Dept. of Public Health & Environment:
www.colorado.gov/pacific/cdphe/methlabcleanup

Section 2.9 Program Compliance Online Resources

ALL PROG

My Account Tools

On the My Account Tools page on CHFA's website, CHFA's Asset Management Division provides online resources and tools for LIHTC and CHFA Loan development owners and management, including:

- forms frequently requested by owners and management agents,
- what to expect from a review,
- file requirements checklist, and
- links to other CHFA systems and resources - WCMS, Insight, chfa**reach**, eNews, and Colorado Housing Search.



My Account Tools:
www.chfainfo.com/arh/asset/Pages/MyAccount.aspx

CHFA Insight

Owners are required to upload most annual submissions and management review documentation in CHFA's secure Insight system. Owners can also use Insight to access LIHTC and multifamily loan information and to view and download property documents and reports. Available information includes:

- property details, including program types and next scheduled compliance review;
- CHFA staff assigned to the property;
- LURAs and Regulatory Agreements;
- IRS Forms 8609 and 8038;
- previous program compliance review reports;
- previous annual submissions; and
- CHFA Loan and reserve account balances and payment/deposit information and history.

The owner/agent must have an Insight username and password to use this online system.



To register for an Insight account, complete an enrollment form at www.chfainfo.com/arh/asset/LIHTCForms/Insight-Enrollment-Form.pdf, and send it to your PCO.

Note: it may take up to one week to process the enrollment request.

Section 2.10 Program Compliance Updates

ALL PROG

The IRS, HUD, and CHFA make changes to program regulations, household qualification requirements, and procedures from time to time. Changes may also be made temporarily during extraordinary circumstances.

Look for important program updates on CHFA's website and in CHFA's Multifamily Program Compliance eNews.

CHFA eNews

Owners and agents are encouraged to sign up for CHFA's Multifamily Program Compliance eNews at www.chfainfo.com/arh/asset/Pages/mfpc-enews.aspx. Topics include regulation changes, new rent and income limits, policy and procedure updates, annual submissions reminders, compliance form updates, and training opportunities.

Section 2.11 Program Compliance Training

ALL PROG

chfa**reach** Training

It is critical that all corporate and onsite staff involved in program compliance attend CHFA's Colorado-specific program compliance training at least every other year to keep abreast of changes in laws, regulations, and CHFA policies. CHFA offers our basic and advanced state-specific LIHTC classes through the chfa**reach** training program.

With more than 120 training events per year, the chfa**reach** program also covers an array of housing issues relevant to owners, managers, and onsite staff. Other topics include Section 8 compliance, Fair Housing, green initiatives, resident services, facility maintenance, and professional development. A schedule of chfa**reach** classes and membership information may be found at www.chfainfo.com/arh/chfareach.



All LIHTC owner and management representatives, onsite staff, and any other staff involved in qualifying households are required to complete a compliance training conducted or approved by CHFA prior to the release of IRS Form 8609 for Federal Credits or the Allocation Certificate for State Credits.

Section 2.12 Program Compliance Officer Role

ALL PROG

Each development is assigned a Program Compliance Officer (PCO) who is the primary contact for information and questions about compliance. PCOs are responsible for monitoring each owner's compliance with the LURA and/or CHFA Regulatory Agreement. PCO monitoring responsibilities and activities include the following.

- Conducting management reviews, physical inspections, and follow-up reviews as necessary to verify that the owner and the development are compliant with the applicable program requirements
- Reporting noncompliance to the Internal Revenue Service, Colorado Department of Revenue, or HUD when applicable
- Monitoring replacement reserve and other restricted accounts required by the Regulatory Agreement
- Ensuring timely receipt and accurate completion of all required reporting
- Following up with owners and management to respond to inquiries received from applicants and residents
- Conducting compliance trainings for owners and management
- Providing issue-specific technical assistance to owners and management



When required for compliance monitoring purposes, the owner will submit documentation either through CHFA's secure Insight system, when applicable, or directly to the PCO.

chapter 3

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO AHTC — Colorado State AHTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Required Submissions

The following chapter outlines the document and fee submission requirements associated with CHFA's multifamily programs. These requirements apply throughout the Extended Use Period, Qualified Project Period, and/or loan term and are also specified in each project's Land Use Restriction Agreement (LURA), CHFA Regulatory Agreement, or Loan Agreement. Please refer to the project's specific governing documents to determine the requirements particular to the project in question.

Please look at the chart below to see the programs to which each section in this chapter is applicable.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
3.1 CHFA Insight	✓							
3.2 Owner Certification Forms	✓							
3.3 Web Compliance Management System (WCMS)	✓							
3.4 Audited Financial Statements		✗	✗	✗	✓	✓	✓	✓
3.5 Annual Operating Budget		✗	✗	✗	✗	✗	✗	✓
3.6 Affirmative Fair Housing Marketing Plan		✗	✗	✗	✗	✗	✗	✓
3.7 IRS Form 8703		⇆	⇆	✗	⇆	✗	✗	⇆
3.8 Submissions Summary	✓							
3.9 TCAP and TCEP Submissions		⇆	⇆	✗	✗	✗	✗	✗

Section 3.1 CHFA Insight

ALL PROG

All submissions except the tenant certifications entered into WCMS must be uploaded directly in CHFA's secure Insight system. For instructions on uploading, refer to the "Information" tab within Insight. The owner/agent must have an Insight username and password to use this submission process.



To register for an Insight account, complete an enrollment form at www.chfainfo.com/arh/asset/LIHTCForms/Insight-Enrollment-Form.pdf, and send it to your PCO.

Section 3.2 Owner Certification Forms

ALL PROG

Annual owner certifications are required for the LIHTC and CHFA Loan programs. CHFA's certification forms may be accessed at www.chfainfo.com/arh/asset/Pages/forms.aspx.



Be sure to use the current online versions of all forms. Outdated forms will not be accepted.



If applicable questions are blank or inaccurate, the certification will be returned to the owner for correction.

Owner Certification Signatures

- Owner certifications must be signed by an ownership entity representative and may not be signed by the management agent.
- Signatures may be completed electronically only if each signature is authenticated and date- and time-stamped by the software. Typed and unauthenticated signatures are not permitted.
- If the electronic signature does not include a time and date stamp, an authentication record that shows the owner's identifying information, the name of the document signed electronically, and the date the document was signed is required.

Additional Certification Sections

CHFA's owner certifications include additional sections that must be completed only by developments that were allocated Colorado's Affordable Housing Tax Credits (state AHTC), which are not the same as LIHTC, and/or were issued tax-exempt Private Activity Bond (PAB) financing by CHFA.

Property Type	Owner Certification Form	Additional Information
LIHTC Projects with State AHTC	LIHTC Owner Certification of Continuing Program Compliance, or LIHTC Post Year 15 Owner Certification of Continuing Program Compliance	Complete all state AHTC questions, including those in "Additional Certification Required Only for LIHTC Projects Financed with State Affordable Housing Tax Credits"
LIHTC Projects with CHFA-issued PAB Via Conduit Bond Issue	CHFA's LIHTC Owner Certification of Continuing Program Compliance, or LIHTC Post Year 15 Owner Certification of Continuing Program Compliance	Complete all questions in "Additional Certification Required Only for LIHTC Projects Financed with CHFA Tax-Exempt Bonds via a Conduit Bond Issue"
CHFA Loan Projects Financed by PAB Issued Directly by CHFA to Fund the CHFA Loan	Owner Certification of Continuing Loan Compliance	Complete all questions in "Additional Certification Required Only for Projects Financed with CHFA Tax-Exempt Bonds"

- See Section 1.3, Colorado Affordable Housing Tax Credit Program, for more information on state AHTC.
- See Chapter 13, Tax-exempt Bonds, for more information on tax-exempt PAB financing by CHFA.



To determine if your project has state AHTC or CHFA-issued PAB, look in CHFA's Insight system or contact your Program Compliance Officer.



If your development does not have state AHTC or CHFA-issued PAB, please leave the Additional Certification sections blank.

Owner Certification Noncompliance

Failure to submit an accurate and complete annual owner certification is considered noncompliance and can result in a Not in Good Standing designation with CHFA programs and/or other consequences as specified in Chapter 17, Noncompliance. For LIHTC developments, noncompliance with annual owner certification requirements is reported on IRS Form 8823, line 11d.



26 C.F.R. § 1.42-5(c)

Section 3.3 Web Compliance Management System (WCMS)

ALL PROG

Owners of all LIHTC and CHFA Loan developments must enter and submit accurate occupancy and demographic information via WCMS once a property begins leasing units. Required data can be found on each household's Tenant Income Certification form (TIC) and Supplementary Demographic Information form. Before entering data for new developments, owners must first set up all the property's units in WCMS, including their unit number, square footage and unit type.

The WCMS requirement applies to Section 8 RAD properties with LIHTC and/or CHFA Loans that are not part of CHFA's PBCA contract and are monitored directly by HUD for compliance with Section 8 requirements (not by CHFA).



Most project-based Section 8 properties that are part of CHFA's PBCA contract with HUD and enter occupancy data in TRACS are not required to enter data directly into WCMS.



To register, obtain instructions, and input data go to www.chfainfo.com/arh/asset/Pages/wcms.aspx.

Annual WCMS Requirement

All WCMS records for the previous calendar year must be entered, reviewed, and finalized by January 15.

Monthly WCMS Requirement

Move-in, move-outs, transfers, and recertifications must be entered in the system as they occur, or at least by the end of the following month. CHFA reviews this data for compliance with the occupancy restrictions of the LURA and Regulatory Agreement.

Section 3.4 Audited Financial Statements

CHFA LOAN HHF CO CM FUND RS

All projects with multifamily loans through CHFA must submit audited financial statements via Insight within 90 days[1] following the project's fiscal year end. If the auditor has noted any findings in the statements, the owner must provide an explanation of them and their plan to resolve them.

The audit must state specifically how much surplus cash remained at the end of the fiscal year. Failure to submit this information will result in the denial of the borrower's request for owner distributions of surplus cash.



The audit must reflect the financial standing of the CHFA-financed project independently from the partnership and/or owner entity.

[1] Although some Regulatory Agreements and/or loan agreements may indicate a required submission date of 60 days after the end of the fiscal year, 24 CFR 5.801, Uniform Financial Reporting Standards (UFRS), supersedes this requirement by giving all developments 90 days to submit their FYE Audited Financial Statements.

Audit Format

Loan Type	Format
542(c) Risk Share-enhanced Loans	In accordance with the HUD requirements as stated in: ▪ IG 2000.04 – Rev.2, CHG 7, Chapter 3, and ▪ HUD Handbooks 4370.1 and 4370.2
All Other CHFA Loans	In accordance with Generally Accepted Accounting Principles (GAAP)

Audit Confirmation Requests

All auditor requests related to financial audits for CHFA multifamily loans, including reserve balances and loan history, should be emailed to CHFA's Commercial Loan Servicing Department at DL-AM-Commercial_Loan_Servicing@chfainfo.com.

Waiver for Small Multifamily Housing Projects

HUD makes an exception to the financial reporting requirements for small multifamily housing projects. Specifically, a project for which the owner receives less than $500,000 in combined federal financial assistance is permitted to submit an owner-certified financial statement instead of audited financial statements.

Combined federal financial assistance means assistance that non-federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance.

Owners may contact their Program Compliance Officer (PCO) to determine if a project is eligible for this waiver.



HUD Notice H 2013-23

Developments with New Loans

Loans closing in the last quarter of their fiscal year are not required to complete an annual audit for that year. Instead, CHFA requires that:

- the last three months of the fiscal year be audited with the following fiscal year; and
- end-of-the-year internal financial statements or a financial compilation generated by the owner for the partial year are submitted to CHFA in Insight within 90 days following the fiscal year end.



Examples:

- A project that has a fiscal year end of December 31, and the loan closes after October 1.
- A project that has a fiscal year end of June 30, and the loan closes after April 1.

Section 3.5 Annual Operating Budget RS

As of 2019, CHFA requires annual operating budgets only for developments with 542(c) Risk Share-enhanced loans. Owners of developments with 542(c) Risk Share-enhanced loans are required to upload a proposed operating budget in CHFA's Insight system no less than 60 days prior to the beginning of each fiscal year of the project.

The proposed operating budget should include anticipated income of the project and detailed expenses. Likewise, it should take the following into consideration: administrative expenses, administrative fees, management fees, operating expenses, maintenance, services (if applicable), utilities, hazard insurance, taxes and assessments, loan principal and interest, other costs payable pursuant to the financing documents, deposits to a replacement reserve fund, and deposits to any other reserves required by CHFA pursuant to the Regulatory Agreement, Loan Agreement, or other financing documents.



For confirmation of your project's loan type, see CHFA's Insight system or contact your PCO.

Section 3.6 Affirmative Fair Housing Marketing Plan RS

All developments with 542(c) Risk Share-enhanced loans must have an Affirmative Fair Housing Marketing Plan (AFHMP) current within five years and approved by CHFA or HUD. See Chapter 11, Risk Sharing Program, for more information.



For confirmation of your project's loan type, see CHFA's Insight system or contact your PCO.

Section 3.7 IRS Form 8703 TC Y 1-15 PY 15+ CHFA LOAN

Properties financed with LIHTC and/or CHFA loans may receive tax-exempt Private Activity Bond (PAB) financing issued by CHFA. Owners of such properties are required by the IRS to make annual certifications on IRS Form 8703, Annual Certification of a Residential Rental Project, beginning with the calendar year in which the project achieves 10 percent occupancy, and throughout the Qualified Project Period as defined under Section 142(d) of the Code. Failure to file Form 8703 during the Qualified Project Period subjects the project owner to an IRS penalty. Depending on the timeline of a project, the requirement to file IRS Form 8703 may occur prior to permanent loan conversion.

For developments with CHFA-issued PAB financing:

- Annually by March 31 during the Qualified Project Period, the project owner is required to submit to the IRS Form 8703 for the previous calendar year.
    - The form certifies whether the project continues to meet the requirements of Section 142(d) of the Code.
- Annually by April 30, as long as CHFA-issued tax-exempt bonds remain outstanding, the owner is required to submit a copy of the IRS Form 8703 to CHFA via Insight.



To determine if your project has tax-exempt bonds issued by CHFA, see CHFA's Insight system or contact your PCO.



26 U.S.C. § 142(d)(7)



Properties that receive PAB financing issued by another entity and not CHFA are not required to submit a copy of IRS Form 8703 to CHFA.

Information for IRS Form 8703 - Part III: Issuer and Description of Bonds

Part III of the IRS Form 8703 requires the following pieces of information that may be found on the IRS Form 8038, Information Return for Tax-exempt Private Activity Bond Issues, filed at bond closing.

- Name of issuer
- Issuer's EIN
- Name of bond issue
- Date of bond issue
- CUSIP number
- Issue price
- Final maturity date



Each CHFA PAB-financed development's IRS Form 8038 is available to review in CHFA's Insight System.

Section 3.8 Submissions Summary

ALL PROG



CHFA encourages owner and management agents to set recurring annual reminders regarding the applicable submission dates noted below.

Type	Due	Notes	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
Web Compliance Management System (WCMS)	Annual: January 15 Monthly: Last day of the month for the previous month		✓	✓	✓	✓	✓	✓	✓
LIHTC Owner Certification of Continuing Program Compliance	January 15	Use for LIHTC, TCAP, and TCEP	✓	✗	✗	✗	✗	✗	✗
LIHTC Post Year 15 Owner Certification of Continuing Program Compliance	January 15		✗	✓	✗	✗	✗	✗	✗
Owner Certification of Continuing Loan Compliance	January 15		✗	✗	✗	✓	✓	✓	✓
First-year IRS Form 8609, Low-Income Housing Credit Allocation and Certification	Within 90 days of the end of the first year of the Credit Period	Part II must be completed by the owner in full, as filed with the IRS.	✓	✗	✗	✗	✗	✗	✗
First-year Colorado Affordable Housing Tax Credit Allocation Certificate	Within 90 days of the end of the first year of the Credit Period	As filed with the Colorado Department of Revenue	✗	✗	✓	✗	✗	✗	✗
Post Year 15 LIHTC Compliance Monitoring Fees	January 15		✗	✓	✗	✗	✗	✗	✗
IRS Form 8703 - Annual Certification of a Residential Rental Project	CHFA: April 30 IRS: March 31	**LIHTC:** Applicable if CHFA served as a conduit issuer of PAB/tax-exempt financing. **Loan:** Applicable if CHFA served as the issuer of PAB/tax-exempt financing and lender.	⇆	⇆	✗	⇆	✗	✗	✗

Type	Due	Notes	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
Operating Budget	60 days before the development's fiscal year end		✗	✗	✗	✗	✗	✗	✓
Audited Financial Statements	90 days after the development's fiscal year end		✗	✗	✗	✓	✓	✓	✓
Affirmative Fair Housing Marketing Plan	Plan must be reviewed by the owner/agent every five years and, if applicable, approved by CHFA or HUD.	See Chapter 11, Risk Sharing Program, for detailed requirements.	✗	✗	✗	✗	✗	✗	✓

Section 3.9 TCAP and TCEP Submissions

TC Y 1-15 PY 15+

In addition to standard LIHTC reporting requirements, multifamily projects that received funding through the Tax Credit Assistance Program (TCAP) or the Tax Credit Exchange Program (TCEP) are subject to additional reporting requirements established in the TCAP written agreement or TCEP sub-award agreement, as noted in Section 1.4, TCAP and TCEP.

Below is a summary of those additional reporting requirements, as amended by CHFA from time to time, due in CHFA's Insight system unless noted otherwise. For any questions regarding TCAP and TCEP reporting, contact CHFA's Multifamily Asset Manager.

Reporting	Due
Asset Management Fee	After the anniversary month of the agreement Mail to the attention of CHFA's Multifamily Asset Manager.
Annual Operating Budget	90 days prior to the development's fiscal year end
Audited Financial Statements	90 days after the development's fiscal year end
Quarterly Financial Statements (including balance sheet, income statement, and budget variance report)	Due within 30 days of the close of each quarter
LIHTC Owner Certification of Continuing Program Compliance	January 15 As of 2021, a separate TCAP/TCEP certification is no longer required.

chapter 4

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO AHTC — Colorado State AHTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Program Compliance

This chapter outlines the requirements properties must meet to maintain eligibility for tax credits, tax-exempt bonds, and/or CHFA Loan financing. Properties that do not consistently meet these requirements during the Compliance Period, Qualified Project Period, and/or loan term may be subject to the applicable penalties outlined in Chapter 17, Noncompliance.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
4.1 Income Limits and Maximum Rents	✓							
4.2 Rent Restrictions	✓							
4.3 Fees	✓							
4.4 Utility Allowances	✓							
4.5 Overcharged Gross Rent	✓							
4.6 Minimum Set-aside Election		✓	✓	✗	⇆	✗	✗	✗
4.7 Applicable Fraction		✓	✓	✗	✗	✗	✗	✗
4.8 Good Cause Eviction and Rent Increase Protection		✓	✓	✗	✗	✗	✗	✗
4.9 Affordable Housing Lease Addendum	✓							
4.10 Lease Non-renewal	✓							
4.11 HUD Section 8 Vouchers	✓							
4.12 Violence Against Women Act (VAWA)	✓							
4.13 Non-transient Occupancy	✓							
4.14 General Public Use		✓	✓	✗	✗	✗	✗	✗
4.15 Vacant Unit Rule		✓	✓	✗	✗	✗	✗	✗
4.16 Owner-occupied Buildings with Four or Fewer Units		✓	✓	✗	✗	✗	✗	✗
4.17 LIHTC Record Retention Requirements		✓	✓	✗	✗	✗	✗	✗
4.18 Employee Units	✓							
4.19 Housing for Older Persons	✓							
4.20 Additional Requirements for CHFA Loans		✗	✗	✗	✓	✓	✓	✓

Section 4.1 Income Limits and Maximum Rents

ALL PROG

Units set aside as low-income under the LIHTC and CHFA Loan programs must be both income- and rent-restricted as required by their Land Use Restriction Agreement (LURA), CHFA Regulatory Agreement, or CHFA Loan Agreement. The LIHTC and CHFA Loan programs follow the Multifamily Tax Subsidy Projects (MTSP) Income Limits issued by HUD. When HUD posts income limits each year, typically in the first quarter, CHFA publishes updated Colorado tables showing income limits and maximum rents from 20 percent to 120 percent of Area Median Income (AMI).

In general, for a unit to be eligible for LIHTC and/or CHFA Loan program financing:

- the household's annual income at move-in must fall within the applicable income limit for the household's AMI designation, number of household members, and county; and
- the household's gross rent must fall at all times within the applicable maximum rent for the unit's AMI designation, number of bedrooms, and county.



CHFA's income limit and maximum rent tables: www.chfainfo.com/arh/asset/Pages/rent-income-limits.aspx

Annual Changes in Income Limits and Maximum Rents

As noted above, HUD publishes updated income limits each year, typically in the first quarter. IRS Revenue Ruling 94-57 allows LIHTC project owners to rely on the previous year's income limits until 45 days after HUD has released new income limits, or until the effective date, whichever is later. CHFA applies the same timeframe to multifamily developments financed with CHFA loans.

Protection from Decreases

The IRS allows two types of protection from decreases in income limits and maximum rents: HERA special limits (applicable to some LIHTC projects) and the Hold Harmless Rule (applicable to all LIHTC and CHFA Loan developments). To identify the correct limits for your project, you must know its placed-in-service (PIS) date.

Hold Harmless Rule

Once a project is placed in service, if the limits for the county in which it is located go down from one year to the next, the project is **not** required to implement the new limits and may continue to use the higher limits already in place. To be "held harmless," a project must have placed in service prior to the implementation cutoff date of the new limits.



As of 2020, CHFA extends the Hold Harmless protection to all multifamily developments financed with CHFA Loans, regardless of whether they were also financed with LIHTC.



26 U.S.C. § 142(d)(2)(B) and (E)

HERA Special Limits

As part of the Housing and Economic Recovery Act of 2008 (HERA), HUD began publishing a second set of income limits referred to as "HERA Special" in addition to the regular income limits. HERA Special limits are redetermined each year based on specific tests and formulas and apply only to LIHTC projects in certain counties as determined by HUD. To apply HERA Special limits, a LIHTC project must have placed in service as of December 31, 2008.



HERA Special limits do not apply to LIHTC projects that placed in service after December 31, 2008, or to other projects that were not financed with LIHTC (e.g., properties with only CHFA loans).

Section 4.2 Rent Restrictions

ALL PROG

Units set aside as low-income must be rent-restricted as required by their LURA, CHFA Regulatory Agreement, or CHFA Loan Agreement. A unit is considered to be rent-restricted if the "gross rent" (see below) paid by the household does not exceed 30 percent of the applicable income limit.



26 U.S.C. § 42(g)(2)



Maximum rents for the LIHTC and CHFA Loan programs are based on the unit's AMI designation and size. Maximum rents are not based on household income.

Gross Rent

"Gross rent" is defined as resident-paid rent plus a utility allowance, if applicable, and any non-optional fees. A utility allowance is used to account for any utilities a resident is required to pay other than telephone, cable, or internet charged by the owner (unless the telephone, cable, or internet fee is not optional). Gross rent must not exceed the applicable maximum rent as listed on the income and rent table in effect for the property as of the date of certification.



CHFA's Utility Allowance Policy: www.chfainfo.com/arh/asset/Documents/CHFA_Utility_Allowance_Policy.pdf.

The following are excluded from the gross rent calculation:

- Housing assistance payments to the owner by HUD under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance program

- Rental assistance payments to the owner by USDA Rural Development associated with loans made under Section 515 of the Housing Act of 1949
- Fees for supportive services (any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent)



26 U.S.C. § 42(g)(2)
26 C.F.R. § 1.42-10 and 1.42-11(a)

Gross Rent Floor

Internal Revenue Procedure 1994-57 allows a LIHTC property owner to establish minimum rent amounts that will not be affected by fluctuations in income and rent limits. In other words, developments will never have to charge gross rents that fall below their established gross rent floor amounts. To establish the gross rent floor, the owner makes an irrevocable election at either the placed-in-service date or the allocation date. If no election is made, the default is based on the placed-in-service date.



The gross rent floor does not apply to the CHFA Loan program.

Tenant Rent Increases

Tenant rent increases during the lease term are not permitted by CHFA for LIHTC and CHFA Loan properties. Owners may increase tenant rent only at lease renewal. Noncompliance with CHFA's policy may result in a Not in Good Standing designation with CHFA programs and/or other consequences as specified in Chapter 17, Noncompliance.



An exception is permitted when a mid-lease rent increase is required by the Section 8, USDA Rural Development, or similar rental assistance programs.

Section 4.3 Fees

ALL PROG

The table below includes examples of fees that are and are not permitted by the LIHTC and CHFA Loan programs. Any allowed fees that must be paid as a condition to live at the property must be included in the gross rent calculation. In addition, any allowed fees charged to the household must be reasonable and in line with those charged by similar properties.



If there is any question about whether a specific fee is allowed, contact your Program Compliance Officer.

Type	Allowed	Include in Gross Rent	Additional Requirements
Application Fee	✓	✗	Charges must not exceed the actual expected out-of-pocket costs for checking tenant qualifications such as rental history, credit history, and criminal history.
Third-Party Income and Asset Verification Fees (e.g. the Work Number, banks)	✗	✗	
Third-party Consultant Fees	✗	✗	Fees to review files, approve tenant certifications, etc.
Security Deposit	✓	✗	
Early Lease Termination Fee	⇆	✗	Permitted only when household moves out of the community
Holding Deposit	⇆	✗	▪ Permitted only at the time the owner offers a specific unit to an applicant. ▪ The applicant must agree in writing to the owner's written policy regarding holding deposits.
Pet Deposits, Rents, and Fees	✓	✗	
Service and Companion Animal Deposit, Rents, or Fees	✗	✗	
Parking, Carport, or Garage Fees (if optional)	✓	✗	
Storage Fees (if optional)	✓	✗	
Cable (if optional)	✓	✗	
Air Conditioning (if optional)	✓	✗	
Month-to-Month Lease Fee	✓	✓	

Type	Allowed	Include in Gross Rent	Additional Requirements
Mandatory Renters' Insurance or Liability Insurance	✓	✓	▪ Owner is required to obtain a copy of the policy or monthly insurance statement at move-in and at all annual recertifications. ▪ Failure to include the actual premium in gross rent may result in a unit paying over the maximum rent and noncompliance.
Waiting List Fees and Deposits	✗	✗	
Fees for Rent Payments Made by Check, Money Order, or Cashier's Check.	✗	✗	
Fees to Make Rent Payments Electronically/Online (if optional)	✓	✗	Optional fee may not exceed the out-of- pocket cost incurred by the owner.
Unit Transfer Fees	✗	✗	
Utility Transfer Fees	✗	✗	
Fees for Preparing a Unit for Occupancy	✗	✗	▪ Owners are responsible for physically maintaining units in a manner suitable for occupancy. ▪ However, owners are permitted to charge tenants for tenant-caused damage that is beyond normal wear and tear.
Fees Not Allowed Under the Terms of the Project's Agreement(S)	✗	✗	Refer to each project's LURA, Regulatory Agreement, and/or Loan Agreement.
Fees Not Permitted by CHFA's Qualified Allocation Plan (QAP)	✗	✗	Applies to LIHTC properties only

LIHTC: Fees for Facilities and Resident Services

Refundable deposits to reserve common area facilities such as a community kitchen, community recreation room, etc., are permitted. However, fees to use common area facilities or services may be charged to LIHTC residents in addition to gross rent only if all three of the following statements are true.

- The cost of the facilities or services are not included in the project's eligible basis,
- the facilities or services are optional**,** and
- there is a reasonable alternative to using these facilities or services.



For example, if an owner offers washers and dryers in the units for an additional fee, the cost of the washers and dryers must not be included in Eligible Basis and an alternative, such as laundry facilities at the building, must be provided.



26 C.F.R. § 1.42-11



This rule regarding fees for facilities and services does not apply to the CHFA Loan program.

Noncompliant Fees

For all properties, a unit is out of compliance if the owner charges a fee that is not permitted. CHFA requires owners to cease charging noncompliant fees immediately, to notify households of the change, and to refund noncompliant fees to the household.

For LIHTC properties, CHFA is required to report noncompliant fees to the IRS using IRS Form 8823, line 11g. CHFA will also report to the IRS when the noncompliance is corrected. Per the IRS, an owner cannot avoid tax credit penalties by refunding noncompliant fees.



IRS 8823 Guide, Chapter 11

Section 4.4 Utility Allowances

ALL PROG

As noted above, gross rent is defined as resident-paid rent plus a utility allowance, if applicable, and any non-optional fees. The utility allowance is used to account for any utility fees a resident is required to pay directly either to the utility company or to the owner. A utility allowance is not required for telephone, cable, or internet fees charged by the owner, unless that fee is not optional.

Only certain sources of utility allowances are allowed for LIHTC and CHFA Loan properties and depend upon each project's type. CHFA does not prepare or publish utility allowances. Please refer to CHFA's Utility Allowance Policy to learn about which utility allowances are allowed for different project types. The policy is based on the applicable federal statute and regulations, and various guidance published by the IRS. To review the policy's detailed information on requirements for allowable sources, annual updates, resident notification requirements, CHFA approvals, implementation timeframes (including the 90-day waiting period), and noncompliance, use the link below.

For LIHTC properties, CHFA is required to report noncompliance with utility allowance requirements to the IRS using IRS Form 8823, line 11m. CHFA will also report to the IRS when the noncompliance is corrected.



CHFA's Utility Allowance Policy for LIHTC and Multifamily Loan Developments: www.chfainfo.com/arh/asset/Documents/CHFA_Utility_Allowance_Policy.pdf.



26 U.S.C. § 42(g)(2)(B)
26 C.F.R. § 1.42-10
IRS 8823 Guide, Chapter 18

Section 4.5 Overcharged Gross Rent

ALL PROG

Gross rent may not exceed the maximum rent limit for a unit's AMI designation and size. A unit is out of compliance if the owner charges excess gross rent. CHFA requires owners to correct noncompliant gross rents immediately and to refund excess rent charges to the household.



Chargebacks of any rent concessions that raise the gross rent above the maximum rent for any given month will cause a unit to be out of compliance.

Federally Assisted Units with Gross Rent in Excess of Maximum Rent

A household with assistance from Section 8, or any comparable federal rental assistance program, that originally qualified for a low-income unit may later be required to pay an amount of gross rent in excess of the applicable rent limit due to increased earnings and decreased rental subsidy. In this case only, an exception allowing gross rent to exceed the maximum rent is allowed if all three of the following conditions apply.

- The household originally qualified for a LIHTC or CHFA Loan unit,
- the household is a participant in a housing subsidy program, and
- the household still receives at least one dollar of subsidy from Section 8 or any comparable rental assistance program.

If at any time the entire rental subsidy is revoked, the owner must lower the tenant rent to ensure that gross rent does not exceed the LIHTC/CHFA Loan program rent limit.



If household receives Section 8 or a comparable subsidy, their lease must include language stating that, in the event of a termination of the rental assistance, the owner will not charge a gross rent amount in excess of the LIHTC/CHFA Loan program maximum rent.



26 U.S.C. § 42(g)(2)(B) and (E)

LIHTC Units Charged Gross Rent in Excess of Maximum Rent

Per the IRS, once a LIHTC unit is determined to be out of compliance with the maximum rent, the unit is out of compliance for the rest of the owner's tax year. While noncompliant gross rent is corrected when the gross rent is lowered so as not to exceed the maximum rent, the unit does not come back into compliance until the first day of the owner's next tax year.

CHFA is required to report overcharged gross rent to the IRS using IRS Form 8823, line 11g. CHFA will also report to the IRS when the noncompliance is corrected.

As noted above, CHFA requires owners to refund excess rent charges to the household. Nevertheless, per the IRS, an owner cannot avoid tax credit penalties by providing the refund.



IRS 8823 Guide, Chapter 11

Section 4.6 Minimum Set-aside Election

TC Y 1-15 PY 15+ CHFA LOAN

LIHTC Developments

The Internal Revenue Code mandates that to be eligible for LIHTC, a project must meet one of three minimum set-aside thresholds.

- 20% of units at 50% Area Median Income (AMI)
- 40% of units at 60% AMI
- Average Income Test: 40% of units at an average of 60% AMI

Owners choose which set-aside to meet for each project during the tax credit application process. Once a property places in service, the owner makes an irrevocable election of the minimum set-aside threshold on IRS Form 8609 Part II, First-Year Certification.

CHFA Program Compliance staff monitor compliance with the minimum set-aside through periodic reviews of occupancy and demographic data (via WCMS or TRACS) and regular onsite or electronic compliance reviews. Noncompliance is reported on IRS Form 8823, line 11f.

26 U.S.C. § 42(g)(1)(A)-(C)

Average Income Test

Beginning in 2019, owners of new LIHTC developments in Colorado may elect Average Income Test as the minimum set-aside. Such developments must follow CHFA's Compliance Monitoring guidance specific to the Average Income Test. This guidance identifies additional restrictions, reporting requirements, and monitoring responsibilities. In addition, training specific to Average Income Test compliance is required for all onsite and corporate staff involved in compliance and tenant file preparation.



CHFA's Average Income Test Compliance Monitoring Guidance: www.chfainfo.com/arh/lihtc/Pages/Income-Averaging.aspx

CHFA Loans Financed with Tax-exempt Bonds

The Internal Revenue Code also mandates that to be eligible for tax-exempt bond financing, a project must meet one of two minimum set-aside thresholds.

- 20% of units at 50% AMI
- 40% of units at 60% AMI

The minimum set-aside election and any additional restrictions are determined at bond closing. The election is made on IRS Form 8038, Information Return for Tax-exempt Private Activity Bond Issues, and is also outlined in the occupancy requirements indicated in the project's Regulatory Agreement.

CHFA Program Compliance staff monitor compliance with the minimum set-aside through periodic reviews of occupancy and demographic data (via WCMS or TRACS) and regular onsite or electronic compliance reviews.

26 U.S.C. § 142(d)

Section 4.7 Applicable Fraction

TC Y 1-15 PY 15+

Under the LIHTC program, the amount of tax credits an owner may claim each year is directly related to the number of qualified low-income units at the project. An annual credit amount is determined for each building based on the low-income percentage or "applicable fraction" for each building. The required applicable fraction is established in the first year of the project and remains the same for the life of the project. That actual applicable fraction at any given time is defined as the lesser of:

- the unit fraction (percentage of low-income units); or
- the floor space fraction (percentage of low-income square footage).

If the actual fraction decreases below the required fraction for any reason, the building may be subject to a loss or recapture of credits. The owner's property manager and onsite staff must be aware of the applicable fraction prior to initial lease-up and must continue to monitor the actual fraction for each building. Noncompliance is reported on IRS Form 8823, line 11e.



The required applicable fraction of each LIHTC building is listed in the property's LURA.



26 U.S.C. § 42(c)(1)(B)-(D)

Section 4.8 Good Cause Eviction and Rent Increase Protection

TC Y 1-15 PY 15+

"Good cause" for eviction or termination of tenancy is determined by applicable state and local law. The owner should specify what "good cause" is in the lease.

If a LIHTC property's Extended Use Period is terminated early due to foreclosure or deed-in-lieu of foreclosure, the property owner is prohibited from the following two actions for three years following the termination of the Extended Use Period. In a 2004 revenue ruling, the IRS clarified that these two actions must be prohibited during the entire Extended Use Period.

- Evicting an existing household from a LIHTC unit or terminating their tenancy within the lease term other than for "good cause"
- Increasing the gross rent of an existing household in a LIHTC unit in a manner not permitted by IRC Section 42



For questions as to what constitutes good cause under Colorado state law, consult legal counsel.



26 U.S.C. § 42(h)(6)(E)(ii)
IRS Revenue Ruling 2004-82
IRS 8823 Guide, Chapter 26

Section 4.9 Affordable Housing Lease Addendum

ALL PROG

CHFA's Affordable Housing Lease Addendum or an acceptable substitute is required as part of the initial lease packet and whenever a new lease is executed at renewal for existing households. Acceptable substitutes for CHFA's addendum include an owner-prepared form or language within the lease, either of which must contain the same language as the CHFA-provided addendum.



CHFA's Affordable Housing Lease Addendum: www.chfainfo.com/arh/asset/LIHTCForms/Affordable_Housing_Lease_Addendum.pdf

If a lease is automatically renewed, a new lease addendum is not required, because the original lease addendum is tied to the original lease that remains in effect.

Section 4.10 Lease Non-renewal

ALL PROG

While not expressly prohibited by the LIHTC and CHFA Loan programs, lease non-renewal may be prohibited under Colorado state law. An owner who elects not to renew a lease must ensure they are following state and federal fair housing statutes and provide households with adequate notice as required under Colorado state law. CHFA recommends consulting with legal counsel for guidance.

IRS 8823 Guide, Chapter 26

Section 4.11 HUD Section 8 Vouchers

ALL PROG

Owners of LIHTC and CHFA Loan developments are prohibited from refusing to lease to applicants with Section 8 vouchers simply because they are holders of certificates or vouchers.

If minimum income standards are used as part of the applicant screening criteria for a development (for example, an applicant is required to have income that is three times the rent), for voucher applicants, the total tenant payment, rather than the contract rent, must be compared to the income standard.

26 U.S.C. § 42(h)(6)(B)(iv)

Section 4.12 Violence Against Women Act (VAWA)

ALL PROG

The federal Violence Against Women Act (VAWA), enacted in 1994, is legislation designed to improve criminal justice and community-based responses to domestic violence, dating violence, sexual assault, and stalking in the United States. The 2013 VAWA reauthorization expanded the housing protections from VAWA 2005 to include LIHTC developments.

Violence Against Women Reauthorization Act of 2013 Public Law 113-4

Under VAWA, the LIHTC Program is required to provide a safe place in affordable housing for victims of violence. The law makes clear that a domestic violence incident does not constitute good cause for eviction of the victim if the victim otherwise meets tenant occupancy rules.

To the extent permitted under the applicable Regulatory Agreement and loan documentation, CHFA encourages all multifamily developments financed with CHFA loans, regardless of whether they have LIHTC or are project-based Section 8, to implement the same protections to victims of domestic violence as those required for developments that fall under VAWA.

Required VAWA-related Practices and Documents for LIHTC Developments

The IRS has not issued implementing guidance regarding VAWA. Until such guidance may be issued, as of 2021, CHFA has implemented the following required management practices and documents (see table below) for LIHTC developments in Colorado.

- Prepare a property-specific Emergency Transfer Plan.
- Allow bifurcation of leases to evict the perpetrator and continue housing the victim.
- Train property and compliance staff regarding VAWA requirements on a regular basis and whenever HUD issues updated guidance.
    - Many trainings are available online, including through chfa**reach** at www.chfainfo.com/arh/chfareach/Pages/default.aspx.
- Monitor HUD's website on a quarterly basis for updated VAWA guidance and trainings.

Form Number	Form Title	Notes
HUD-5380	Notice of Occupancy Rights Under the Violent Against Women Act	▪ Provided at move-in ▪ Provided whenever an applicant is rejected ▪ File must contain an acknowledgement confirming this form was provided or made available to residents.
HUD-5381	Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking	▪ Owner must prepare a property-specific Emergency Transfer Plan ▪ Must be available upon request
HUD-5382	Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation	▪ Used to report domestic violence ▪ Provided at move-in ▪ Provided if applicant is rejected ▪ File must contain an acknowledgement confirming this form was provided or made available to residents.
HUD-5383	Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking	▪ Must be available upon request

Form Number	Form Title	Notes
HUD-91067	Lease Addendum (informs households they are protected by VAWA)	▪ Must be signed at move-in ▪ A new addendum must be signed if the lease is amended or a new lease is executed.



The forms above are available on HUDCLIPS: www.hud.gov/program_offices/administration/hudclips/forms/ (HUD-5 and HUD-9 forms)

HUD's detailed notice to multifamily owners and agents with guidance on VAWA and how to implement the associated forms is available at: www.hud.gov/sites/documents/17-05HSGN.PDF



For LIHTC developments that comply with Section 8, USDA Rural Development, HOME, or other federal program-specific requirements related to VAWA, separate LIHTC forms are not required.

Section 4.13 Non-transient Occupancy

ALL PROG

LIHTC and CHFA Loan program units may not be used on a transient basis. A unit is considered non-transient and compliant with this rule when the initial lease term is six months or longer. After the initial six-month term, renewal lease terms may be month-to-month.

Units with Initial Lease Terms of Less Than Six Months

Units with initial lease terms of less than six months are not considered low-income and are noncompliant, with the following two exceptions.

- The units are in a building that is used exclusively to facilitate the transition of formerly homeless individuals (within the meaning of Section 103 of the Stewart B. McKinney Homeless Assistance Act).
- A property is designated as Single Room Occupancy (SRO).

If a unit falls under one of these two exceptions, the initial lease term may be less than six months.



26 U.S.C. § 42(i)(3)(B)

Section 4.14 General Public Use

TC Y 1-15 PY 15+

To be eligible for tax credits, LIHTC units must be offered for use by the general public. Low-income units are not offered to the general public if they are provided solely for a member of a social organization or provided by an employer for its employees. Since 2008, Congress makes an exception to allow for occupancy restrictions or preferences that favor residents:

- with special needs;
- who are involved in artistic or literary activities; or
- who are members of a specified group under a federal program, a state program, or a policy that supports housing for such a specified group.

This rule affects any LIHTC building placed in service at any time.



The General Public Use Rule does not apply to developments that do not have LIHTC or tax-exempt bond financing.



26 C.F.R. § 1.42-9
26 U.S.C. § 42(g)(9)

Section 4.15 Vacant Unit Rule

TC Y 1-15 PY 15+

If a low-income unit in a LIHTC project becomes vacant during the year, the owner must make reasonable attempts to rent that low-income unit, or the next available unit of comparable or smaller size, to income-qualifying tenants before any other units in the project are rented to tenants that do not income-qualify. Owners must also attempt to make the unit ready for occupancy within a reasonable time (see Section 2.6, Vacant Units).

The Vacant Unit Rule uses the same definitions of “comparable unit” and “available unit” as the Next Available Unit Rule (see Section 7.5, Next Available Unit Rule).

Attempts to lease the tax credit units must be documented and the documentation kept on file in accordance with the LIHTC record retention requirements outlined in Section 4.17 later in this chapter. Violations of the Vacant Unit Rule are reported on IRS Form 8823, line 11j.



26 C.F.R. § 1.42-5(c)(1)(ix)
IRS 8823 Guide, Chapter 15

The Vacant Unit Rule does not apply to developments that do not have LIHTC or tax-exempt bond financing.

Section 4.16 Owner-occupied Buildings with Four or Fewer Units

TC Y 1-15 PY 15+

LIHTC buildings with four or fewer units occupied by the owner of the building, or any person related to an owner of the building, are ineligible for tax credits. The IRS allows an exception to this rule for acquisition/rehabilitation projects that follow a development plan of action sponsored by a state or local government or by a qualified nonprofit organization. For such projects, the applicable fraction of the building cannot exceed 80 percent of the unit fraction.

26 U.S.C. § 42(i)(3)(C) and (E)
26 U.S.C. § 42(h)(5)(C)

Section 4.17 LIHTC Record Retention Requirements

TC Y 1-15 PY 15+

Information to Be Retained

Per Treasury Department regulations, LIHTC owners are required to retain records for each qualified low-income building in the development that show:

- total number of residential rental units;
- number of bedrooms per unit;
- square footage of each unit;
- percentage of low-income units;
- rent charged for each unit;
- amount of the utility allowance for each unit;
- method of determination of utility allowance;
- number of occupants in each low-income unit;
- low-income unit vacancies and information that shows when and to whom the next available units were rented;
- annual income certification for each unit;
- documentation to support eligibility of low-income residents;
- eligible basis and qualified basis of the building at the end of the first year of the Credit Period; and
- character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) of the Code (e.g., resident facilities that are available on a comparable basis to all residents and for

which no separate fee is charged for the use of the facilities, or facilities reasonably required by the development).



26 C.F.R. § 1.42-5(b)(1)

Minimum Record Retention Period

Records for the first year of a LIHTC development's Credit Period must be retained for a minimum of 21 years, which is equivalent to six years after the due date (with extensions) for filing the federal income tax return for the last year of the 15-year Compliance Period of the building.

Owners are required to retain all other records, including resident files, for each building for a minimum of six years after the due date (with extensions) for filing the federal income tax return each year.

Resident file retention is based on the year the resident moved out of the unit.



26 C.F.R. § 1.42-5(b)(2)

Record Retention Method

The IRS allows records to be kept electronically, provided they remain retrievable throughout the required record retention period. The project owner's electronic storage policy must adhere to all applicable IRS regulations and guidance, including the following.

- IRS Revenue Procedure 97-22
- IRS Revenue Procedure 98-25
- IRS 8823 Audit Technique Guide



IRS Revenue Ruling 2004-82

Section 4.18 Employee Units

ALL PROG

All Developments

Adding an employee unit

For LIHTC and CHFA Loan developments already in service, CHFA will review requests to add units to be occupied by full-time resident managers or other full-time onsite employees who are necessary for the operation of the project on a case-by-case basis. All such requests must be submitted in writing to the Program Compliance Officer (PCO). For mixed-

income developments, if an employee unit is approved, it must be taken from the property's market-rate units to maintain the required number and/or fraction of affordable units.

Employees of the owner or management agent who occupy affordable units

When an owner leases a LIHTC or CHFA Loan unit (i.e., not an "employee unit") to an employee, the employee must be certified as an eligible household, including all standard verification and certification documentation. When the owner/agent lowers the tenant rent payment as a form of in-kind salary or benefit, the value of the foregone rent must be third-party verified and included in total household income.

LIHTC Developments

For LIHTC developments, units approved to be occupied by full-time resident managers or other full-time onsite employees that are necessary for the operation of the project are treated as part of the residential rental property. Such units are included in a building's eligible basis but are not considered residential rental units and are not included in the building's applicable fraction. The owner of a project with an employee unit may choose to require the employee to pay rent and utilities.

If the owner determines that such a unit approved to be occupied by a full-time onsite employee is no longer needed for the property, the owner must convert the unit to a LIHTC unit and lease it to a qualified household.

IRS Revenue Ruling 92-61
IRS PMTA Memo 2014-22

Section 4.19 Housing for Older Persons

ALL PROG

Some developments financed with LIHTC and/or CHFA Loan programs are designed to serve primarily senior or elderly residents. Under federal fair housing law, ''housing for older persons'' generally means housing that meets one of the following criteria.

- Intended for, and solely occupied by, persons 62 years of age or older
- Intended and operated for occupancy by persons 55 years of age or older, and at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older

The LIHTC and CHFA Loan programs do not specify requirements regarding housing for older persons. The owner shall determine which of the two "housing for older persons" criteria will be applied.

In operating such housing, owners and agents must adhere to federal and state fair housing laws and HUD guidance. CHFA cannot advise on how to comply with Fair Housing requirements and advises owners and agents to seek the advice of their legal counsel.

42 U.S.C. § 3607(b)(2)

Section 4.20 Additional Requirements for CHFA Loans

For developments with CHFA multifamily loans, the Regulatory Agreement, LURA, and/or Loan Agreement state the specific requirements that the owner must adhere to in connection with all phases of operation of the project, and the owner and any subsequent purchaser of the project will comply with the following requirements.

- Rent-restricted units should be representative of each type of unit found in the project and must be intermingled with all other units in the project. All residents in such units shall enjoy access to all common facilities of said project.
- All resident lists, files, applications, and waiting lists relating to the project shall be kept separate and identifiable from any other business unrelated to the project. This information shall be maintained in reasonable condition for audit and examination during business hours by representatives of CHFA or HUD, as applicable.
- All resident leases shall be expressly subordinate to the mortgage and shall contain clauses, among others, wherein the resident:
    - certifies the accuracy of the statements made in the application and Tenant Income Certification (TIC);
    - agrees that the family income, family composition, and other eligibility requirements at the time the lease is executed shall be deemed substantial and material obligations of tenancy. The resident also agrees to comply promptly with all requests for information with respect thereto from the owner. The failure or refusal to comply with this request for information shall be deemed a violation of a substantial obligation of tenancy; and
    - agrees that his or her lease may be terminated if any noncompliance by such tenant would adversely affect the federal tax-exempt status of interest bonds issued to provide funds to make the loan (if applicable).



CHFA's Affordable Housing Lease Addendum satisfies the above lease requirement: www.chfainfo.com/arh/asset/LIHTCForms/Affordable_Housing_Lease_Addendum.pdf

chapter 5

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Determining Household Members and Income

Low-income units must be occupied by income-qualified households. This chapter outlines the process for determining household members and for identifying and verifying their countable income.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
5.1 Determining Household Members	✓							
5.2 Temporarily Absent Family Members	✓							
5.3 Permanently Confined Family Members	✓							
5.4 Live-in Aides	✓							
5.5 Citizenship Status	✓							
5.6 Qualification of Households at Move-in	✓							
5.7 Annual Household Income Definition	✓							
5.8 Whose Income is Included and Excluded	✓							
5.9 What is Included and Excluded from Annual Household Income	✓							
5.10 Verifying Income	✓							
5.11 Employment Income	✓							
5.12 Business and Self-employment Income	✓							
5.13 Alimony	✓							
5.14 Child Support	✓							
5.15 Public Assistance	✓							
5.16 Social Security Benefits	✓							
5.17 Unemployment	✓							
5.18 Seasonal Employment	✓							
5.19 Retirement Account Income	✓							
5.20 Student Financial Aid	✓							
5.21 Recurring Contributions and Gifts	✓							
5.22 Zero- or Extremely Low-income	✓							
5.23 Basic Allowance for Housing	✓							
5.24 Real Estate Rental Income	✓							

Section 5.1 Determining Household Members

ALL PROG

When determining family size for income limits, include **all** adults and children who will live in the unit full time as household members.

Household members also include the following persons who do **not** reside in the unit full time.

- Children absent due to temporary placement in a foster home
- Children in joint custody arrangements who are present in the household 50 percent or more of the time
- Children who are away at school, but who live with family during school recesses
- Unborn children of pregnant women
- Children being adopted
- Military member on active duty who is head, co-head, or spouse
- Temporarily absent family members who are still considered household members



Live-in aides, guests, and lease co-signers/guarantors are not counted as household members.

Section 5.2 Temporarily Absent Family Members

ALL PROG

You must count income of all family members approved as household members even if some are temporarily absent. It is up to the owner and the family to determine what timeframe is "temporary." If it is determined that a family member is only absent from the home temporarily, their entire income must be counted as if they were living in the unit. Examples of people who may be considered temporarily absent are:

- family members employed a great distance away, and
- individuals in a hospital or rehabilitation facility for periods of limited or fixed duration.

Section 5.3 Permanently Confined Family Members

ALL PROG

For persons permanently confined to a hospital or nursing home, the family decides if they will be included as a household member. The family's decision determines if that person's income will be counted. If such a person is included as a household member, their income must be verified and included, and they may not be designated as head, co-head, or spouse.

Section 5.4 Live-in Aides

ALL PROG

Live-in Aide Definition

A live-in aide is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities and who:

- is determined to be essential to the care and well-being of the person(s),
- is not obligated for the support of the person(s), and
- would not be living in the unit except to provide the necessary supportive services.



HUD 4350.3, Paragraph 3-6(E)(3)(A)

Verification of the Need for a Live-in Aide

Per HUD guidelines, if a resident requires a live-in aide, the owner must obtain verification of the need for a live-in aide directly from a resident's physician, psychiatrist, or other knowledgeable health care provider.

Live-in Aide File Documentation

Live-in aides may occupy a household but are not considered household members for the LIHTC and CHFA Loan programs. Therefore, a live-in aide should not be income-qualified or certified, is not a party to the lease, and must not be included on the Tenant Income Certification (TIC). Live-in aides may be listed elsewhere in the file as persons approved to be in the unit.

Section 5.5 Citizenship Status

ALL PROG

The LIHTC and CHFA Loan programs have no citizenship requirements. Documentation of citizenship or legal residency is not required to occupy a LIHTC or CHFA Loan unit.

Section 5.6 Qualification of Households at Move-in

ALL PROG

At move-in, annual household income must not exceed the applicable income limit designated for the household's family size in accordance with the affordability requirements outlined in the project's Land Use Restriction Agreement (LURA) or CHFA Regulatory Agreement.

Households must be qualified for low-income units prior to moving in or taking possession of the unit.



For LIHTC developments, certification of residents that takes place after move-in may impact the owner's ability to claim tax credits for the unit.

Section 5.7 Annual Household Income Definition

ALL PROG

Annual household income is the gross income a family anticipates it will receive in the 12-month period following the effective date of the income certification.

Generally, the LIHTC and CHFA Loan programs use HUD Handbook 4350.3, Chapter 5, for guidance in determining how to identify and calculate income, including income from assets.

All income calculations must be documented in the file.

CHFA's Policy on Determining Annual Household Income

To qualify residents, CHFA's policy is to use the highest income (i.e., most conservative) scenario to determine household income. The maximum potential household income must be considered **first** to ensure the household qualifies for the unit. For employed persons, this includes counting anticipated raises, potential bonuses, the maximum number of hours noted by the employer, etc.

If conflicting income information is received, the owner must exercise due diligence to document the reason for the inconsistency. If the maximum potential household income would disqualify the household **and** there is credible documentation to confirm that the maximum estimate is not realistic (e.g., paycheck stubs or child support disbursement records), a more realistic amount should be used to qualify the household. In such cases, the file must contain a clarification record as to why the lower amount is being used.



If a property has a Section 8 or USDA Rural Development housing assistance contract, the owner may determine income according to those programs' rules instead of following CHFA's policy.

Section 5.8 Whose Income is Included and Excluded

ALL PROG

Included

Income Must Be Included for
All adult members 18 years and older
Emancipated minors (either married or emancipated from the family)
Household members, including children and students, who receive unearned income
Temporarily absent family members

Excluded

Income Is Excluded for
Family members under the age of 18, including foster children, who receive earned income
Qualifying students who receive financial assistance
Full-time students who are age 18 and older, and **not** head, co-head, or spouse (exclude all but the first $480 of earned income)
Active military members who are **not** head, co-head, or spouse

Included

Income Must Be Included for
Full-time students who are head, co-head, or spouse (include all income)
Full-time students who are age 18 and older, and not head, co-head, or spouse (include all unearned income and only the first $480 of earned income)
Fill-time students under age 18 (include only unearned income)
Active military members who are head, co-head, or spouse

Excluded

Income Is Excluded for
Family members who receive payments for the care of foster children and foster adults
Nonmembers: live-in aides, guests, guarantors, and lease co-signers

Section 5.9 What Is Included and Excluded from Annual Household Income

ALL PROG

Included

Types Included in Income
Gross employment income of adults (including foster adults), such as wages, salaries, overtime, shift differential, commissions, fees, tips, and bonuses
Gross unearned income of all household members (including children, foster children, foster adults, and students), such as Social Security, SSI, SSDI, TANF, OAP, and AND
Regular payments or distributions received from annuities, insurance policies, retirement funds, pensions, disability benefits, and death benefits
Net income of any kind from personal property
Net income from real estate rentals Includes mortgage payments in lieu of rent made by a rental property occupant on behalf of an affordable housing resident who owns real estate
Recurring monetary contributions or gifts. This includes regular contributions (cash or non-cash) from relatives, charitable organizations, or another outside source not living in the unit. These contributions can be for rent, utilities, phone bills, car payments, insurance, etc.

Excluded

Types Excluded from Income
Food stamps, Meals on Wheels, and other programs providing food for those in need
Groceries provided by persons not living in the unit
Grants or other reimbursement received for medical expenses
Student financial aid, including all GI Bill benefits, when the household does not receive Section 8 assistance
Lump sum payments from Social Security or other sources
Temporary, nonrecurring, or sporadic income (including one-time gifts)

Included

Types Included in Income
Student financial aid, including all GI Bill benefits, received by households also receiving Section 8 assistance when the students meet the criteria specified in Section 5.20, Student Financial Aid
The first $480 of earned income for full-time students who are age 18 years and older and who are not the head, co-head, or spouse
Military basic housing allowance if located outside of a QMI (See Section 5.23, Basic Allowance for Housing)
In-kind rent provided to property employees occupying affordable units

Excluded

Types Excluded from Income
Recurring monetary contributions that are paid by persons not living in the unit directly to a childcare provider
Earned income exceeding $480 for full-time students 18 years or older who are not the head, co-head, or spouse
Loans of any kind, including personal and student loans
Military hostile fire pay
Military basic housing allowance only if located inside a QMI area (See Section 5.23, Basic Allowance for Housing)
Reverse mortgage payments



See HUD Handbook 4350.3, Exhibit 5-1: Income Inclusions and Exclusions for a detailed list.

Section 5.10 Verifying Income

ALL PROG

CHFA's Policy on Verifying Income

At move-in and for all full annual recertifications, owners must verify all sources of income indicated in the household's qualifying paperwork. CHFA requires full third-party documentation as described in this manual for the LIHTC and CHFA Loan programs.

Types of Income Verification

All attempts to verify income must be documented. Methods of verification have a hierarchy of acceptability from the most to the least acceptable method. Attempts to obtain the most acceptable forms of verification must be documented before the owner may use a lesser form of verification. Below is a summary of the three forms of verification, in order of preference: 1) third-party written, 2) third-party verbal, and 3) documents provided by the resident.



If the file contains documentation that the verifier uses a fee-based verification service, documents provided by the resident may be obtained first.

Third-party Written Verification – First Option

This is the preferred method of verifying almost all sources of income and must be attempted first. Third-party written verification is verification in writing that is received by the owner/agent directly from the verifying agency or person.

To obtain the third-party written verification, complete the following steps.

Have the resident sign a release form authorizing third-party disclosure of the applicant's income.

Email, mail, fax, or hand deliver the form directly to the appropriate third-party contact. Note: The appropriate contact information must be confirmed by management (not the resident).

Request that the third party email, mail, fax, or hand deliver the form directly back to you. Forms may not be hand carried by the resident to or from the verifier.

To document receipt from the verifier, the form or document must contain a return fax line, the email from the verifier, the envelope from the verifier, or a clarification record indicating the date received in person and from whom.

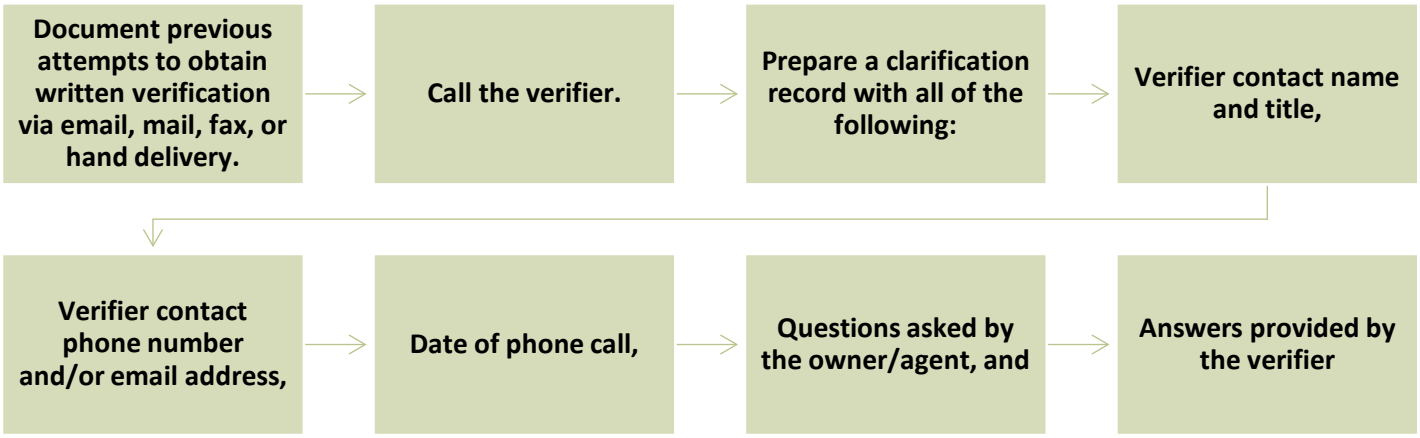
Once received from the verifier, review the verification document carefully. Any blanks or discrepancies on the verification must be clarified with the verifier and documented in the file.



Sample Clarification Record: www.chfainfo.com/arh/asset/LIHTCForms/Clarification-Record.pdf

Third-party Verbal Verification – Second Option

Owners may obtain a verbal verification from the verifier only if attempts to obtain third-party written verification are unsuccessful and are well-documented. When completing a verbal verification, ask all necessary questions to collect the same information provided on a written verification form.



Documents Provided by the Resident – Last Option

As a last resort, if written or verbal third-party income verification have been attempted and documented as unsuccessful, documents provided by the resident may be used to verify income.

Acceptable forms of verification for specific income types are noted as applicable throughout the remainder of this chapter.

How Long Are Income Verifications Valid?

Income verifications that are subject to change throughout the year are valid for 120 days from the date the document was signed by the person verifying the information. Once the 120-day period has expired, the documentation is no longer considered reliable and new verifications must be obtained.

Information that changes no more than once per year, such as Social Security benefits, pensions, annuities, and other lifetime benefits, may be dated up to one year (365 days) prior to, instead of within 120 days of, the certification effective date.

Public Housing Authority Verification for Households with Housing Choice Vouchers (HCV)

When a household has an HCV, you may obtain third-party written verification from the voucher administrator (e.g., public housing authority) that verifies their income and income from assets in lieu of obtaining separate third-party income verifications. The verification must be completed using CHFA's Public Housing Authority Statement of Income and Assistance. If the PHA's information is different than information provided by the resident on the application, questionnaire, etc., the owner must clarify all inconsistencies.

Public Housing Authority Statement of Income and Assistance:
www.chfainfo.com/arh/asset/LIHTCForms/PHA_Certification_of_Assistance_Income.pdf

Enterprise Income Verification (EIV) System

For properties with Section 8 housing assistance payment contracts, HUD requires owners to verify many income types using the online EIV system. Because most CHFA Program Compliance Officers are not authorized by HUD to review EIV reports, actual EIV reports may not be used as third-party verification for the LIHTC and CHFA Loan programs. However, at recertification only, management at Section 8 properties may use CHFA's Summary of EIV Third-party Verification for Annual Recertifications form to summarize EIV reports instead of obtaining separate third-party income verifications.



Summary of EIV Third-party Verification for Annual Recertifications: www.chfainfo.com/arh/asset/LIHTCForms/EIV-3rd-Party-Ack.pdf



EIV reports may not be kept in file used for LIHTC or CHFA Loan program compliance, unless they are removed ahead of a CHFA program compliance review.

Section 5.11 Employment Income

ALL PROG

Calculating Annual Employment Income

Employment income must be annualized using the household's current circumstances, unless verification forms indicate that a change will occur in the next 12 months. Include overtime, shift differential, bonuses, and anticipated raises in the income calculation. When annualizing employment income, the amount must be calculated:

- according to the person's wage or salary, and
- based on year-to-date (YTD) earnings.

Annualizing Employment Income Based on Wage and Hours

Multiply the income (hourly or salaried amount) by the maximum number of periods (hours, months, etc.) the employer anticipates the resident will work in the next 12 months.

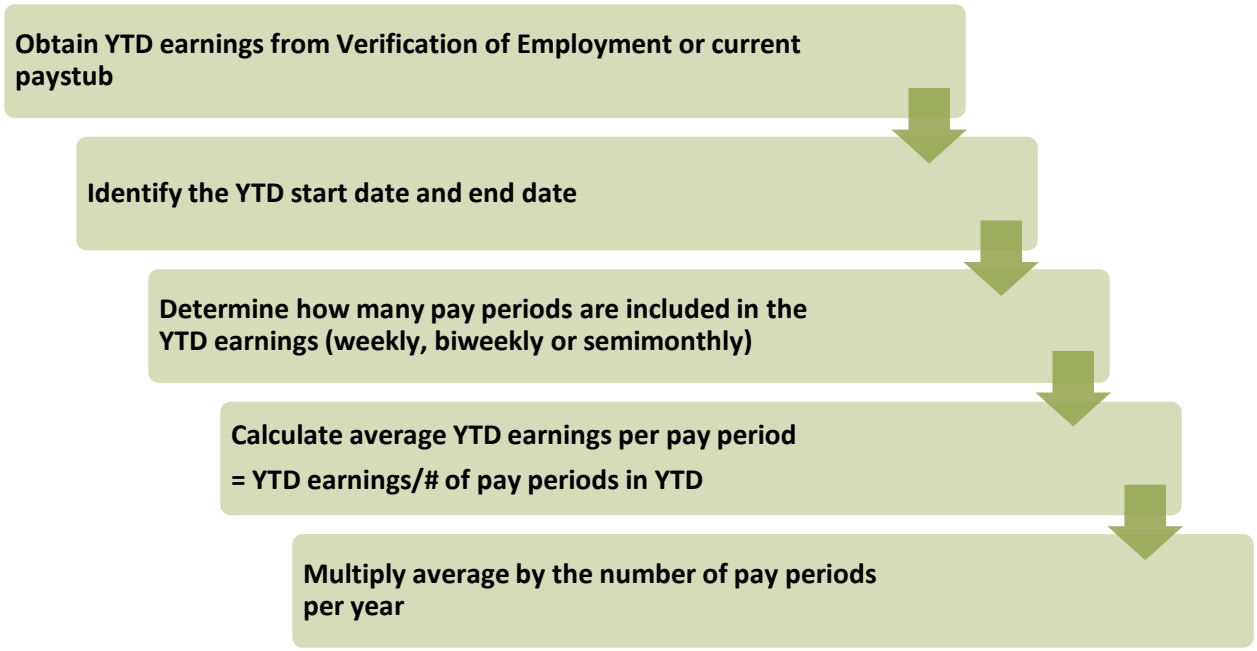
Below are the methodologies to use when determining annual income according to the person's wage and hours.

- Hourly wages - multiply by 2,080 hours for full-time employment, 40 hours per week
- Weekly wages - multiply by 52 weeks
- Biweekly wages (every other week) - multiply by 26 pay periods
- Semimonthly amounts – multiply by 24 periods
- Monthly amounts – multiply by 12 months
- Annual salaries require no further calculation.

Annualizing Employment Income Based on Year-to-Date Earnings

Determine the exact number of weeks or pay periods covered by the YTD earnings (do not round up). Then calculate the average earnings received per week/pay period and multiply by the number of weeks/pay periods per year. Remember to account for any anticipated raises in your calculation.

To calculate income based on YTD earnings correctly, ensure that the Verification of Employment (VOE) includes both the start and end dates of the period covered by the YTD earnings. When annual income based on YTD earnings is either significantly different than income based on the wage or would put an applicant over the income limit, clarification with the employer is required.





Be sure to include any anticipated raise into the YTD earnings calculation.

Determining the Amount of Employment Income to Use on the TIC

If the estimates based on wage/hours and YTD earnings are inconsistent, identify the reason why and document it in a clarification record.

Whichever estimate is higher must be included on the TIC, unless the higher amount is documented to be unrealistic. For example, if the YTD estimate includes full-time hours previously offered by the employer and the employer has verified they are now allowing only part-time hours, the more current and accurate estimate should be included on the TIC.

Verifying Employment Income

Employment income verification must be received from the employer. Methods of third-party verification have a hierarchy of acceptability from the most to the least acceptable method. Attempts to obtain the most acceptable forms

of third-party verification must be documented before the owner may use a lesser form of verification. See Section 5.10, Verifying Income, for more information on the verification process.

Written Verification of Employment (VOE)

This is the preferred method that is sent by the owner/agent directly to and received directly from the employer and must be attempted first. The employment verification form must request YTD earnings, the start and end dates of the YTD period, as well as other basic income information. Any blanks or discrepancies in the verification must be clarified with the employer by the owner prior to certifying the resident.



Verification of Employment form: www.chfainfo.com/arh/asset/LIHTCForms/Verification_of_Employment.pdf



The Work Number

When available, this service is an acceptable alternative to sending a written verification to the employer. However, paystubs may also be needed to verify any required information not included in The Work Number's printout.

Using The Work Number or a similar verification service is not required if it charges a fee.

Verbal Verification of Employment

Owners may obtain a verbal verification from an employer if attempts to obtain a written VOE are unsuccessful and are well-documented. To complete a verbal verification, the person verifying the information must obtain all of the same information on the VOE form and document the name of the person providing the information, including the person's title and phone number, the date of the phone call, the questions asked by the owner, and the answers provided by the employer.

Paycheck Stubs

If written or verbal third-party income verification cannot be obtained, or the file contains documentation showing the employer uses a fee-based verification service, the resident's paycheck stubs may be used to document income if:

- the paycheck stubs are consecutive,
- the paycheck stubs represent at least the three most recent pay periods prior to the date of certification,
- the paycheck stubs are complete and unaltered, and
- all efforts to obtain third-party verification are well-documented.

Calculating Employment Income Using Paystubs

- Average the gross earnings received for the three (or more) pay periods. Multiply the average per paystub by the number of pay periods per year.

- Identify the year-to-date gross earnings listed on the most recent paystub. Divide YTD gross earnings by the number of pay periods included in the YTD earnings. Multiply the average by the number of pay periods per year.

Verification of Employment Termination

If an adult household member had employment that ended within three months prior to the certification date, the owner must verify the employment termination date directly with the former employer. If attempts to obtain a written or verbal verification from the former employer are unsuccessful and documented in the file, the owner may accept a signed and dated statement by the applicant/resident specifying the last day of employment.

Section 5.12 Business and Self-employment Income

ALL PROG

When calculating annual income, owners must include net income from the operation of a business and any self-employment income received by the applicant/resident. This includes those who are paid in cash and those who receive an IRS Form 1099. Net income is gross income less business expenses, interest on certain loans, and depreciation, computed on a straight-line basis.

Business Income Includes	Allowable Deductions from Business Income	Prohibited Deductions from Business Income
Net income from the business	Business expenses (e.g., salaries, utilities, supplies, rent, insurance)	Principal payments on loans
Salaries paid from the business to any adult family members	Interest portion on loans that were not used for business expansion	Interest on loans or other expenses for business expansion
Cash or assets withdrawn by any family member (unless the withdrawal is reimbursement for an investment)	Straight-line depreciation	Expenses for capital improvements

Verification of Business and Self-employment Income

CHFA requires the following documentation for **all** self-employed persons, including those who are paid in cash and those who receive an IRS Form 1099 tax statement.

- Certification of Income for Self-employed Persons; and
- Business plan summary (i.e., explanation of business type, date business started, frequency of work, frequency of payment, and typical payment amounts); and
- **Year-to-date** profit and loss statement (i.e., income and expense statement or similar income statement that reflects actual information, not estimates or averages); and
- Most recent federal tax return – if the person files annual tax returns.
    - The tax return must include IRS Form 1040 and Schedule C.

- If the taxpayer (applicant/resident) filed, but does not have a copy of the return, he or she may request a tax return transcript from the IRS at www.irs.gov/individuals/get-transcript. The resident may also complete IRS Form 8821, Tax Information Authorization, which allows the owner to verify their federal tax return.
- Note: The IRS requires self-employed individuals to file an income tax return if their net earnings from self-employment were $400 or more. Per the IRS, if their net earnings from self-employment were less than $400, they still have to file an income tax return if they meet any other filing requirement listed in the IRS Form 1040 and 1040-SR instructions.

- Most recent **annual** profit and loss statement – if the person does not file annual tax returns.
  - CHFA does not require applicants or residents to file tax returns. Nevertheless, if it appears that an applicant/resident was required by the IRS to file an income tax return and states they did not file, a Verification of Non-filing Letter from the IRS may be required by the owner or CHFA.



Certification of Income for Self-Employed Persons: www.chfainfo.com/arh/asset/LIHTCForms/Certification_of_Income_Self_employed_Persons.pdf

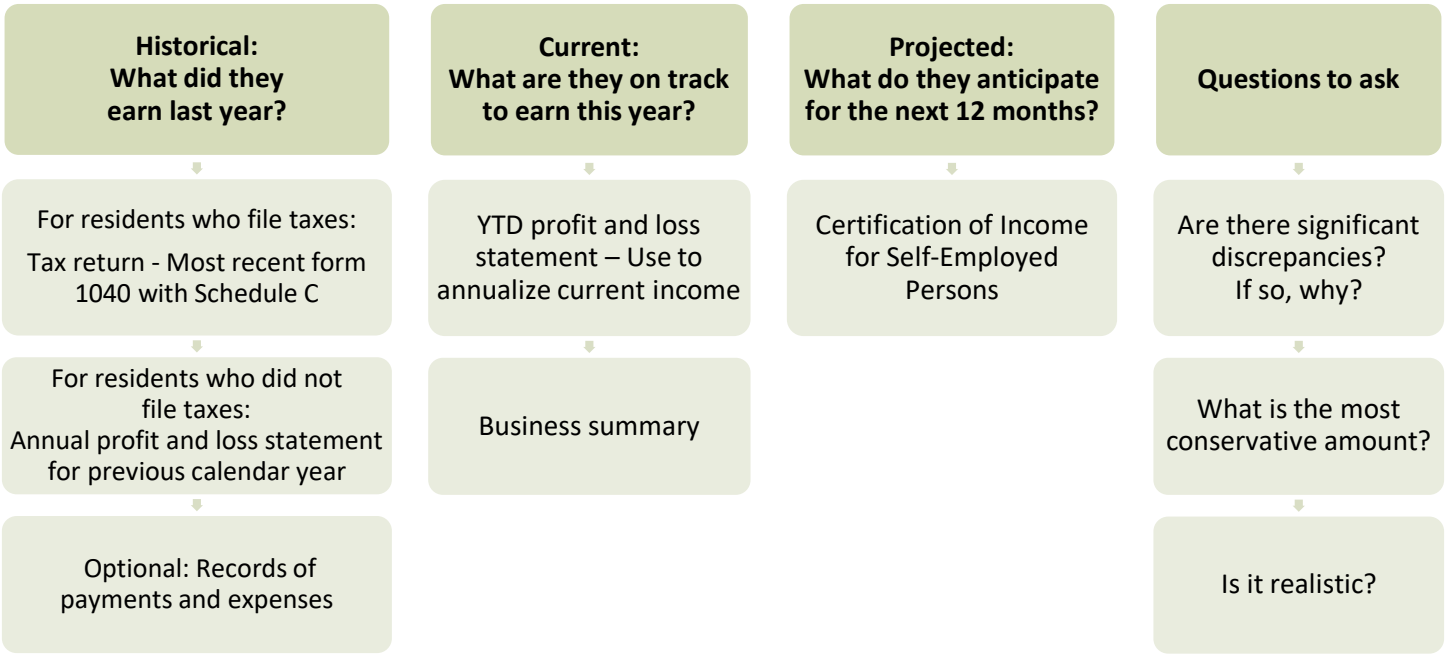
Determining the Amount of Business and Self-employment Income for the TIC

Because anticipated self-employment income can be difficult to document and estimate, CHFA's policy requires that self-employment income be determined as summarized below. For new businesses without historical financial records, the owner must make their best attempt to estimate anticipated annual income.

- Review historical, current, and projected net income.
- Use the most conservative amount on the TIC, unless you verify it is unrealistic.
- Explain significant discrepancies between years using a clarification record.



Sample Clarification Record: www.chfainfo.com/arh/asset/LIHTCForms/Clarification-Record.pdf



Section 5.13 Alimony

ALL PROG

Owners must count alimony amounts awarded by the court unless the resident 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.

If a resident has been awarded alimony, management must:

- obtain a copy of the divorce decree or separation agreement which grants alimony,
- document the alimony amount that is actually being received by the household, and
- include the average amount the household is receiving on the TIC.

Verification of Alimony

Third-party verifications must be obtained from:

- the separation/settlement agreement or a divorce decree stating the amount and type of support and payment schedule;
- a letter from the person paying support;
- printouts from the court or agency responsible for enforcing the payments; or
- as a last resort, a statement or affidavit from the resident stating the frequency and value of the support.

Section 5.14 Child Support

ALL PROG

Child Support Affidavit

A Child Support Affidavit is required for each child who has only one parent in the household. The affidavit will indicate whether child support is received and whether child support has been court-ordered. Owners must count both child support awarded by the court (see below) and child support received outside the formal court process.



Child Support Affidavit:
www.chfainfo.com/arh/asset/LIHTCForms/Child_Support_Affidavit.pdf

Birth Certificates for Children

Copies of birth certificates are not required for the LIHTC and CHFA Loan programs. Nevertheless, CHFA recommends that birth certificates are obtained for minors to determine whether both parents are in the household.

Court-ordered Child Support

In the case of court-ordered support, the owner must obtain a copy of the court order. The full court-ordered amount must be included as income unless the resident states that he/she is not receiving the full payment and has made efforts to collect it, such as filing with the state support enforcement agency.

Verification of Child Support

Court-ordered Child Support

If a resident certifies he/she has been awarded support, but either is not receiving any support or is receiving less than the ordered amount, or is unable to provide a copy of the court order, the owner must:

- Obtain third-party verification of the amount received in the previous 12 months.
    - In Colorado, contact the county Human Services department and/or the state's Family Support Registry
    - If support was ordered in another state, contact that state's enforcement agency.
- Count only the average amount actually received.
    - If the verification includes clearly documented arrears payments, those amounts may be excluded from the amount anticipated to be received.



Colorado Family Support Registry:
https://childsupport.state.co.us/family-support-registry

Child Support Outside the Court System

If a resident certifies he/she does not have a court order for child support, but is receiving it informally on a regular basis, the owner must:

- Contact the child support provider to obtain either a signed and dated statement as to the amount and frequency of the payments, or a Verification of Household Assistance form.
- If the above documentation cannot be obtained, a signed and dated statement from the resident stating the frequency and amount of the child support, along with an explanation as to why the above documentation could not be obtained, is acceptable.



Verification of Household Assistance
www.chfainfo.com/arh/asset/LIHTCForms/Verification_Household_Assistance.pdf

Section 5.15 Public Assistance

ALL PROG

When counting public assistance, such as Colorado Works or Temporary Aid to Needy Families (TANF), Old Age Pension (OAP), and Aid to the Needy and Disabled (AND), always use the gross amount specified as the maximum grant or benefit the person or family could receive.

Deductions for health insurance premiums or other items (including penalties deducted from TANF payments) must be included in the gross amount counted as income.

Verification of Public Assistance

Third-party verification prepared by the agency providing the benefit, dated within 120 days of the certification effective date, is required. Acceptable options include:

- an award or benefit letter,
- a Colorado Benefits Management System (CBMS) report from the resident's online account or caseworker, or
- a Verification of Public Assistance form.

Section 5.16 Social Security Benefits

ALL PROG

When counting Social Security benefits, including SSI and SSDI, always use the gross monthly benefit before any deductions for Medicare premiums.

Adjustments Due to Overpayments and Underpayments

If the amount of the Social Security benefit is adjusted due to a previous overpayment or underpayment, use the benefit amount as follows.

- Overpayments: Use amount after adjustment
- Delays/underpayments: Use amount before adjustment

Annual Cost of Living Adjustment (COLA)

Each fall, the Social Security Administration announces a cost of living adjustment for Social Security recipients. Once the announcement is published, it must be applied to all move-in certifications effective after the announcement date. If a move-in certification effective after the announcement has already been completed and signed, management must document the COLA, recalculate income on the TIC, and have the resident initial the changes.



Be sure to set a recurring calendar reminder to look for the Social Security COLA announcement every October.

Verification of Social Security Benefits

Acceptable options for third-party verification include the following.

- An award or benefit letter mailed to the resident
- A benefit letter printed from the resident's online Social Security account
- TPQY - a computer-generated printout detailing Social Security benefits



Since these benefits typically do not change more than annually, Social Security verifications do not have to be dated within 120 days and may be dated up to one year prior to the certification effective date.



Because they do not always reflect **gross** benefits, bank statements, tax forms, and checks are not permitted as verification.

Section 5.17 Unemployment

ALL PROG

Unemployed Resident Affidavit

Unemployed adult residents, including unemployed spouses, must complete an Unemployed Resident Affidavit certifying that they are currently not employed, indicating whether they anticipate becoming employed within the upcoming 12-month period, and, if so, estimating the amount they expect to earn.

Anticipated employment income must be included in qualifying household income. However, a household should not be disqualified due to anticipated employment earnings that are not based on prior year earnings or tax returns. If the resident is basing anticipated employment income on tax returns, the most recent federal return must be attached to the affidavit.



Residents of assisted living and designated elderly developments who are 62 and older are not required to complete an Unemployed Resident Affidavit.



Unemployed Resident Affidavit:
www.chfainfo.com/arh/asset/LIHTCForms/Unemployed_Resident_Affidavit.pdf

Verification of Unemployment Benefits

Verification of unemployment compensation may be obtained from:

- the state unemployment compensation agency,
- the local unemployment office, or
- a current benefit statement sent to the resident by the Colorado Department of Labor and Employment.

Determining How to Include Unemployment and Anticipated Employment on the TIC

In Colorado, individuals are allowed a maximum of 26 (not 52) weeks of unemployment benefits. Therefore, standard unemployment benefit income should be counted as if it will be received for no more than the full 26 weeks. The specific unemployment income amount included on the TIC should be the remaining balance according to the third-party verification (adjusted as needed to align with the certification effective date). If benefits were approved but have not yet been received, the maximum allowable amount should be used.

For the purposes of completing the TIC, the owner must use the greater of the actual amount received through unemployment compensation or the amount shown as anticipated employment income on the Unemployed Resident Affidavit. Or, when applicable, a combination of the remaining balance of unemployment compensation and anticipated employment income once benefits end can be reflected.

Unless the household receives a full rent subsidy, the combined amount of benefits and/or anticipated employment income should account for the resident's portion of rent over the 12-month period. If not, management must clarify with the resident how s/he intends to pay rent (e.g., financial support from family, public assistance, self-employment, etc.). In such cases, a clarification record is required to document the file.

Section 5.18 Seasonal Employment

ALL PROG

Seasonal Worker Affidavit

Residents employed seasonally, such as teachers, school bus drivers, farm workers, ski instructors, landscapers, etc., must complete a Seasonal Worker Affidavit certifying their plans for any off-season income.

Determining How to Include Off-season Income on the TIC

Anticipated off-season income could include employment, self-employment, unemployment benefits, and financial assistance from non-household members, and must be included in annual household income. Unless the household receives a full rent subsidy, the combined amount of seasonal employment and anticipated off-season income should account for the resident's portion of rent over the 12-month period. If not, a clarification record is required to document the file.

Seasonal Worker Affidavit:
www.chfainfo.com/arh/asset/LIHTCForms/SeasonalWorkerAffidavit.pdf

Section 5.19 Retirement Account Income

ALL PROG

The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits are included in annual income. Periodic payments received due to the withdrawal of cash or assets from an investment are also counted as income.

Distributions from retirement accounts that are not periodic (i.e., sporadic) are not counted as income.

For detailed information on retirement account income, see HUD 4350.3, Paragraph 5-6(L).

Required Minimum Distributions (RMDs)

The IRS requires individuals to start taking withdrawals, referred to as a Required Minimum Distribution, from their traditional IRA, 401(k), 403(b), 457(b), and certain other retirement plan accounts at a specific age. As of 2020, the age is 72. Prior to 2020, the RMD age had been 70½. Once RMDs begin, the retiree must make the minimum withdrawal each year. Because RMDs are regular and recurring, they must be included in annual household income.

Verification of Retirement Account Income

Third-party written or verbal verification of the amount and frequency of distributions with the agency that issues periodic payments is required. If direct verification is not possible, an annual benefit notification letter, dated within one year of the certification effective date, or a current statement prepared by the distributing agency is acceptable.

When retirement benefits are received through periodic payments, any remaining balance in the account is not counted as an asset, because the balance is the source of the income.

Section 5.20 Student Financial Aid

ALL PROG

Student financial aid for full- or part-time students enrolled in a higher education institution includes scholarships (athletic and academic), grants, fellowships, work study programs, GI Bill benefits (including tuition and housing), and aid from private sources. Whether a household member's student aid is counted in household income depends on whether the household receives Section 8 assistance.

HUD 4350.3, Paragraph 5-6(E)

Households without Section 8 Assistance

For the LIHTC and CHFA Loan programs, all financial aid is excluded from household income if a household does not have Section 8 housing assistance.

Households with Section 8 Assistance

If a household participates in a Section 8 program, whether it is through a project-based contract or through the Section 8 Housing Choice Voucher program, any financial aid received by higher education students **in excess of** their tuition paid is counted in household income (see exception below). It does not matter if the financial assistance is paid directly to the student or to the educational institution.



Do not count any financial aid if:
The student is over the age of 23 with dependent children, or the student is living with his/her parents who are applying for or receiving Section 8 assistance.

Verification of Student Financial Aid

For households with higher education students and Section 8, the owner must:

- Obtain third-party verification of the anticipated amounts of financial aid and tuition over the 12-month period.
- Calculate the net amount of aid: total financial aid minus total tuition.
    - Be sure not to count any student loans.
- Include the net amount of aid in household income on the TIC.



Verification of Student Status and Financial Aid:
www.chfainfo.com/arh/asset/LIHTCForms/Verification_of_Student_Status.pdf

Section 5.21 Recurring Contributions and Gifts

ALL PROG

Residents claiming zero- or extremely low-income may receive gifts or contributions on a regular basis from friends, family members, or charitable organizations. Such recurring gifts are considered income by the LIHTC and CHFA Loan programs and must be included in household income.

Verification of Recurring Contributions and Gift Income

Third-party verifications must be obtained from:

- a Verification of Household Assistance or affidavit signed by the person or organization providing the gift, stating the frequency and value of the gift;
- a verification letter from a bank, attorney, or a trustee administering the gift; or
- as a last resort, a statement from the receiver of the gift stating the frequency and value of the gift along with copies of checks, when possible.



Verification of Household Assistance: www.chfainfo.com/arh/asset/LIHTCForms/Verification_Household_Assistance.pdf

Section 5.22 Zero- or Extremely Low-income

ALL PROG

In the following cases, a Zero-/Extremely Low-Income Household Questionnaire is required. Any recurring income disclosed on the questionnaire must be third-party-verified and included in household income.

- If any adult (except for a non-employed spouse) states zero income and does not receive a rent subsidy.
- If household income is insufficient to cover rent and the household does not receive a rent subsidy.



Zero-/Extremely Low-Income Household Questionnaire: www.chfainfo.com/arh/asset/LIHTCForms/Zero-ExtremelyLowIncomeQuestionnaire.pdf

Section 5.23 Basic Allowance for Housing

ALL PROG

The military Basic Allowance for Housing (BAH) must be included as income for all properties that are not located in a Qualified Military Installation (QMI) area.



Properties in the following six counties are within a QMI and may exclude BAH from income: El Paso, Douglas, Elbert, Lincoln, Pueblo, Fremont, and Teller.



Section 3005 ofthe American Housing and Economic Recovery Act of 2008 (HERA)

Protecting Americans from Tax Hikes Act of 2015

Section 5.24 Real Estate Rental Income

ALL PROG

If a resident discloses real estate, lists their prior residence as a home they owned, or has an outstanding mortgage, the file must include documentation showing the owner has conducted due diligence as to the ownership and status of the property and any related income from the asset. Due diligence also includes documenting whether the property is rented or is anticipated to be rented.

Verification of Rental Income

If an affordable housing resident's property is rented or occupied, rental payments to the resident must be verified using the rental property's lease, or other reasonable documentation, if a lease has not been executed.

Mortgage Payments in Lieu of Rent

If the rental property occupant makes mortgage payments on behalf of the affordable housing resident in lieu of rent, the payments must be included in household income.

Calculation of Net Rental Income

If a resident's property is rented or occupied, the monthly rental income, less reasonable expenses, must be annualized to determine net income from the rental property. Reasonable expenses may include the following.
Note: All deducted expenses must be documented, and the principal portion of mortgage payment may not be deducted.

- Owner-paid utilities
- Maintenance/Repairs
- Advertising
- Interest portion of mortgage payments
- Taxes and insurance

Reverse Mortgages

Reverse mortgage payments to a homeowner are considered loan proceeds and not income.

Regardless of any reverse mortgage on a home, as long as the applicant/resident still owns the home, its cash value must be included as an asset.

chapter 6

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Household Assets and Asset Income

This chapter outlines the process for identifying household assets and verifying the income from assets that must be included in annual income.

Please look at the chart below to see the programs to which each section in this chapter is applicable.

✓ Applicable ✕ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
6.1 Asset Definition	✓							
6.2 Resident Statement of Assets	✓							
6.3 Treatment of Assets	✓							
6.4 Cash Value of Assets	✓							
6.5 Calculating Income from Assets	✓							
6.6 What is Included and Excluded from Assets	✓							
6.7 Verifying Assets	✓							
6.8 Pension Plans and Retirement Accounts	✓							
6.9 Real Estate	✓							
6.10 Trusts	✓							
6.11 Assets Disposed of for Less than Fair Market Value	✓							

Section 6.1 Asset Definition

ALL PROG

Annual household income includes income amounts derived from assets to which any member of the household has access. Assets are items of value other than necessary personal property that can be turned into cash. Examples include cash on hand, savings and checking accounts, trusts, stocks, bonds, CDs, money market accounts, IRAs, other retirement accounts, real estate, some mobile homes, and pension funds. Assets do not include necessary personal items such as computers, furniture, cars, or vehicles specially equipped for persons with disabilities.

There is no limit on the amount of assets a household may have, and a household is not required to convert any assets to cash to qualify for the LIHTC or CHFA Loan programs.



The purpose of identifying and verifying assets is to enable the owner to calculate any accessible income from assets that will be generated for the household during the 12-month certification period.

Section 6.2 Resident Statement of Assets

ALL PROG

At move-in and at each full annual recertification, each adult member of a low-income household is required to complete a Resident Statement of Assets (Asset Certification) form, even if the person discloses no assets. On the Statement of Assets, residents must also identify all assets that have been disposed of for less than fair market value or certify that no assets have been disposed of for less than fair market value.

A married couple may complete one combined form. If the household completes CHFA's Application or Certification Questionnaire in full, which both incorporate the Statement of Assets, a separate Statement of Assets form is not required.



For self-certifications, a Statement of Assets is not required.

Section 6.3 Treatment of Assets

ALL PROG

How to verify and calculate income from assets depends on whether the total cash value of all the household's assets exceeds $5,000.

Total Cash Value of Household Assets is $5,000 or Less

- Third-party verification of assets is not required.
- Calculate the actual income for each asset and include it on the Tenant Income Certification (TIC).
- Calculation of imputed income from assets is not required.

Total Cash Value of Household Assets Exceeds $5,000

- Third-party verification is required for each asset.
- Calculate both actual income and imputed income for each asset.
- Compare actual and imputed income and include the higher amount of income on the TIC.

Section 6.4 Cash Value of Assets

ALL PROG

When verifying and calculating income from assets, the first step is to determine the cash value of each asset. To determine the cash value of certain assets, such as retirement accounts and real estate, you must first determine the current market value. From an asset's current market value, you may deduct the following to arrive at the cash value.

- Penalties for withdrawal before maturity
- Broker and legal fees
- Real estate closing/settlement costs
    - If the actual amount is unknown, use 10 percent of the full value of the asset.
- The principal balance of a loan or mortgage on the asset

Asset Valuation Guidelines

Below are the amounts to use as the "cash value" for certain common asset types.

Asset Type	Value to Count
Checking Account	Six-month average balance
Savings Account	Current value
Debit Card (Direct Express, unemployment, etc.)	Current value
Real Estate	Cash value
Retirement Account with no periodic withdrawals	Cash value
Retirement Account with sporadic withdrawals	Six-month average balance
Retirement Account with periodic withdrawals	None. Count the withdrawals in annual income instead.

Section 6.5 Calculating Income from Assets

ALL PROG

Income from assets must be calculated and listed on the Tenant Income Certification as follows.

Actual Income from Assets

The actual income from each household asset must always be calculated and listed on the TIC—even if the income is $0. Actual income includes interest earned, dividends, net rental income, and periodic trust distributions, if applicable.

For accounts with interest rates, multiply the interest rate by the full value of the asset.

Asset Type	What to Use to Calculate Actual Income
Checking Account	Interest rate
Savings Account	Interest rate
Debit Card (Direct Express, unemployment, etc.)	Interest rate
Real Estate	Net rental income
Retirement Account	Interest rate or dividends
Trusts	Amount listed in Trust Agreement or Trustee letter (subject to exclusions per the HUD Handbook 4350.3, Chapter 5)
Whole Life Insurance	Interest rate or dividends
Assets Disposed of for Less Than Fair Market Value	$0

Imputed Income from Assets

If the total cash value of all assets is more than $5,000, imputed income must also be calculated using the current HUD passbook rate. When calculating imputed income, start with the total cash value of all assets and multiply by 0.06 percent or .0006. List the total imputed income on the TIC.

Determining the Amount of Asset Income to Include in Total Household Income

- If the total cash value of all assets is $5,000 or less, include only the actual income from each household asset.
- If the total cash value of all assets is more than $5,000, compare the household's total actual income from assets with the total imputed income from assets. Include whichever amount is higher in the calculation for total household income.

Section 6.6 What Is Included and Excluded from Assets

ALL PROG

Included

Types Included in Assets
Cash held in savings accounts, checking accounts, and safe deposit boxes
Cash on-hand
Real estate in the resident's name (including mobile homes for which there is a Deed of Trust)
Whole or universal life insurance policies that have cash value
Retirement and pension fund balances, except as noted below
Assets disposed of for less than fair market value within two years of the certification effective date and totaling more than $1,000
Revocable trusts created by the resident
One time/lump sum receipts still in the household's possession (inheritances, insurance settlements, etc.)
Stocks, bonds, certificates of deposit (CDs), and money market accounts

Excluded

Types Excluded from Assets
Necessary personal property (cars, televisions, computers, etc.)
Assets that are part of an active business
Mobile homes that are considered vehicles and do not have a Deed of Trust
Term life insurance policies (i.e., no cash value)
Assets that are owned by but not accessible to the applicant/resident and provide no income
Assets disposed of for less than fair market value over two years before the certification effective date Assets disposed of for less than fair market value totaling $1,000 or less Assets disposed of for less than fair market value due to bankruptcy, divorce/ separation, or foreclosure
Assets that are not effectively owned by the applicant/resident



See HUD Handbook 4350.3, Exhibit 5-2: Assets for a detailed list.

Section 6.7 Verifying Assets

ALL PROG

At move-in and for full annual recertifications, if a household's assets have a total cash value of over $5,000, the owner must obtain third-party verification for each asset. If household assets total $5,000 or less, third-party verification is not required.

Types of Asset Verification

All types listed below are accepted forms of third-party asset verification.

Asset Verification Type	Key Points
Verification of Assets form received directly from the financial institution, financial advisor, stockbroker, etc.	Ensure the way the form was received is clearly documented. Examples of documentation include: - a return fax line on the form - the verifier's email attaching the form - the envelope in which the form was sent - a clarification record stating the name and contact information of the verifier who delivered or completed the form in person and the date.
Bank account statements, investment account statements, retirement account statements, etc. provided by the resident or printed from the Internet.	For savings accounts, obtain the current statement. For checking accounts, obtain six current consecutive statements. For retirement accounts, obtain the current statement (or statements covering the previous six months, if applicable)
Verbal verification by the owner with the financial institution, financial advisor, stockbroker, etc.	The owner completes either the Verification of Assets form or a clarification record with the same questions. The documentation must include the date of the phone call, the verifier's name, title, phone number, and/or email address.



Verification of Assets form:
www.chfainfo.com/arh/asset/LIHTCForms/Verification_of_Assets_.pdf



HUD Handbook 4350.3, Appendix 3: Acceptable Forms of Verification.

How Long Are Asset Verifications Valid?

Asset verifications are valid for 120 days from the date the document was signed by the person verifying the information. Once the 120-day period has expired, the documentation is no longer considered reliable and new verifications must be obtained.

Section 6.8 Pension Plans and Retirement Accounts

ALL PROG

Whether to count a retirement account balance as an asset depends on whether the funds are accessible and whether periodic payments are being made to the household.



See HUD Handbook 4350.3, Paragraph 5-7(G)(4) for detailed examples of retirement accounts.

Before Retirement

For individuals not retired, only the amount that a resident can withdraw from a pension plan or retirement account [e.g., IRA, 401(k), 403(b), Keogh, etc.] without terminating employment or retiring is considered an asset. Accessible amounts are counted even if withdrawal would result in a penalty and/or fee.

If a household member states that they do not have access to their benefits or retirement account, the owner must verify that the household member does not have access to the funds.

If retirement funds can be accessed, other than as a loan, then the cash value must be included in household assets. The cash value is the amount the resident can withdraw after paying penalties and fees.

After Retirement

After retirement, if periodic payments from a retirement account are not yet being made, count the cash value of the account as an asset.

If retirement benefits are received through periodic payments, any remaining funds in the account are no longer counted as an asset. Instead, the periodic payments from the account are counted as income.

Lump Sum Payments

Individual lump sum payments from pension and retirement funds are counted as assets if they are not periodic.

Section 6.9 – Real Estate

ALL PROG

If a resident discloses real estate, lists their prior residence as a home they owned, or has an outstanding mortgage, the owner must follow up to document the ownership and status of the property and any related income (see Section 5.24, Real Estate Rental Income). Below is a summary of how to treat real estate.

Property Status	How to Treat the Property
Still owned by the resident as of the certification effective date Includes property listed for sale or still in the foreclosure process	- Verify the market value and any mortgage balance. - Clarify whether the property is or will be rented. - Calculate current cash value and list as an asset on the TIC. - Document net rental income and list as actual income on the TIC.
Recently owned and foreclosed upon prior to the certification effective date	- Document the foreclosure, including the completion date. - Do not include completed foreclosures on the TIC.
Recently owned and sold prior to the certification effective date	- Document the sale date. - If the sale date is within two years of the certification, document whether the property was sold for less than fair market value. If so, it must be included on the TIC. - If the sale is over two years before the certification, no further action required.

Verification of Real Estate Market Value

To determine the cash value of real estate, you must first obtain third-party verification of the asset's market value. Acceptable options for third-party verification for real estate market value include the following.

- Real estate agent's market/valuation report (written or verbal)
- Appraisal (current within six months)
- Online real estate database estimate (e.g., Zillow, Redfin, or similar sites)
- Market value from the County Assessor's office
    - Least preferred because this typically reflects an outdated market value

Calculation of Real Estate Cash Value

Once the market value is verified and documented, deduct closing costs and any outstanding mortgage on the asset to obtain the cash value. If actual closing costs are unknown, use 10 percent of the market value as an estimate.

Section 6.10 Trusts

ALL PROG

Definition

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. The beneficiary frequently will be unable to access any of the trust funds until a specified date or event (e.g., the beneficiary's 21st birthday or the grantor's death). Affordable housing residents may be the creator of a trust or the beneficiary.

For detailed information on trusts, see:
HUD Handbook 4350.3, Paragraph 5-7(G)(1);
IRS 8823 Guide, p. 4-17

Types

Trusts may be revocable or nonrevocable. Depending on the type, the creator or the beneficiary may or may not receive regular investment income from the trust and may or may not be able to withdraw any of the principal.

- Revocable trust: a trust that the creator of the trust may amend or end (revoke). The creator maintains access to the funds in the trust account.
- Nonrevocable trust: a trust that may not be amended or ended. The creator has no access to the funds in the account.

How to Treat Trusts

How to treat trusts depends on who has access to the principal in the trust account and/or the income generated by the account. Below is a summary of the guidance provided by the HUD Handbook 4350.3 and the IRS 8823 Guide.

Trust Type and Variation	How to Treat the Income and Principal
A household member has the right to withdraw funds from the trust.	- The trust is included as an asset. The cash value of the trust is added to total assets. - The actual income earned on the account is counted in actual income from assets.
Only the income, but none of the principal, is currently available to a member of the household.	- The trust is not included as an asset. - The income is counted in annual income.
No household member has access to either the principal or income of the trust.	- The trust is not included as an asset. - The income is not counted as income from assets or in annual income.
A household member receives a portion of the trust's principal on a regular basis.	- The payments are counted in annual income.
A household member creates a nonrevocable trust for the benefit of another person within two years prior to the certification effective date.	- The trust is considered an asset disposed of for less than fair market value. - If the trust's income is regularly reinvested in the trust, the value of the trust is counted as an asset disposed of for less than the fair market value for two years and not taken into consideration thereafter. - If the household member 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 the fair market value for two years. Thereafter, only the actual income distributed from the trust in included in income.



Nonrevocable trusts established as a result of a legal settlement or court judgment are not considered assets disposed of for less than fair market value.

Special Needs Trusts

A special needs trust may be created under some state laws, often by family members for persons with disabilities who are not able to make financial decisions for themselves. Generally, the assets within the trust are not accessible to the beneficiary. If the beneficiary does not have access to income from the trust, then it is not counted as part of income. If income from the trust is paid to the beneficiary regularly, those payments are counted as income.



HUD Handbook 4350.3, Paragraph 5-7(G)(1)(c)

Verification of Trusts

When an applicant or resident is the creator or beneficiary of a trust, the file must contain valid documentation of who has access to the principal in the trust account and/or the income generated by the account. Acceptable options for third-party verification for trusts include the following.

- Trust Agreement
- Excerpts from the Trust Agreement, including the cover page, that identify the creator and beneficiary and disclose the terms for payments from the trust and access to the balance of the trust
- Letter from the Trustee disclosing the same information

Section 6.11 Assets Disposed of for Less than Fair Market Value

ALL PROG

Definition

The term “asset disposed of for less than fair market value” refers to an asset that is sold, donated, or given away to another person or entity without receiving an equal amount of money, goods, services, etc., in return. This includes cash gifts, irrevocable trusts, gifts of stocks and bonds, and real estate sold at an amount below the fair market value.

At move-in and for full annual recertifications, residents must declare on the Resident Statement of Assets whether and when they have disposed of any assets for less than their fair market value.



For complete information on assets disposed of for less than fair market value, see:
HUD Handbook 4350.3, Paragraph 5-7(G)(8)

Determining Whether and How to Include Assets Disposed of for Less than Fair Market Value on the TIC

Per the HUD Handbook, the amount counted as an asset disposed of for less than fair market value is the difference between the cash value of the asset on the open market when it was disposed of and the amount the applicant/resident actually received for it.

For certification purposes, an asset disposed of for less than fair market value is included in household assets only if the difference is more than $1,000. If the difference was $1,000 or less, the asset is not included.



Assets that were disposed of for less than fair market value due to bankruptcy, divorce/separation, or foreclosure must be documented but are not included in assets.

How Long to Include as a Household Asset

An asset disposed of for less than fair market value is included in all certifications effective during the two years after the date the asset was sold, donated, or given away. After two years from the date of sale, donation, etc., the asset is no longer included.

chapter 7

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO AHTC — Colorado State AHTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Household Certifications

The following chapter outlines CHFA's requirements regarding household certifications. Topics include how to complete the Tenant Income Certification form and supporting documentation for various types of certifications, which forms may be used to certify residents, and CHFA's policy on completing certifications electronically.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
7.1 Completion of the Tenant Income Certification (TIC)	✓							
7.2 Effective Dates	✓							
7.3 Move-in Certification	✓							
7.4 Annual Recertification	✓							
7.5 Next Available Unit Rule		✓	⇆	✗	⇆	✗	✗	✗
7.6 Unit Transfers	✓							
7.7 Interim Certification	✓							
7.8 Initial Certification		✓	✓	✗	✗	✗	✗	✗
7.9 Acquisition-Rehabilitation Certification		✓	✗	✗	✗	✗	✗	✗
7.10 Resyndication Certification		✓	✗	✗	✗	✗	✗	✗
7.11 Alternatives to the TIC	✓							
7.12 Changes in Unit AMI Designation	✓							
7.13 Changes in Tenant Rent	✓							
7.14 Certification Forms	✓							
7.15 Capital Magnet Fund Certifications		✗	✗	✗	✗	✗	✓	✗
7.16 Electronic Files	✓							
7.17 Electronic Certification Forms and Signatures	✓							

Section 7.1 Completion of the Tenant Income Certification (TIC)

ALL PROG

After identifying all household members, verifying a household's income and asset information, and determining gross rent, the owner must prepare a Tenant Income Certification form, referred to as a TIC, to document the information for audit purposes. The form certifies that the household is eligible to live in a low-income unit. The TIC must list all household members along with their income and assets.



Tenant Income Certification with formulas:
www.chfainfo.com/arh/asset/LIHTCForms/Tenant_Income_Certification_With_Formulas.xls

Tenant Income Certification without formulas:
www.chfainfo.com/arh/asset/LIHTCForms/Tenant_Income_Certification_%20No%20Formulas.xls

Signing the Tenant Income Certification

The TIC must be signed by all adult household members (page 1 only) and by the owner/agent (page 2 only). Each TIC lists the household's move-in date and the certification's effective date. Per HUD guidelines, the TIC may be signed on or up to 120 prior to the certification effective date.

Supplementary Demographic Information Form

The Supplementary Demographic Information Form is used to enter information into WCMS that is required by HUD and/or CHFA for data analysis purposes. This form must be completed and initialed by all adult household members along with the TIC at move-in and whenever changes in household composition occur.

If the household elects not to complete the demographic information, all adult residents must mark the option, "I do not wish to provide this information," and initial the form. The owner may use their own version of the form if it contains all the same content as CHFA's form.



Supplementary Demographic Information Form:
www.chfainfo.com/arh/asset/LIHTCForms/Supp_Demo_Info.pdf



Project-based Section 8 properties that use a HUD-27061 form to collect demographic data are not required to use CHFA's Supplementary Demographics Information Form as long as the HUD form is available for review.

Tenant Income Certification Types

CHFA requires the owner to complete a TIC for the certification types noted below. Each type is described in more detail in the sections that follow.

- Move-in
- Annual recertification
    - 100-percent affordable
    - Mixed-income
- Unit transfer
- Interim (when new adult members join the household)
- Initial



Unlike some other affordable housing programs, the LIHTC and CHFA Loan programs do not require interim certifications for changes in income and/or gross rent.

Section 7.2 Effective Dates

ALL PROG

Certification Type	Effective Date Definition	Example
Move-in	The date the household takes possession of the unit (may not be the date the lease or TIC is signed)	May 18, 2021
Annual Recertification	CHFA requires that the effective date is the first day of the move-in anniversary month.	May 1, 2022



For units with Section 8 or USDA RD assistance:
If the HAP administrator changes the recertification effective date, the owner may change the LIHTC or CHFA Loan effective date to align with it. However, the owner must ensure the household does not go more than 12 months between annual recertifications.

Section 7.3 Move-in Certification

ALL PROG

At move-in, all adult members and management must sign the completed TIC **prior** to move-in. Although the programs allow signatures up to 120 days prior to the move-in date, CHFA recommends that owners have the move-in TIC

completed and signed no more than one week prior to move-in to ensure the information is the most current and accurate as of the move-in date.

The move-in certification is used to document the following.

- Household members
- Annual income
- Tenant-paid rent, utility allowance, and mandatory fees
- Area Median Income (AMI) designation
- Compliance with income limit and maximum rent
- Student status (if applicable)



See CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist for the forms and verifications required for a full certification at move-in: www.chfainfo.com/arh/asset/LIHTCForms/Multifamily-and-LIHTC-Loan-Program-File-Req-Checklist.pdf

Effective Date at Move-in

At move-in, the effective date is the date the household takes occupancy of the unit. Therefore, on the move-in TIC, the move-in date and the effective date should always be the same date.

Completing TICs for a First-year LIHTC Property

Compliance during a LIHTC property's first credit year is critical to ensuring the successful flow of tax credits to the property's investor(s). During the first credit year, CHFA recommends implementing a form for residents to confirm prior to lease signing whether there have been any changes in their employment, income, student status, etc., since their application date. The owner must follow up on any changes before executing the TIC. This practice will help to demonstrate that management is doing its due diligence to ensure that residents are certifying the most current and accurate information.

Move-in Unit Inspection Checklist

For all developments with CHFA Loans, a Unit Inspection Checklist is required at move-in. The form must be completed by the resident and signed by both the resident and owner/management.

For all other developments that do not have CHFA Loans, a Move-in Unit Inspection Checklist is recommended, but not required.

Section 7.4 Annual Recertification

ALL PROG

After move-in, the owner must recertify the income, assets, and gross rent of households in all LIHTC and CHFA Loan units each year using the TIC. The annual recertification is used to document the following.

- Household members
- Annual income
- Tenant-paid rent, utility allowance, and mandatory fees
- Area Median Income (AMI) designation
- Compliance with income limit and maximum rent
- Student status (if applicable)
- Any changes in household status

The supporting documentation required at annual recertification depends on both the project type and the household's length of tenancy, as described later in this chapter.

When to Begin the Recertification Process

The annual recertification process should be started at least 90 but no more than 120 days prior to the effective date. The owner is required to attempt to complete the annual recertification even when the household plans on vacating their unit soon after the recertification date.

Effective Date at Annual Recertification

CHFA's policy is that annual recertifications are due on the first day of the anniversary month that the household moved into the property, regardless of the lease term or any subsequent unit transfers. Therefore, the effective date of annual recertifications may not always correspond with lease renewals.



If a household moves into the property on June 24, their annual recertification is due on June 1 each year, regardless of any unit transfers.



For units with Section 8 or USDA RD assistance:
If the HAP administrator changes the recertification effective date, the owner may change the LIHTC or CHFA loan effective date to align with it. However, the owner must ensure the household does not go more than 12 months between annual recertifications.

Annual Recertification – 100% LIHTC Years 1-15 and 100% CHFA Loan

First Annual Recertification

Although not required by the IRS, CHFA's policy for LIHTC and CHFA Loan developments that are 100-percent low-income is to require one full recertification, including third-party verifications of income and assets (if necessary), at each household's first anniversary. When conducting a full annual recertification,

- obtain all the same certification forms and verifications as at move-in;

- explain any significant changes in household income or status between move-in and the recertification, including substantial increases in household income after move-in, in a clarification record;
- on page 1 of the Tenant Income Certification (TIC), mark the type on as an Annual Recertification; and
- on page 2 of the TIC, document the current tenant rent, updated utility allowance, and any change in the AMI designation (see Section 7.12, Changes in Unit AMI Designation).



See CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist for the forms and verifications required for a full certification: www.chfainfo.com/arh/asset/LIHTCForms/Multifamily-and-LIHTC-Loan-Program-File-Req-Checklist.pdf

Subsequent Recertifications

After the first anniversary recertification, the owner may elect to conduct self-certifications at subsequent recertifications. For a self-certification, minimum documentation is required (see below), and the owner completes the TIC based on the household's estimates of their income and assets. Alternatively, the owner may elect to continue to require full third-party verifications at every recertification.



CHFA reserves the right to reinstate the third-party verification requirement for all annual recertifications should the project fall out of compliance with the terms of the Land Use Restriction Agreement (LURA or CHFA Regulatory Agreement, or if it is determined that the owner leased a unit to a non-income-qualified household.

Self-certification Recertification

For self-certification, owners must use a questionnaire to obtain basic income and asset information from residents. Third-party verification of income and assets are not required. If applicable, the household's student status must also be certified. The owner will prepare the TIC based on the information provided by the resident and obtain residents' signatures on the TIC on or before the effective date of the certification.

When conducting a self-certification, follow the steps below.

- Prepare/Obtain:
  - Tenant Income Certification form
  - Supplementary Demographic Information Form (only if household composition has changed)
  - Self-Certification Questionnaire
  - Student Status Certification (if applicable)
  - Affordable Housing Lease Addendum (only if a new lease is executed)
  - Documentation of current tenant rent (e.g., current lease or most recent lease addendum)
- On page 1 of the TIC:
  - Mark the type as a Self-certification.

- Complete all other information based on the Self-certification Questionnaire.

- On page 2 of the TIC, document the current tenant rent, updated utility allowance, and any change in the AMI designation (see Section 7.12, Changes in Unit AMI Designation).



See CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist for the forms and verifications required for a self-certification: www.chfainfo.com/arh/asset/LIHTCForms/Multifamily-and-LIHTC-Loan-Program-File-Req-Checklist.pdf



Self-certification Questionnaire: www.chfainfo.com/arh/asset/LIHTCForms/SelfCertificationQ-LIHTC.pdf



For units with Section 8, HOME, or USDA-RD assistance, the owner must continue to follow recertification verification requirements specific to those programs and may not be able to use self-certifications.

Annual Recertification – Mixed Income

For mixed-income LIHTC and CHFA Loan developments, all applicable certification forms and full third-party verifications are required at every annual recertification. Self-certification of income and assets is not permitted.

Annual Recertification – LIHTC Post Year 15

See Chapter 14 - Post Year 15 LIHTC Compliance for more information.

Section 7.5 Next Available Unit Rule

The Next Available Unit Rule (NAU Rule) involves the applicable fraction and applies to each building in LIHTC and tax-exempt bond-financed projects (see Section 4.7 for Applicable Fraction definition). While the rule applies to both 100-percent affordable and mixed-income developments, compliance must be formally tracked and documented only for mixed-income projects.

The NAU Rule is triggered at annual recertification when a household's income increases to over 140 percent of the current income limit. If a unit no longer qualifies as low-income, it no longer counts toward the building's applicable fraction. If a building's applicable fraction decreases to less than the required proportion, the owner must rent available units in the building to qualified households to restore the fraction, as described below.

Unit Income and Treatment at Annual Recertification	Status of the Unit
Household income increases **up to** 140 percent of the current income limit. ▪ The household's income met the income limit at move-in. ▪ The unit continues to be rent-restricted.	The unit continues to qualify as a low-income unit.
Household income increases to **over** 140 percent of the current income limit. ▪ The household's income met the income limit at move-in. ▪ The unit continues to be rent-restricted. ▪ The owner rents the next comparable unit that is or becomes available within the building to a qualifying household. ▪ The owner rents all available units to qualifying households until the required applicable fraction of the building is restored.	The unit is considered an "over-income unit," and still continues to qualify as a low-income unit. Once the required applicable fraction of the building has been restored, the over-income unit may remain rent restricted. Or, if the building is a mixed-income building, the unit may become a market-rate unit upon lease renewal.
Household income increases to **over** 140 percent of the current income limit. ▪ The household's income met the income limit at move-in. ▪ The unit continues to be rent-restricted. ▪ The owner rents the next comparable unit that is or becomes available within the building to a **non**-qualifying household. ▪ The owner fails to rent all available units to qualifying households until the required applicable fraction of the building is restored.	The unit is considered out of compliance and ceases to be treated as a low-income unit. All units previously designated as "over-income" lose their status as low-income units and are now out of compliance. All the units will remain out of compliance until the applicable fraction is restored.



26 U.S.C. § 42 (g)(2)(D)
26 C.F.R. § 1.42-15



The NAU Rule does not apply to buildings that do not have LIHTC or tax-exempt bond financing.

The NAU Rule is no longer monitored for Post Year 15 LIHTC projects, including mixed-income projects.

Comparable Unit Definition

The NAU Rule defines a "comparable unit" as a unit that is comparably sized or smaller than the "over-income" unit (or, for deep rent skewed projects, any low-income unit). CHFA defines a comparable unit as any unit up to 100 square feet larger or smaller than the unit that invoked the NAU.

Available Unit Definition

The Next Available Unit Rule is applied on a building-by-building basis, not by project. A comparable unit is not deemed to be available for purposes of the rule if it is subject to a preliminary reservation (pre-leased) that is binding on the owner under local law prior to the date a lease is signed or the unit is occupied.

Noncompliance with the Next Available Unit Rule

If any comparable unit that is available or that subsequently becomes available is rented to a non-qualified household before the required applicable fraction is restored, all over-income units lose their status as low-income units and are therefore out of compliance. Violations of the NAU Rule are reported on IRS form 8823, line 11i.



For additional guidance on the tax credit implications for noncompliance with the NAU Rule, consult a tax attorney or accountant.

Section 7.6 Unit Transfers

ALL PROG

As explained below, unit transfer rules depend on where the household is moving within the property, the property type(s), and current household income. When conducting a unit transfer, follow the steps below.

- On page 1 of the Tenant Income Certification (TIC):
  - Mark the certification type as a Unit Transfer.
  - Keep the household's move-in date as the date they moved into the property (not the new unit).
- On page 2 of the TIC, document the new rent and utility allowance amounts and any change in the AMI designation (see Section 7.12, Changes in Unit AMI Designation, below for when changes in AMI are permitted).
- Keep all previous certifications in the file.
- Do not change the annual recertification effective date. Going forward, the annual recertification month remains the anniversary month of the date the household moved into the property (not the new unit).



For units with Section 8 or USDA RD assistance:
If the HAP administrator changes the recertification effective date due to a unit transfer, the owner may change the LIHTC or CHFA Loan effective date to align with it. However, the owner must ensure the household does not go more than 12 months between annual recertifications.

Transfers Within the Same Building – All Properties

For all LIHTC projects and CHFA Loan properties, all transfers within the same building are permitted, regardless of current household income. When a current qualifying household transfers to another unit within the same building, the newly occupied unit adopts the status of the vacated unit and the vacated unit adopts the former status of the newly occupied unit. In other words, the two units swap their status with one another. The result is that the household simply transfers and is not required to be certified as a new move-in. However, a Unit Transfer TIC is required to document the changes regarding the rent, utility allowance, and set-aside.

Transfers Between Buildings at Multiple-building LIHTC Projects and CHFA Loan Properties

For a multiple-building LIHTC project or a CHFA Loan property, unit transfer rules depend on the property type and the household's current income. As summarized below, developments with both CHFA-issued tax-exempt bond financing [Private Activity Bonds (PAB)] and LIHTC are monitored for compliance according to the LIHTC transfer rules. CHFA Loan properties that have CHFA-issued PAB but no LIHTC are monitored according to PAB transfer rules.

When a current qualifying household transfers to a unit in another building as permitted under the following rules, the newly occupied unit adopts that status of the vacated unit and the vacated unit adopts the former status of the newly occupied unit. As noted above, a Unit Transfer TIC is required to document the changes regarding the rent, utility allowance, and set-aside.

Property Types	Current Household Income is at or below 140% of Current Income Limit	Current Household Income Exceeds 140% of Current Income Limit
LIHTC only **LIHTC + PAB** **CHFA Loan + LIHTC + PAB** **CHFA Loan + LIHTC – No PAB** **CHFA Loan – No PAB**	Transfer permitted for both Mixed-Income and 100% Affordable.	Mixed-Income: Transfer not permitted. Household must stay within the building. 100% Affordable: Transfer permitted.
Post Year 15 LIHTC **Post Year 15 LIHTC + PAB** **CHFA Loan + PY15 LIHTC + PAB** **CHFA Loan + PY15 LIHTC – No PAB**	Transfer permitted for both Mixed-Income and 100% Affordable.	Transfer permitted for both Mixed-Income and 100% Affordable.
CHFA Loan + PAB – No LIHTC	Transfer permitted for both Mixed-Income and 100% Affordable.	Mixed-Income: Transfer permitted, but owner must follow Next Available Unit rule. 100% Affordable: Transfer permitted, but owner must follow Next Available Unit rule.

Transfers Between Buildings at Separate-building LIHTC Projects

If a LIHTC owner elected to treat multiple buildings at a property as separate LIHTC projects, unit transfers are not permitted. If a household wishes to move from one building to another building at the property, the move must be treated as a move-out/move-in. A new move-in certification, including all required forms and verifications, must be prepared for the household and they must requalify for the new unit based on the current applicable income limit.

To determine if your LIHTC buildings are treated as individual projects, refer to the property's first-year IRS Form 8609 (Part II, Line 8b).

Section 7.7 Interim Certification

ALL PROG

Interim certifications are required for the LIHTC and CHFA Loan programs only when an additional person moves into a unit. Interim certifications are **not** required for changes in existing household members' income, changes in rent or utility allowances, or when a household member leaves the household (although the owner must document the file when any household member vacates the unit).

New Household Members

When a new member joins the household, that new member must be fully certified, including all the standard move-in forms and verifications. The new total household income must be certified on an interim TIC and is based on the existing household's income at the most recent certification combined with the new household member's income. It is not necessary to recertify the entire household unless a recertification is currently due for the existing household members.

To complete the interim certification:

- Calculate the new household member's income.
- Prepare a new TIC that includes all current household members, the original household's most recent income, the new household member's income, updated total income, and the applicable income limit based on the new household size.
    - Keep the household's move-in date as the date the original household moved into the property.
    - Mark the certification type on page 1 of the TIC as Interim.
    - Note: All adult members must sign the interim TIC.
- Keep all previous certifications in the file.
- Do not change the annual recertification effective date. The annual recertification month remains the anniversary month of the date the original household moved into the property.

New Household Members and the Next Available Unit Rule

At mixed-income LIHTC and tax-exempt bond-financed projects, if the additional household member's income raises total household income above 140 percent of the current household income limit, the Next Available Unit Rule applies (see Section 7.5, Next Available Unit Rule).

At LIHTC and tax-exempt bond-financed projects that are 100-percent low-income, if the additional household member's income raises total household income above 140 percent of the current household income limit, the household remains qualified as long as an original member remains in the unit.

New Household Member Policy

CHFA recommends that owners have a written policy regarding new household members. To prevent manipulation of household income limits, the policy should include a restriction that new adult members may not join a household until at least six months after move-in, except under specific circumstances.

Original Household Members Vacate a LIHTC or Tax-exempt Bond-Financed Unit

At all LIHTC and tax-exempt bond-financed projects, after a new member joins a household, management must monitor any future move-outs from that unit to ensure it remains qualified. If an original household member vacates the unit, the unit will remain a qualified unit as long as at least one other original household member remains in the unit and the Full-time Student Rule and/or the Next Available Unit Rule are not violated. Minor children and other dependents who were members of the household at move-in are considered original household members.

Although an interim TIC is not required, the owner must document the file when any household member vacates the unit, including a minor child or other dependent. If all original household members vacate the unit, leaving only members who joined after the original move-in, the owner must determine whether the remaining members are a qualified tax credit household.



See the IRS 8823 Guide, pp.4-4 to 4-6, for a detailed explanation of how to determine if a household is qualified to remain in the unit.



The original household rule does not apply to developments that do not have LIHTC or tax-exempt bond financing.

Section 7.8 Initial Certification

TC Y 1-15 PY 15+

For the LIHTC program, initial certifications are completed in only these two situations.

Initial Certification Type	Certification Information
To certify existing resident during the first credit year of an existing property receiving a first allocation of LIHTC for acquisition/rehab.	▪ Obtain all the same certification forms and verifications as for a new move-in. ▪ On page 1 of the TIC, mark the type as Move-in/Initial. ▪ Determine the initial certification effective date, move-in date, and annual recertification date as specified in the chart below in Section 7.9, Acquisition-Rehabilitation Certification.
To document a change in unit status from market rate to LIHTC at a mixed-income LIHTC property. This occurs when an existing household in a market-rate unit who did not qualify at move-in becomes LIHTC-qualified at some point after move-in.	▪ Obtain all the same certification forms and verifications as for a new move-in. ▪ Explain the change in status and identify the household's original property move-in date in a clarification record. ▪ On page 1 of the TIC, mark the type as Move-in/Initial. ▪ Use the date the last adult member signs the TIC as the initial certification effective date and move-in date. ▪ Going forward, the annual recertification month will be the anniversary month of the initial certification date.

Section 7.9 Acquisition-Rehabilitation Certification

When an owner receives tax credits for the acquisition and rehabilitation of an existing building that does not already have LIHTC, additional rules apply when first certifying and qualifying units for tax credits. In the first year, Initial Certifications must be completed to qualify existing households in the LIHTC program as follows.



See the IRS 8823 Guide, Chapter 4, for additional guidance on certifying residents during the first credit year of acquisition rehab LIHTC projects.

Initial Certification Type	Income and Rent Limits	Move-in Date	Effective Date	Other Information
Existing Households Certified within 120 Days Before or After the Building Acquisition Date	Use the limits in effect as of the building acquisition date.	Use the initial certification effective date.	Use the building acquisition date.	CHFA recommends including a clarification record with the household's original property move-in date.
Existing Households Certified More Than 120 Days After the Building Acquisition Date	Use the limits in effect as of the certification effective date.	Use the initial certification effective date.	Use the date the last adult member signs the TIC.	CHFA recommends including a clarification record with the household's original property move-in date.
New Households Certified After the Building Acquisition Date	Use the limits in effect as of the certification effective date.	Use the date the new household takes occupancy of the unit.	Use the move-in date.	n/a

Annual Recertifications for Existing Residents

After the initial LIHTC certification is completed for an existing household, the LIHTC annual recertification date should be tied to that initial certification effective date. However, if another affordable housing program has established a date that conflicts with the LIHTC annual recertification date, CHFA allows owners to align the LIHTC recertification dates to the other affordable housing program, as long as the household never goes more than 12 months without a LIHTC annual recertification.



If the owner aligns the LIHTC date with another program, the file must include a clarification record.

Section 7.10 Resyndication Certification

TC Y 1-15

Resyndication occurs when an existing LIHTC project that has completed the 15-year Compliance Period receives a second allocation of LIHTC to be acquired and rehabilitated by a new ownership entity. Following are several key points for the owner and management to keep in mind at resyndication.

"Income Grandfathering"

If an existing household is over the income limit applicable under the new allocation, they will remain eligible for a tax credit unit under the new allocation as long as:

- the household was income-qualified for the LIHTC program under the previous tax credit allocation,
- the file contains sufficient documentation to confirm the previous income qualification,
- the unit remains rent-restricted, and
- the household meets all other current LIHTC rules (including the Full-time Student Rule).



See the IRS 8823 Guide, Chapter 4, for additional guidance on the treatment of existing LIHTC households at resyndication.

First-year Certifications for Existing Households at Resyndication

Income Certification

During the first credit year of a resyndication project, if the file contains sufficient documentation of a household's income-qualification at some point under the first LIHTC allocation, neither the IRS nor CHFA requires a new (or initial) certification to demonstrate income eligibility under the second LIHTC allocation.

If the owner is using the "income grandfathering" option, the file must contain a clarification record stating:

- the effective date of the previous certification used to demonstrate the household was originally income-qualified under the first LIHTC allocation,
- the number of household members at that time, and
- the applicable income limit at that time.

Whether the owner uses the "income grandfathering" option or elects to complete a full initial certification for all existing residents, annual recertifications should continue as scheduled under the first allocation of LIHTC. In other words, if an initial certification is completed, the annual recertification effective date must be tied to the household's original property move-in date, not the initial certification effective date.

Student Status Certification

A Student Status Certification must be completed at resyndication for all households to demonstrate compliance with the IRS Student Rule under the second allocation of LIHTC.

Income and Rent Limits at Resyndication

Once a LIHTC project receives a second allocation of tax credits, it is no longer eligible to use HERA special limits. Likewise, the owner may no longer rely on the previous allocation's highest set of Hold Harmless limits (see Section 4.1, Income Limits and Maximum Rents on HERA special and Hold Harmless limits). Under the new allocation, the Hold Harmless protection is reset to the limits used in the first year of the new allocation.

Section 7.11 Alternatives to the TIC

ALL PROG

Acceptable Alternatives to the TIC

Property Type	Alternative to the TIC
For all Developments with Rural Development Section 515 Financing	The RD 3560-8 Certification form may be used in lieu of a separate TIC.
For Project-based Section 8 Properties in Years 1-15 of the LIHTC Extended Use Period	At move-in, a TIC must be completed. Beginning with the first annual recertification, the form HUD-50059 may be used in lieu of a TIC.
For Project-based Section 8 Properties That are Post Year 15 LIHTC	At move-in and annual recertification, the form HUD-50059 may be used in lieu of the TIC.
For Project-based Section 8 Properties with New Allocations of LIHTC for Acquisition/ Rehab	For existing residents, a TIC is required to document all first-year Initial Certifications. Thereafter, at move-in, a TIC must be completed. For annual recertification, the form HUD-50059 may be used in lieu of a TIC.
For Project-based Section 8 Properties with CHFA Loans (no LIHTC)	At move-in and annual recertification, the form HUD-50059 may be used in lieu of the TIC.



If using the RD 3560-8 or the form HUD-50059, the owner must still ensure that households meet LIHTC and/or CHFA Loan qualifications, including student status, if applicable.

Unacceptable Alternative to the TIC

The HUD Form 50058, used by some project-based Section 8 properties, is not approved for use with the LIHTC and CHFA Loan programs.

Section 7.12 Changes in Unit AMI Designation

ALL PROG

Change to Lower AMI Designation

Owners may lower a household's AMI designation at any time under the following conditions.

- Current household income is verified to be at or below the applicable income limit for the new AMI designation.
- Gross rent is reduced to be at or below the applicable maximum rent for the new AMI designation.

Change to a Higher AMI Designation

CHFA allows a household's AMI designation to be increased only at lease renewal or unit transfer and only if current household income is verified to be over 140 percent of the income limit for the household's current AMI designation.

Section 7.13 Changes in Tenant Rent

ALL PROG

Increases and decreases in tenant rent do not require an interim certification or TIC. However, the file must contain a record of the owner's notice to the household of the new rent amount and effective date.

Tenant Rent Decreases

Tenant rent decreases required to comply with changes in maximum rents or utility allowances must be implemented and documented timely according to timeframes explained in Section 4.1, Income Limits and Maximum Rents, and in Section 4.4, Utility Allowances.

Tenant Rent Increases

Tenant rent increases during the lease term are not permitted by CHFA for LIHTC and CHFA Loan properties. Owners may increase tenant rent only at lease renewal, regardless of changes in maximum rents or utility allowances. Noncompliance with CHFA's policy may result in a Not in Good Standing designation with CHFA programs and/or other consequences as specified in Chapter 17, Noncompliance.



An exception is permitted when a mid-lease rent increase is required by the Section 8, USDA Rural Development, or similar rental assistance programs.

Section 7.14 Certification Forms

ALL PROG

CHFA has designed various certification and verification forms for use by owners and managers. See CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist for a summary of when each form is required or recommended.

With certain exceptions, owners are not required to use CHFA's forms, provided that the owner's forms contain all the same questions and content. To ensure that owners have the most current version of all forms, visit the CHFA website periodically.



For properties using CHFA's Application or Questionnaire, the Resident Statement of Assets and Student Certification questions are included in the Questionnaire. Therefore, separate forms for these two certifications are not required.



All CHFA program compliance forms may be accessed at www.chfainfo.com/arh/asset/Pages/forms.aspx.



LIHTC and Multifamily Loan Program File Requirements Checklist: www.chfainfo.com/arh/asset/LIHTCForms/Multifamily-and-LIHTC-Loan-Program-File-Req-Checklist.pdf

Exception for Households who Receive Section 8, USDA Rural Development, or Similar Government Rental Assistance

For only those households who receive some type of government rental assistance through the Section 8, USDA Rural Development, or other government programs which verify their income, the following certification forms are not required for any certification, including move-in and the first annual recertifications.

- Certification of Income for Self-employed Persons and supporting documentation
- Child Support Affidavit
- Seasonal Worker Affidavit
- Unemployed Resident Affidavit and tax return
- Zero-income Questionnaire

Assistance with Forms

Certification forms must be completed directly by the resident unless he or she is unable to complete the form due to medical or other valid reasons. If a resident requests assistance in completing forms, the file must contain a clarification record (e.g., CHFA's Authorization to Assist form) that indicates the person(s) who completed their forms and the reason for assistance. The clarification must be signed by both the resident and the person providing assistance (e.g., caseworker, relative, management).

Authorization to Assist:
www.chfainfo.com/arh/asset/LIHTCForms/Authorization_to_Assist.pdf

Power of Attorney

Certification forms must be signed and dated by the resident. Some residents have a power of attorney (POA), a legal document giving one person or organization (the agent or attorney-in-fact) the power to manage their property, financial, or medical affairs. When an agent or attorney-in-fact signs LIHTC or CHFA Loan documents on a resident's behalf, the signed and notarized POA document must be available for review by CHFA upon request.

Changes to Forms

Once a form is completed and/or signed by the resident, changes or revisions are not permitted unless they are clarified by management and initialed by all adult resident(s) who signed the form.

Clarification Record
www.chfainfo.com/arh/asset/LIHTCForms/Clarification-Record.pdf

Section 7.15 Capital Magnet Fund Certifications

CM FUND

For developments financed with Capital Magnet Fund (CMF) loans, in addition to completing the required LIHTC certification, at move-in and annual recertification the owner must calculate each household's **adjusted** income using CHFA's two Capital Magnet Fund forms. These forms are for CMF compliance purposes only and must not be used to complete the LIHTC or CHFA Loan program Tenant Income Certification form.

Capital Magnet Fund Resident Questionnaire
www.chfainfo.com/arh/asset/LIHTCForms/CMF_Resident_Questionnaire.pdf

Capital Magnet Fund Compliance Worksheet
www.chfainfo.com/arh/asset/LIHTCForms/CMF_Compliance_Worksheet.pdf

For CMF developments that calculate all household's adjusted income for the Section 8 or USDA Rural Development programs, CHFA's two Capital Magnet Fund forms are not required.

Section 7.16 Electronic Files

ALL PROG

Electronic File Storage

LIHTC and CHFA Loan resident certification files may be stored electronically, subject to the following requirements.

- The project owner, investor (if applicable), and agent must all agree to the electronic storage policy.
- The project owner's electronic storage policy must adhere to all applicable IRS regulations and guidance, including the following.
    - IRS Revenue Ruling 2004-82 (Q-11)
    - IRS Revenue Procedure 97-22
    - IRS Revenue Procedure 98-25
    - IRS 8823 Audit Technique Guide

Electronic File Format for Onsite Program Compliance Review

During an onsite LIHTC or CHFA Loan Program Compliance Review, resident files may be provided electronically for inspection subject to the following requirements.

- Each electronic resident file must be complete and organized in a consistent file order.
- A file index showing where to locate each document type in the system must be provided to the reviewer.
- Two-screen computer monitor displays for the CHFA reviewers use are preferred.



See Section 10.2, Review Notice and Format/Electronic File Reviews for information on how CHFA conducts some file reviews remotely instead of on site.

Section 7.17 Electronic Certification Forms and Signatures

ALL PROG

LIHTC and CHFA Loan certification forms that are signed by residents or management, including the Application, Questionnaire, Student Status Certification, etc., may be handled electronically subject to the following requirements.

Tenant Income Certification (TIC) form

- Content may be entered electronically by management on the TIC form.

Supporting Certification Forms

- Content on certification forms may be filled out electronically by residents (not management).
- As with all formats, electronic forms must be completed directly by residents unless he or she is unable to complete the form due to medical or other valid reasons.

- If a resident requires assistance in completing electronic forms, the file must contain a clarification record that is signed by the resident and indicates the person(s) who completed their forms and the general reason for assistance.



Authorization to Assist:
www.chfainfo.com/arh/asset/LIHTCForms/Authorization_to_Assist.pdf

Electronic Signatures

- Signatures by residents and management on the Tenant Income Certification form and supporting certification forms may be completed electronically only if each signature is authenticated and date- and time-stamped by the software.
- If the electronic signature does not include a time and date stamp, an authentication record that shows the resident's identifying information, the name of each document signed electronically, and the date each document was signed is required.
- Typed and unauthenticated signatures are not permitted.

chapter 8

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Students

For all programs, certain rules regarding income and financial aid apply to students. For developments with LIHTC and/or a CHFA Loan funded with tax-exempt bonds, the Student Rule applies in determining a household's eligibility to occupy a low-income unit. The following chapter summarizes the various rules that apply to students.

✓ Applicable ✕ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
8.1 Students and Income	✓							
8.2 Student Status Certification		✓	⇆	✕	⇆	✕	✕	✕
8.3 IRS Student Rule		✓	⇆	✕	⇆	✕	✕	✕
8.4 IRS Student Rule Summary		✓	⇆	✕	⇆	✕	✕	✕
8.5 Verification of Income and Status for Students	✓							
8.6 IRS Student Rule and Post Year 15 LIHTC		✕	✓	✕	✕	✕	✕	✕

Section 8.1 Students and Income

ALL PROG

Below is a summary of HUD Handbook 4350.3 guidelines on students and income. See Section 5.20, Student Financial Aid for detailed information on how to treat and verify student financial aid.

Student/Household Member	Income Type	How to Treat Income
Full-time Students Who Are Age 18 and Older and Are Head, Co-head, Or Spouse	Employment income Non-employment income (SSI, Child Support, Public Assistance, etc.)	Include all Include all
Full-time Students Who Are Age 18 And Older, And Not Head, Co-head, Or Spouse	Employment income Non-employment income	Include only the first $480/year. Exclude any employment income over $480/year. Include all
Full-time Students Under Age 18	Employment income Non-employment income	Exclude all Include all
Part-time Students	Employment income Non-employment income	Include all Include all
Full-time And Part-time Students Not Receiving Section 8 Assistance	Financial aid (including GI Bill benefits)	Exclude all
Full-time And Part-time Students Who Are Receiving Section 8 Assistance	Financial aid (including GI Bill benefits)	Include the net amount of aid received in excess of tuition paid Exception: Exclude all aid if the student is over the age of 23 with dependent children or is living with his/her parents who are applying for or receiving Section 8 assistance.
All Students	Student loans	Exclude all

HUD 4350.3, Paragraph 5-6(A)(3)(d-f)

HUD 4350.3, Paragraph 5-6(E)

Section 8.2 Student Status Certification

For LIHTC properties in the 15-year Compliance Period and for all properties with tax-exempt bond financing through CHFA, the IRS Student Rule applies. Therefore, a Certification of Student Status must be completed by all household members age 18 years and older at move-in and annually thereafter.

Owners may use their own Student Status Certification form if it contains all the same questions and content as CHFA's Certification of Student Status.

For properties using CHFA's Certification Questionnaire, the Student Certification questions are included in the Questionnaire, and a separate Certification of Student Status is not required.



Certification of Student Status:
www.chfainfo.com/arh/asset/LIHTCForms/Certification_of_Student_Status.pdf



Student Status Certification is not required for properties that do not have LIHTC or tax-exempt financing.

Section 8.3 IRS Student Rule

IRS Student Rule

For LIHTC properties in the 15-year Compliance Period and for all properties with tax-exempt bond financing through CHFA, the IRS Student Rule applies. Under the rule:

- A household comprised entirely of students (as defined by the IRS) who had/have/will have full-time status is ineligible to occupy a tax credit unit **unless** one or more of five exemptions is met (see summary below). When one or more of these exemptions is used to qualify the household, management must obtain verification.
- As long as at least one member (including an unborn child) of a household is not a full-time student, the household complies with the rule. The qualifying member may be a non-student or a part-time student.



26 U.S.C. § 42(i)(3)(D)

26 U.S.C. § 142(d)(2)(C)



The IRS Student Rule does not apply to properties that do not have LIHTC or tax-exempt financing.

IRS Student Definition

It is critical that management understands how IRS regulations define the term "student." The IRS defines a "student" as an individual who has been, is, or anticipates being enrolled as a full-time student at an educational institution during at least five months in the calendar year. An educational institution includes the following.

- Kindergarten, elementary, junior, and senior high schools
- Colleges, universities, technical, trade, and mechanical schools
- Online schools and programs that are eligible to accept federal financial aid (per IRS guidance)



26 C.F.R. § 1.151-3(b) and (c)

Regarding the time period of enrollment:

- The five months do not have to be consecutive.
- Enrollment at any point in a month (e.g., just one day) counts as enrollment during that month.
- Once a resident reaches five months of enrollment, the student designation lasts the remainder of the calendar year.



For example, a college student enrolled between January 21 and May 2 has been enrolled for five months and meets the IRS definition of a student until the end of the calendar year.

Full-time Student Definition

Whether a student is full-time or part-time is determined by the educational institution at which they are enrolled. A student's status is not determined by management or by the resident.

Five Exemptions for Households with All Full-time Students

A household comprised entirely of full-time students is ineligible to occupy a tax credit unit unless one or more of the following five exemptions is met.

Exemption	Exemption Details	Third-party Verification
TANF	At least one student is receiving assistance under Title IV of the Social Security Act (TANF).	TANF benefit verification
Single Parent(s) with Children	At least one student is a single parent with child(ren). Parent and children must not be claimed as dependents by any other person except the non-resident parent.	Not required, but tax return is recommended

Exemption	Exemption Details	Third-party Verification
Married Couple Who Are Eligible to File a Joint Tax Return	Actual filing of joint tax return is not required	Not required, but tax return is recommended
Government-supported Job Training	At least one student is enrolled in a program receiving assistance under the Workforce Innovation and Opportunity Act of 2014 or similar federal, state, or local government laws.	Verification of WIOA or other government support from the educational institution or training program
Foster Care	At least one student was previously under the care and placement responsibility of the state agency responsible for administering foster care.	Documentation from state agency showing placement at any point in time

Change in Status to Non-qualifying Student Household

The following households no longer qualify to occupy a unit financed with LIHTC or tax-exempt bonds.

- A full-time student household that previously met one of the five exceptions but now ceases to meet an exception.
- A previously non−full-time student household becomes comprised of all full-time students and does not meet one of the five exceptions.

Section 8.4 IRS Student Rule Summary

TC Y 1-15 PY 15+ CHFA LOAN

Below is a basic summary of whether different household types comply with the IRS Student Rule.

Household Type	In compliance with IRS Student Rule?	Key Points
Multiple Members: **At least one member is not considered a student**	Yes	Non-student could be an unborn child.
Multiple Members: **All household members are students,** **and at least one is part-time**	Yes	Third-party verification of part-time student's status is required.
Multiple Members: **All household members are full-time students**	Only if one of five exemptions applies	Most exemptions require verification.
One-person Household: **Full-time student**	Only if one of five exemptions applies	Recent graduates may not yet be eligible.

Household Type	In compliance with IRS Student Rule?	Key Points
One-person Household: Part-time student	Yes	Third-party verification of part-time student's status is required.



The IRS Student Rule does not apply to properties that do not have LIHTC or tax-exempt financing.

Section 8.5 Verification of Income and Status for Students

ALL PROG

For the LIHTC and CHFA Loan programs, third-party verification of student status and/or student income are required only in the following cases.

Household Type	How to Verify Student Status and/or Income
When a Household Member is a Full-time Student and Receives Section 8	▪ Verify with the educational institution whether the student's status is full-time. ▪ Verify total financial aid and total tuition that has been or will be paid in the 12-month Certification Period. ▪ Include the net amount of financial aid after tuition (exclude student loans) in household income. ▪ Exception: Not required if the student is over the age of 23 with dependent children or is living with his/her parents who are applying for or receiving Section 8 assistance.
When a Household Member is a Full-time Student Age 18 or Older and has Employment Income	▪ Verify with the educational institution whether the student's status is full-time. ▪ Verify employment income. ▪ Count a maximum of $480 per year in household income.
When a Household Includes All Students, and at Least One Student is Part-time	▪ Verify with the educational institution whether the student's status is part-time. ▪ If so, the part-time student will qualify the household under the IRS student rule. ▪ Exception: Part-time student status verification is not required for properties that do not have LIHTC or tax-exempt financing.

Section 8.6 IRS Student Rule and Post Year 15 LIHTC

Since student status is not one of the defined requirements of the Land Use Restriction Agreement, CHFA no longer monitors compliance with the IRS Student Rule for LIHTC properties in the Post Year 15 period. Unless a Post Year 15 LIHTC property also has tax-exempt bond financing, Student Status Certification is no longer required.



For developments financed with tax-exempt bonds, CHFA continues to monitor compliance with the IRS student rule as long as the bonds remain outstanding.

Student Status at Resyndication

If a Post Year 15 LIHTC project receives a second allocation of LIHTC to be acquired and rehabilitated by a new ownership entity (i.e., a "resyndication"), a Student Status Certification must be completed for all existing households to demonstrate compliance with the IRS Student Rule under the new allocation.

chapter 9

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Assisted Living Developments

Assisted living is a type of state-licensed housing designed for people who need various levels of medical and personal care. Assisted living developments enables residents to live in individual rooms, apartments, or shared rooms. Services offered to assist residents with daily living generally include meals, medication monitoring, personal care, housekeeping, some medical services, and recreational activities.

The following chapter describes CHFA's compliance guidance and requirements specific to assisted living developments financed with LIHTC and/or CHFA multifamily loans.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
9.1 Assisted Living Application/Questionnaire	✓							
9.2 Assisted Living Tenant Income Certification	✓							
9.3 Assisted Living Income Verification	✓							
9.4 Assisted Living Gross Rent and Utility Allowance	✓							
9.5 Living Lease/Occupancy Agreement	✓							
9.6 Assisted Living Resident Signatures	✓							
9.7 Web Compliance Management System (WCMS) for Assisted Living	✓							
9.8 Assisted Living Units with Multiple Residents	✓							
9.9 Mixed-Income LIHTC Assisted Living Developments		✓	✓	✗	✗	✗	✗	✗

Section 9.1 Assisted Living Application/Questionnaire

ALL PROG

Prior to move-in, all assisted living residents must complete an application or certification questionnaire to identify their sources of income and assets and whether any assets have been disposed of for less than fair market value. CHFA has prepared a simplified questionnaire that may be used for this purpose at both move-in and annual recertification.



Assisted Living Certification Questionnaire:
www.chfainfo.com/arh/asset/LIHTCForms/Certification_Questionnaire_AssistedLiving.pdf

Student Status Certification

At assisted living developments financed with LIHTC (Years 1-15 only) and/or tax-exempt bonds, residents must also certify their student status annually. CHFA's Assisted Living Certification Questionnaire includes all Student Status Certification questions and may be used to satisfy this annual requirement. If the owner uses their own application or questionnaire, CHFA's Student Status Certification must also be completed.



Certification of Student Status:
www.chfainfo.com/arh/asset/LIHTCForms/Certification_of_Student_Status.pdf

Section 9.2 Assisted Living Tenant Income Certification

ALL PROG

Assisted living property owners must prepare a separate Tenant Income Certification (TIC) for each individual resident or married couple (only if occupying the same unit). Page one of the TIC must be signed by the resident or the person legally authorized to sign on their behalf. In the case of unmarried roommates, each roommate must sign a separate TIC reflecting only her/his own sources of income, assets, and total annual income.

Section 9.3 Assisted Living Income Verification

ALL PROG

Some assisted living residents pay occupancy and supportive service fees with their own private sources of income (i.e., "private pay"). Others participate in the Home and Community Based Services (HCBS) program in which the federal Medicaid program pays their fees. The owner must third-party verify income on or prior to the resident's move-in date for both.

Income verification requirements for either of these options can present challenges unique to assisted living developments. Examples of common challenges include difficulty obtaining information from residents or their families and the necessity to move residents in on very short notice to ensure their safety. To support owners in overcoming these challenges, CHFA has modified its verification requirements for assisted living projects as follows.

Income and Asset Verification at Move-in

	Medicaid Recipient	Non-Medicaid Recipient (Private pay)
Third-party Verification of Income	Owner may rely on an HCBS-issued Post-Eligibility Treatment of Income (PETI) or Previous Authorization Request (PAR) notice, as long as the notice is received on or up to 120 days prior to the move-in date.	Standard third-party verification requirements apply per Chapter 5, Determining Household Members and Income. However, instead of requiring written verification to be attempted before verbal, etc., the owner may use any of the following options or all income types. ▪ Documents provided by the resident ▪ Third-party written ▪ Third-party verbal
Third-party Verification of Assets	Not required if income is verified with a PETI or PAR notice received on or up to 120 days **prior** to the move-in date.	Required only if total cash value of all assets exceeds $5,000. If so, each asset must be verified according to the standard third-party verification requirements in Chapter 6, Household Assets and Asset Income. In doing so, the owner may use **any** of the following options. ▪ Statements for bank accounts, investment accounts, retirement accounts, etc., provided by the resident. ▪ Verification of Assets form received directly from the financial institution, financial advisor, stockbroker, etc. ▪ Verbal verification by the owner with the financial institution, financial advisor, stockbroker, etc. Must be documented in a clarification record.

Third-party Verification Not Available prior to Move-in

- If the owner elects to move in a resident while Medicaid approval is pending or before a PAR/PETI notice is received:
  - the owner must obtain the same third-party verifications prior to move-in as required for residents who pay privately (see table above).
- If time constraints due to a hospital discharge or health/safety issue prevent timely third-party verification of any kind:
  - the owner must include a complete explanation/clarification record in the file at move-in, and
  - obtain valid third-party verification as soon as possible thereafter.

Documentation Required at Annual Recertification

100-percent LIHTC and/or CHFA Loan	Mixed-Income
Owners may conduct self-certifications of income and assets beginning with the first annual recertification. Required documentation includes: ▪ Assisted Living Certification Questionnaire (includes Student Status Certification, if applicable) ▪ TIC – completed by owner, signed by both owner and resident or their attorney-in-fact.	All applicable certification forms and full third-party verifications are required at every annual recertification. Self-certification of income and assets is not permitted

Section 9.4 Assisted Living Gross Rent and Utility Allowance

ALL PROG

At most assisted living developments, the resident or a government agency pays a combined monthly supportive service fee covering rent, meals, services, etc. In most cases, it is not feasible for the owner to identify an amount within the combined fee that reflects only tenant-paid rent, separate from meals and other services. Typically, all utility costs are also included in the combined supportive service fee.

When the combined supportive service fee includes both rent and utilities and those amounts cannot be separated from supportive services, please contact your Program Compliance Officer regarding the handling of utility allowances and the gross rent amount on page two of the Tenant Income Certification (TIC) form.

In addition, per the Internal Revenue Code, payments received by the owner from a governmental assistance program (e.g., Medicaid) or a nonprofit organization to pay for a resident's supportive service fee that includes an amount for rent that is not separable from the amount for supportive services are excluded from gross rent.



26 U.S.C. § 42(g)(2)(B)(iii)

Section 9.5 Assisted Living Lease/Occupancy Agreement

ALL PROG

Each tenant file must include a lease or occupancy agreement that states the resident's name, unit number, and move-in date. The lease/occupancy agreement must be signed by the resident or the person legally authorized to sign on their behalf.

An Affordable Housing Lease Addendum must also be attached to or included in the lease.



Affordable Housing Lease Addendum:
www.chfainfo.com/arh/asset/LIHTCForms/Affordable_Housing_Lease_Addendum.pdf

Section 9.6 Assisted Living Resident Signatures

ALL PROG

All LIHTC and CHFA Loan program certification documents must be signed by the assisted living resident or the person legally authorized to sign on their behalf. Documents may not be signed by the owner or manager.

Power of Attorney

Many residents of assisted living developments have a power of attorney (POA), a legal document giving one person or organization (the agent or attorney-in-fact) the power to manage their property, financial, or medical affairs. When an agent or attorney-in-fact completes or signs LIHTC or CHFA Loan documents on a resident's behalf, the signed and notarized POA document must be available for review by CHFA upon request.

Section 9.7 Web Compliance Management System (WCMS) for Assisted Living

ALL PROG

Owners of all LIHTC and CHFA Loan developments must submit accurate occupancy and demographic information online via Web Compliance Management System (WCMS) (See Chapter 3, Required Submissions). The required data can be found on each household's Tenant Income Certification form (TIC) and Supplementary Demographic Information form.

CHFA requires property owners to submit WCMS data on both a monthly and an annual basis. However, given the nature of assisted living in which residents frequently transfer units, the monthly WCMS submission requirement is waived for assisted living developments. Instead, assisted living developments may enter occupancy data once per year for current occupants as of December 31. Annually, the year-end data for the previous calendar year must be entered and submitted in WCMS by January 15.

Section 9.8 Assisted Living Units with Multiple Residents

ALL PROG

While some assisted living developments are single-room occupancy, others house residents in double rooms or suites. Regardless of occupancy type, to protect residents' privacy, a separate TIC must be prepared for each individual resident to reflect only her/his own sources of income, assets, and total annual income.



A married couple occupying the same unit may sign a TIC showing their combined annual income.

Managing Units with Multiple Residents in WCMS

For units with multiple unmarried occupants, each resident's data must be entered in WCMS as an individual household. To do so, the owner should set up such units in the system as Unit 1-A, Unit 1-B, Unit 1-C, etc. With this approach, one occupant may be transferred or moved out in the system, while allowing other occupants to remain in the unit.

Section 9.9 Mixed-Income LIHTC Assisted Living Developments

TC Y 1-15 PY 15+

Set-aside Requirements

For assisted living properties financed with LIHTC, rooms shared by multiple residents who are LIHTC-qualified and non-LIHTC-qualified will not be counted toward the LIHTC set-aside requirement.

For compliance testing of set-aside requirements, the following are counted as one LIHTC unit.

- Single-occupancy rooms in which the sole resident is LIHTC-qualified
- Fully occupied rooms designated for multiple occupants in which all residents are LIHTC-qualified
- Partially occupied rooms designated for multiple occupants in which one or more residents is LIHTC-qualified and the other "bed(s)" are vacant

Applicable Fraction Reporting and Monitoring

As noted in Section 4.7, Applicable Fraction, each LIHTC building must maintain the required number and size of units as measured by both the unit fraction and floor space fraction. The unit fraction is assessed according to the set-aside requirements described above. However, determining compliance with the floor space fraction is challenging for units occupied by multiple unrelated residents. Although applicable fraction compliance is monitored primarily based on occupancy data entered in WCMS, WCMS is not suited for tracking the square footage fraction for rooms designated for multiple occupants.

Therefore, so that Program Compliance Officers may evaluate compliance with the square footage fraction, owners of mixed-income LIHTC developments with multiple-occupancy rooms must submit annually by January 15 a separate summary that shows the property's LIHTC-qualified units and associated square footage as of December 31 of the prior year. Year-end occupancy and demographic data for the property must still be entered into WCMS. However, that data will not be used to monitor compliance with the square footage applicable fraction requirement.



Starting with the 2017 QAP, for assisted living units, double-bed occupancy of unrelated persons is not allowed.

chapter 10

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Program Compliance Reviews

As a monitoring agency, it is CHFA's responsibility to ensure that developments are compliant with the regulations and rules governing the LIHTC and CHFA loan programs. This chapter outlines how CHFA evaluates compliance through periodic program compliance reviews and how issues of noncompliance associated with a review may be handled.

✓ Applicable ✕ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
10.1 Review Frequency and Scope	✓							
10.2 Review Notice and Format	✓							
10.3 File Review	✓							
10.4 Management Interview	✓							
10.5 Physical Inspections	✓							
10.6 Review Report	✓							
10.7 Review Corrections	✓							
10.8 Common Findings	✓							
10.9 Noncompliance related to Reviews	✓							

Section 10.1 Review Frequency and Scope

ALL PROG

CHFA Program Compliance Officers (PCOs) conduct periodic program compliance reviews, also referred to as management reviews, to ensure properties are being operated in accordance with program requirements and providing safe, decent, and sanitary housing. During the review, Program Compliance staff will review tenant files and, in most cases, conduct a physical inspection. In addition, a management interview will be conducted with the owner, management agent, onsite manager, and maintenance staff to review management practices.

The table below summarizes the frequency and scope of different types of program compliance reviews.

Type	First Review	Frequency	Scope
CHFA Loan (non-FHA-insured)	Within 12 months once the permanent loan has fully funded	At least every three years	Files: At least 15 percent or minimum of 10 Units: At least 20 percent or minimum of 10
FHA-insured / Risk Share-enhanced Loan	Within 12 months once the permanent loan has fully funded	Annually	Files: at least 15 percent or minimum of 10 Units: A minimum of two units of each bedroom size
LIHTC: Year 1 Initial Inspection	After first building places in service and prior to the issuance of the IRS Form 8609. Applicable to both new allocations and resyndications.	One time only	Files: 3-5 Units: A sample of vacant (if possible) units of various sizes PCO will tour the property and provide informal guidance and feedback on first year files.
LIHTC: Yrs 1-15	By the end of the second calendar year following the year that the last building places in service	At least every three years	Files: The lesser of 20 percent of LIHTC units or the number in the IRS's LIHTC Minimum Unit Sample Size Reference Chart Units: Same
LIHTC Yrs 1-15 + CHFA Loan	By the end of the second calendar year following the year that the last building places in service and within 12 months once the permanent loan has fully funded	At least every three years	Files: The lesser of 20 percent of LIHTC units or the number in the IRS's LIHTC Minimum Unit Sample Size Reference Chart Units: Same
LIHTC Yrs 1-15 + FHA-insured / Risk Share-enhanced Loan	By the end of the second calendar year following the year that the last building places in service and within 12 months once the permanent loan has fully funded	Annually	Files: The lesser of 20 percent of LIHTC units or the number in the IRS's LIHTC Minimum Unit Sample Size Reference Chart Units: Same as files, including a minimum of two units of each bedroom size
Post Year 15 LIHTC	n/a	At least every five years	Files: At least 10 percent or minimum of 10 Units: At least 10 percent or minimum of 10

Type	First Review	Frequency	Scope
Post Year 15 LIHTC + CHFA Loan	n/a	At least every three years	Files: At least 15 percent or minimum of 10 Units: At least 20 percent or minimum of 10
Post Year 15 LIHTC + FHA-insured / Risk Share-enhanced Loan	n/a	Annually	Files: At least 15 percent or minimum of 10 Units: At least 10 percent or minimum of 10, including a minimum of two units of each bedroom size



When ownership or management changes, a review may occur within that year to ensure the new entity is compliant.

When patterns of noncompliance are identified, reviews may take place more frequently than noted above.

Section 10.2 Review Notice and Format

ALL PROG

Notice of Inspection

For LIHTC developments in years 1 through 15, amended IRS regulations require that CHFA may give no more than 15 days' notice. CHFA applies the same timeframe to Post Year 15 LIHTC and CHFA Loan developments.

Except in rare circumstances, CHFA will not notify the owner of which specific files and units are selected for inspection until the day of the inspection.



26 C.F.R. § 1.42-5

Amendments to the Low-Income Housing Credit Compliance-Monitoring Regulations, 84 Fed. Reg. 6076 (February 26, 2019)

Review Confirmation and Pre-review Document Submission

Once the review is scheduled, the PCO will issue a written review confirmation to the owner, management agent, and/or onsite manager. The confirmation will identify the review date, time, and location, as well as the number of files and units to be inspected.

The confirmation will also list the pre-review documents to be uploaded in Insight by the owner to CHFA within 48 hours. These documents should be uploaded as "Supporting Documents Required Prior to LIHTC and/or CHFA Loan Management Review," and include the following.

- Rent roll (including original property move-in date, AMI designation, tenant portion of rent, and fees)
- Year-to-date vacant unit report (include make ready and re-occupancy dates)
- WCMS confirmation
- Inspection notice to residents
- Utility allowance schedules
- Boiler and elevator inspection reports

Remote/Electronic File Reviews

Generally, CHFA PCOs conduct LIHTC and CHFA Loan program compliance reviews in person. In some cases, PCOs conduct the file review and management interview portions of the compliance review remotely. Below is a summary of the electronic review process when a review is conducted remotely.

- 48 hours prior to the electronic review date, the PCO will notify the owner/management agent of the specific files selected for review.
- The owner/agent will have 48 hours to upload the selected files in CHFA's secure Insight system. The owner or agent must have an Insight username and password to use the system.
    - Files must be uploaded in PDF format according to CHFA's Insight Tenant File Upload Instructions.
    - Owners/Agents are required to organize files as explained in CHFA's Electronic File Review Checklist and to use that completed checklist as the cover sheet for each file.
    - When uploading tenant files, use the Insight document type: Supporting Documents Required Prior to LIHTC and/or CHFA Loan Management Review.
    - Files that are not organized and uploaded as explained in the instructions will be deleted and the owner/agent will be asked to resubmit the information.
- The PCO will review the files on the scheduled review date.
- A telephone call with the owner/agent will be scheduled once the file review is completed to complete the management interview portion of the review and to go over any file findings.
- A report will be issued to the owner/agent according to standard compliance review procedures.



CHFA's Insight Tenant File Upload Instructions:
www.chfainfo.com/arh/asset/LIHTCForms/Tenant_File_Insight_Upload_Instructions.pdf

Electronic File Review Checklist – LIHTC Yrs 1-15 and CHFA Loan:
www.chfainfo.com/arh/asset/LIHTCForms/Electronic-File-Review-Checklist.pdf

Electronic File Review Checklist – Post Year 15 LIHTC:
www.chfainfo.com/arh/asset/LIHTCForms/Electronic-File-Review-PY15.pdf

Section 10.3 File Review

ALL PROG

During the file review, CHFA examines move-in certifications, annual recertifications, unit transfers, and interim certifications to determine whether the unit is in compliance with income and rent restrictions, certification requirements, and other program rules. Owners should use this Compliance Manual and CHFA's File Requirements Checklist as a guide in preparing complete and accurate tenant files.



LIHTC and Multifamily Loan Program File Requirements Checklist:
www.chfainfo.com/arh/asset/LIHTCForms/Multifamily-and-LIHTC-Loan-Program-File-Req-Checklist.pdf

Enterprise Income Verification (EIV) Reports

For properties with Section 8 housing assistance payment contracts, HUD requires owners to verify certain income types using the online EIV system. Because most CHFA Program Compliance Officers are not authorized by HUD to review EIV reports, actual EIV reports may not be kept in LIHTC and CHFA Loan files unless in a sealed envelope.

Section 10.4 Management Interview

ALL PROG

During the management interview, the PCO will review the following areas of compliance with the owner/agent and determine if any follow-up information or changes to management practices are necessary.

- Submissions
- Staff training
- Storage/Retention of tenant records
- Recertification process
- VAWA policies and procedures
- Fees
- Utility allowance policy and procedures
- Rent increases and decreases
- Next Available Unit Rule
- Vacant Unit Rule
- Vacancy information
- Maintenance and inspection procedures
- Capital improvements
- Code violations
- Casualty losses (LIHTC Yrs 1-15 only)
- Hazard insurance claims (CHFA Loan only)
- IRS Student Rule
- Employee units
- Changes in eligible basis (LIHTC only)

Section 10.5 Physical Inspections

ALL PROG

For most reviews, physical inspections are conducted by Program Compliance staff – either by the PCO or by the Physical Inspections Officer. The physical inspection assesses whether low-income units, and the property in general, are in safe,

decent, sanitary condition and in good repair. All occupied units, common areas, and buildings must be suitable for occupancy at the time of the inspection.

For LIHTC properties within the 15-year Compliance Period, noncompliance is reported on IRS Form 8823, line 11c.

Inspection Protocol

For both the LIHTC and CHFA Loan programs, CHFA inspects the site, building exteriors, building systems, common areas, and units according to the Uniform Physical Condition Standards (UPCS) used by HUD's REAC inspection program. As of this manual's publish date, HUD is preparing a revised protocol – the National Standards for the Physical Inspection of Real Estate (NSPIRE). Once final, CHFA will implement the NSPIRE inspection protocol.

Vacant Units

The physical inspection will include a review of vacant units. Any vacant units that are not suitable for occupancy as of the inspection will be noted in the review report. As part of the compliance review, any such units must be made ready for a new household within a reasonable timeframe.



See Section 2.6, Vacant Units, for CHFA's guidelines on a reasonable amount of time to make units ready.

Exigent Health and Safety (EH&S) Hazards

At the review, the CHFA inspector will formally notify management of any exigent health and safety hazards identified during the physical inspection. The owner or agent must correct all EH&S hazards within 24 hours of the inspection. Work orders demonstrating how and when the item(s) have been corrected must then be submitted in CHFA's Insight system within 72 hours.

REAC Inspection In Lieu of Program Compliance Inspection

For developments with project-based Section 8 contracts or a 542(c) Risk Share-enhanced loan, if a REAC physical inspection has been conducted for HUD within the same calendar year as the compliance review, the PCO may elect to incorporate the REAC inspection findings into the LIHTC or CHFA Loan program compliance review instead of conducting a separate physical inspection. In such cases, to close out the program compliance review, the owner must submit documentation showing that each REAC finding has been resolved and, in the case of a failing REAC score, a plan to improve the property's condition.



For more information on REAC inspections for properties with 542(c) Risk Share-enhanced loans, see Chapter 11, Risk Sharing Program.

Section 10.6 Review Report

ALL PROG

Program Compliance staff will prepare a report summarizing the review within 30 days and send it to the owner and management agent. The report covers the following areas.

- General condition of the tenant files, site, buildings, and residential units
- Whether income and rent restrictions are being met
- Any management practices that need to be modified
- File findings
- Physical deficiencies
- How utilities and utility allowances are handled
- Status of loan payments and reserve deposits, if applicable
- Status of submission/reporting requirements
- Whether the development appears to be compliant with the applicable program(s)

Cure Date

If the report includes any file observations and findings, physical deficiencies, or other items that require correction or explanation, the report will include a cure deadline of 30 days from of date the report is issued. Requests to extend the cure date must be submitted to CHFA in writing and will be approved only under extraordinary circumstances.

For physical deficiencies that cannot be completed in 30 days due to severity, weather, etc., a cure date of 60 days may be set. Any physical deficiencies that will take more than 60 days to cure must be addressed by the owner with the submission of a plan for curing the deficiencies including an anticipated completion date. When a plan is submitted, it is the owner's responsibility to provide proof of completion of physical repairs to CHFA by the date specified in the plan.

Closure

All reviews must be closed in a timely manner and no later than 90 days of the report issuance date. Once a review is closed, the PCO will send a confirmation of the closure date and the property's compliance status to the owner and agent.

Failure to submit the information required to close a review timely will cause the property, management agent, and owner to be designated as Not in Good Standing with CHFA Programs. See Chapter 17, Noncompliance, for more information.

Section 10.7 Review Corrections

ALL PROG

Documentation to demonstrate that all corrections have been made must be uploaded by the cure date to CHFA's secure online Insight system.

How to Organize Corrections

Each set of corrections should be organized as follows.

- Include a written response summary or cover letter at the beginning of the corrections that lists each finding and the type of correction provided.
- Include supporting documentation for each finding.
- Organize corrections in unit number order as outlined in the review report.

- Clearly mark each unit's documentation by either:
    - Adding divider pages that show the unit number before the page that begins corrections for that unit, or
    - Adding the unit number at the top of the page that begins the corrections for that unit.
- Combine the summary/cover letter and all corrections into one PDF document that is 20MB or smaller in size.
    - If the size exceeds 20MB, attempt to compress the file size.
    - If it cannot be compressed into 20MB or less, divide it into as few documents as possible to upload.

Physical Deficiency Corrections

For physical findings, work orders, photos, invoices, or other written documentation must be submitted that include all the following pieces of information.

- Location (unit number, building number, common area, or other location)
- Specific finding being addressed
- Specific action taken to correct the issue
    - Example: "replaced smoke detector" is acceptable. "Done" and "complete" are not acceptable.
- Date the repair was completed

Clarification Records

Whenever making corrections to a tenant certification file, a clarification record is required to explain the reason for revising the document or file. When completing clarifications, include all the following pieces of information.

- Organization name, if applicable (e.g., name of the employer, investment company, bank, etc.)
- Effective date of certification being corrected
- Date the clarification was received
- Manner in which the clarification was received (e.g., via phone, in person, etc.)
- Name, title, and phone number, and email address of the organization staff person who provided the clarification
- Name of management agent or site staff who received the clarification
- Specific questions asked
- Specific responses provided



Clarification Record sample: www.chfainfo.com/arh/asset/LIHTCForms/Clarification-Record.pdf

Correcting Forms and "True and Correct" Statements

When preparing a new or corrected form for a tenant certification that has already been completed, the following requirements apply.

- Each change/correction made to a form that has already been signed by the household must be initialed by all adult residents.
    - Do not use white out correction fluid to make corrections.
    - Make corrections by striking out the original information and adding the new information beside it.
    - If a new form is prepared instead of correcting the original form, the original form must be kept in the file.
- Residents' and the owner/agents' signatures on any new forms must reflect the actual date the new form was signed.
    - Backdating signatures is not permitted. Forms that are backdated will not be accepted.
- For both new forms and corrected forms, to make clear that the new or corrected data is accurate as of the certification date in question, a "true and correct" statement must be included on the form.
    - Example: "This information is true and correct as of [insert previous certification date here]."
    - The "true and correct" statement must reflect the original certification effective date, not the date of the correction.
    - All adult residents must initial the "true and correct" statement.

Uploading Corrections in CHFA's Insight System

Upload all corrections to CHFA's secure Insight system by the cure date. The owner or agent must have an Insight username and password to use the system. Below are basic instructions on preparing and uploading corrections in Insight. For additional instructions on uploading corrections, refer to the "Information" tab within Insight.

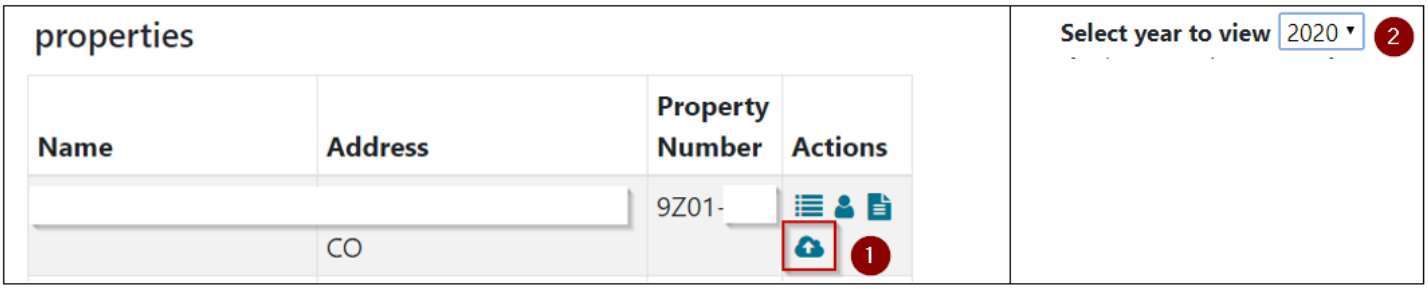
Preparing corrections

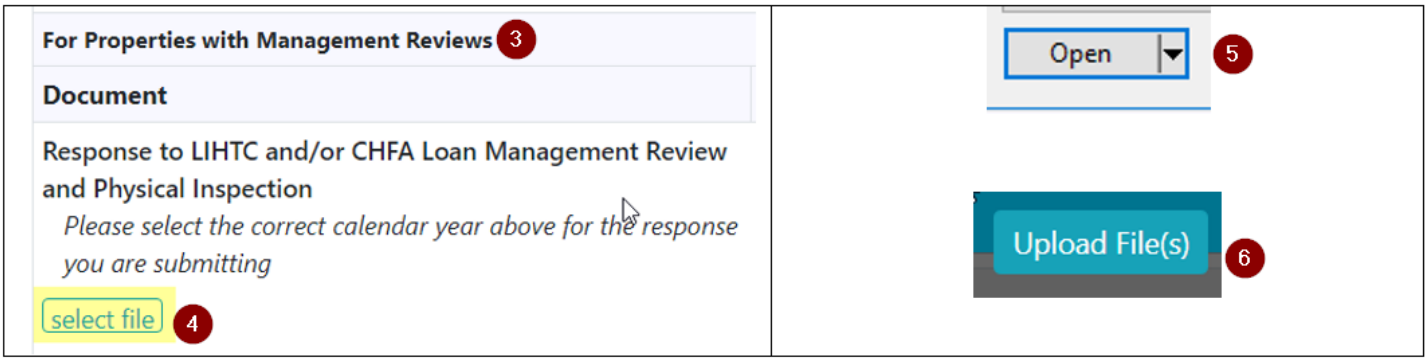
- Scan and/or save the summary/cover letter and all corrections as one document (if possible) in PDF format to your computer.
- Ensure the PDF file is 20MB or smaller in size.
    - If the PDF file exceeds 20MB, attempt to compress the file size.
    - If it cannot be compressed into 20MB or less, divide it into as few documents as possible to upload.
- If you are unable to save your file to PDF format, contact your PCO.

Uploading corrections

1. Sign into Insight and select the "Upload Documents" icon for your property.
2. Select the "year to view" from the drop-down list (use the current year).
3. Scroll down to the section titled "For Properties with Management Reviews."
4. Under "Response to LIHTC and/or CHFA Loan Management Review," click the "select file" button and then browse for the PDF corrections file that you scanned and saved to your computer.
5. Highlight the PDF corrections file on your computer and click the "Open" button.
6. Click "Upload File(s)."

Notify your PCO via email once all the required corrections have been uploaded.





Insight login page: www.echfa.com/Insight/login

Insight enrollment form: www.chfainfo.com/arh/asset/LIHTCForms/Insight-Enrollment-Form.pdf

Section 10.8 Common Findings

ALL PROG

File Findings	Physical Deficiencies
TICs – errors, blanks, corrections not initialed, issues with signatures and signature dates	Missing or non-functioning smoke and carbon monoxide detectors
Incomplete documents	Non-functioning kitchen disposals
Late or missing recertifications	GFIs that do not test properly
Missing or inaccurate calculations	Sanitation issues associated with inadequate housekeeping
Inconsistencies between documents	Blocked emergency egress from bedrooms
Incomplete or missing clarification records	Trip hazards – both interior and exterior
Incomplete documentation for self-employment	Damaged flooring

File Findings	Physical Deficiencies
Incomplete information for seasonal employees	Doors that do not automatically close as designed
Incorrect or missing true and correct statements	Doors and walls with holes or other damage
Unverified income or assets	Damaged windows and missing window screens
Disorganized files	Caulking in need of repair

Section 10.9 Noncompliance related to Reviews

ALL PROG

Any noncompliance identified during the review process must be corrected and documented. For patterns of significant noncompliance, CHFA may require the owner to conduct a file audit or physical inspection of all units at the property - either internally or by a third-party affordable housing consultant. See Chapter 17, Noncompliance, for a full discussion of how CHFA addresses noncompliance.

Not in Good Standing Designation

Significant instances and/or patterns of noncompliance that are not cured by the review's cure date will result in a designation of the property, management agent, and owner as Not in Good Standing with CHFA programs. See Chapter 17, Noncompliance, for more information on this designation and related consequences.

Reporting to the IRS, Colorado Department of Revenue, or HUD

- For LIHTC developments in Years 1-15, CHFA will determine whether any noncompliance identified during the review process must be reported to the Internal Revenue Service on IRS Form 8823.
- For developments with Colorado Affordable Housing Tax Credits, CHFA will determine whether any noncompliance identified during the review process must be reported to the Colorado Department of Revenue.
- For developments with Risk Share-enhanced loans, CHFA will determine whether any noncompliance identified during the review process must be reported to HUD.
- Whenever formal reporting to another government entity is required, the PCO will provide the owner an opportunity to provide additional documentation for inclusion with the reporting.

chapter 11

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Risk Sharing Program

The following chapter addresses compliance requirements specific to developments financed with CHFA multifamily loans insured through HUD's 542(c) Risk Sharing Program.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
11.1 Risk Sharing Program Overview		✗	✗	✗	⇆	✗	✗	✓
11.2 Risk Share Reporting		✗	✗	✗	⇆	✗	✗	✓
11.3 Risk Share REAC Inspections		✗	✗	✗	⇆	✗	✗	✓
11.4 Risk Share Annual Reviews		✗	✗	✗	⇆	✗	✗	✓
11.5 Risk Share Management Agent Changes		✗	✗	✗	⇆	✗	✗	✓
11.6 Risk Share-enhanced Loan Prepayment		✗	✗	✗	⇆	✗	✗	✓
11.7 HUD Handbook References		✗	✗	✗	⇆	✗	✗	✓

Section 11.1 Risk Sharing Program Overview

The federal Risk Sharing Program was created under Section 542 of the Housing and Community Development (HCD) Act of 1992 to provide new forms of credit enhancement for multifamily housing loans. In April 1994, CHFA entered into a Risk Sharing Agreement with HUD to originate and service loans under the Section 542(c) Risk Sharing Program, referred to as Section 542(c) or Risk Share-enhanced Loans. In August 2015, CHFA, HUD, and the Federal Financing Bank (FFB) entered into a FFB Risk Sharing Agreement by which FFB acquires a participation interest in the mortgage loan. The Risk Share-enhanced loans made under both agreements are insured through the Federal Housing Administration (i.e., "FHA-insured"), and CHFA agrees to share 50 percent of the risk in the event of loan default. Since CHFA is sharing the risk of loss with HUD, the underwriting and servicing of the loans are delegated to CHFA, allowing for a faster HUD approval time for mortgage insurance.

CHFA is responsible for executing and enforcing the Regulatory Agreement with the mortgagor. It is the responsibility of CHFA Asset Management staff to monitor all Risk Share-enhanced loans in accordance with the requirements of the Risk Sharing Agreement between CHFA and HUD, and the FFB Risk Sharing Agreement between CHFA, HUD, and FFB (collectively referred as the "Agreements"). CHFA's agreements with HUD require Asset Management staff to conduct additional monitoring actions in relation to Risk Share-enhanced loans beyond those associated with CHFA's standard program requirements.

This chapter along with the property's CHFA Regulatory Agreement will assist borrowers in meeting Risk Sharing Program-specific compliance obligations.

12 U.S.C. § 1707
24 C.F.R. § 266

Section 11.2 Risk Share Reporting

Developments with Risk Share-enhanced loans must follow all reporting requirements applicable to the CHFA Loan Program. In addition, they must submit an Affirmative Fair Housing Marketing Plan (AFHMP), annual operating budget, and audited financial statements as described below.

To confirm whether your property has a Risk Share-enhanced loan, see CHFA's Insight system or contact your Program Compliance Officer.

Affirmative Fair Housing Marketing Plan (AFHMP)

All developments with 542(c) Risk Share-enhanced loans must have an Affirmative Fair Housing Marketing Plan (AFHMP) current within five years and approved by CHFA or HUD.

Initial AFHMP

An initial AFHMP is required for new construction projects with HUD Multifamily assistance and for existing projects that are newly receiving HUD Multifamily assistance, such as projects transitioning to Project-based Rental Assistance (PBRA) through the RAD program. These projects receive approval of their initial AFHMP as part of their Risk Share loan closing.

Owner Review and Update Requirements

- After the initial AFHMP is approved, the owner is required to review the AFHMP and make updates as needed according to the following timeframes:
    - every five years, and
    - immediately if:
        - the local jurisdiction's Consolidated Plan has been updated, or
        - significant demographic changes have occurred in the housing market area.
- When the owner conducts an AFHMP review due to the timeframe or triggers noted above, they must document whether any updates to the AFHMP are required and proceed as follows.

Review Process for AFHMPS Reviewed and Found to Need Updates

Property Type	Agency That Approves the Updated AFHMP	Review Process
Properties with Project-based Section 8 Assistance	HUD's Office of Fair Housing and Equal Opportunity	▪ The owner must submit the updated AFHMP to den.incoming@hud.gov with a copy to the CHFA Program Compliance Officer (PCO). ▪ Upon approval of the AFHMP by HUD, the owner must email a copy of the approved plan to the PCO.
Properties without Project-based Section 8 Assistance	CHFA's Asset Management Division	▪ The owner must email the updated AFHMP to the PCO. ▪ CHFA will review the AFHMP according to current HUD guidelines. ▪ CHFA will contact the owner to request any corrections as necessary to approve the plan.

Review Process for AFHMPS Reviewed and Determined **Not** to Need Updating

For all properties with a Risk Share-enhanced loan that do not need updating:

- The owner must prepare a letter or memo documenting the date of the review and the conclusion that the current plan is satisfactory and does not require revision.
- The letter must be attached to the AFHMP made available for public inspection by applicants and residents.
- A copy of the letter must be submitted to the CHFA PCO whenever the owner's review is completed - at least every five years.
- Owners must keep a copy of their analysis for recordkeeping purposes.

Review Process for AFHMPS when the Owner Adopts a New Residency or Admissions Preference

When an owner of a property with a Risk Share-enhanced loan adopts a new admissions or residency preference in their admissions policies, they must update the project's existing AFHMP and submit it directly to HUD for review and approval. Upon approval of the AFHMP by HUD, the owner must email a copy of the approved plan to the PCO.

Annual Operating Budget

As of 2019, CHFA requires annual operating budgets only for developments with 542(c) Risk Share-enhanced loans. Owners of developments with 542(c) Risk Share-enhanced loans are required to upload a proposed operating budget in CHFA's Insight system no less than 60 days prior to the beginning of each fiscal year of the project.

The proposed operating budget should include anticipated income of the project and detailed expenses. Likewise, it should take the following into consideration: administrative expenses, administrative fees, management fees, operating expenses, maintenance, services (if applicable), utilities, hazard insurance, taxes and assessments, loan principal and interest, other costs payable pursuant to the financing documents, deposits to a replacement reserve fund, and deposits to any other reserves required by CHFA pursuant to the Regulatory Agreement, Loan Agreement, or other financing documents.

Audited Financial Statements

All projects with multifamily loans through CHFA must submit audited financial statements via Insight within 90 days[2] following the project's fiscal year end. The audit must reflect the financial standing of the CHFA-financed project independently from the partnership and/or owner entity. See Section 3.4, Audited Financial Statements, for more information.

For developments with 542(c) Risk Share-enhanced loans, the audit is to be completed in accordance with the HUD requirements as stated in IG 2000.04 – Rev.2, CHG 7, Chapter 3, and HUD Handbooks 4370.1 and 4370.2.

Once the audited statements for a Risk Share-enhanced loan are received, the PCO will share them with the project's HUD Account Executive (AE).

Section 11.3 Risk Share REAC Inspections

CHFA LOAN RS

Projects with Section 542(c) Risk Share financing are subject to periodic physical inspections by HUD's Real Estate Assessment Center (REAC). CHFA is responsible for executing and enforcing the Regulatory Agreement with the owner, including requiring the owner to maintain the project in good physical condition.

The REAC inspection may be coordinated by CHFA or directly by HUD. After the inspection, the REAC inspector will provide the owner with a Physical Inspection Summary Report, which includes the property's inspection score and a list

[2] Although some Regulatory Agreements and/or loan agreements may indicate a required submission date of 60 days after the end of the fiscal year, 24 CFR 5.801, Uniform Financial Reporting Standards (UFRS), supersedes this requirement by giving all developments 90 days to submit their FYE Audited Financial Statements.

of any deficiencies. Based on its inspection score within a 100-point system, the project will be assigned one of three designations as follows.

Designation	REAC score range	REAC Inspection cycle
Standard 1	90 points or higher	Every three years
Standard 2	80 to 90 points	Every two years
Standard 3	79 or less	Annually

Exigent Health and Safety (EH&S) Items

When a REAC inspection of any property includes EH&S items, the inspector will provide the owner with a Notification of Exigent and Fire Safety Hazards Observed on the day of inspection.

- The owner must correct or mitigate EH&S violations immediately if possible, but no later than three business days after citation.
- For all Risk Share projects, the owner must provide the following to the CHFA PCO and HUD AE within 72 business hours:
    - Written evidence of correction, and
    - A *Project Owner's Certification that All Exigent Health and Safety Items Have Been Corrected*.
        - The certification must be completed on the owner or project's letterhead.
        - The certification must be signed by the owner, not by the management agent.
- Depending on whether the property has Section 8 Project-based Rental Assistance (PBRA), CHFA and/or HUD will monitor resolution of the hazards.



Project Owner's Certification that All Exigent Health and Safety Items Have Been Corrected: www.chfainfo.com/arh/asset/LIHTCForms/EHS_Owner_Certifications.pdf

Follow-up on REAC Scores

Projects Scoring 60 Points or Above

The owner must make required repairs as indicated by the inspection results as part of ongoing maintenance. The CHFA PCO will confirm, at the next annual program compliance review, that all findings were corrected.

Projects Scoring 31 to 59 Points

When a project receives a score between 59 and 31, it is considered to have failed the inspection. Upon receiving notice of a failed REAC inspection, CHFA will coordinate a phone call with the owner to address any questions they may have and the process for certifying repairs and closing out the inspection. Following the call, CHFA will issue a Notice of Violation letter to the owner. CHFA and HUD will coordinate to close out these inspections.

60-day Repair Deadline

Within 60 days of the issuance of the Notice of Violation letter, the owner is required to:

- make the necessary repairs for all findings noted in REAC's Physical Inspection Summary Report, and
- submit written documentation of repairs including:
    - A completed *Project Owner's Certification that All REAC Inspection Findings Have Been Corrected* signed by the owner, and
    - Supporting documentation of each repair, including work orders, receipts, invoices, and/or photos.



Project Owner's Certification that All REAC Inspection Items Have Been Corrected: www.chfainfo.com/arh/asset/LIHTCForms/REAC-Sub%2060_Owner-Certification-All-Findings-Corrected.pdf

Following completion of work and receipt of a complete certification, CHFA may conduct its own inspection to determine that the repairs are completed to its satisfaction. Once CHFA has notified HUD of a satisfactory certification, HUD will schedule a REAC inspection, typically within one year, to determine if the owner has corrected the physical conditions that led to the violation.

Repairs Over 60 Days

In cases where the repairs cannot be completed within 60 days, CHFA may allow the owner to submit a detailed repair plan, including a timeline for completing work, and request an extension of time to complete the repairs. If the extension is granted, the owner must submit monthly updates to CHFA until confirmation of all repairs is certified in writing.

Failure to Complete and Certify Repairs

In the event the owner fails to provide the certification and documentation required by CHFA, and/or fails to provide the certification by the prescribed deadline, CHFA must notify HUD. HUD will enter a flag in the owner's previous participation history and request a reinspection of the property as soon as possible. Furthermore, CHFA may designate the property, management agent, and owner as Not in Good Standing with the CHFA Loan program until the property is brought back into compliance.

Appeal Process

All findings must be resolved within 60 days of the issuance of the Notice of Violation letter. In the meantime, if the owner wishes to appeal any findings, the appeal must be prepared according to HUD's specifications and submitted in hard copy by mail to the HUD REAC Technical Assistance Center in Washington, D.C., within 30 days of the REAC report release date. While the owner should notify the CHFA PCO when an appeal is filed, CHFA does not participate in the appeal process.



HUD's detailed instructions on submitting an appeal: www.hud.gov/program_offices/public_indian_housing/reac/products/pass/pass_guideandrule/trda

Projects Scoring 30 Points or Below

Physical inspections that receive a score of 30 or below will be automatically referred to the Departmental Enforcement Center (DEC) through the Integrated Real Estate Management System (iREMs) if they were conducted by REAC. REAC

will send a letter advising the owner of the referral. The project will be assigned to a DEC Satellite Office for further evaluation. In the meantime, the DEC Program Office will seek to resolve all EH&S hazards included in the inspection report.

Depending on the circumstances, CHFA may also designate the property, management agent, and owner as Not in Good Standing with the CHFA Loan program until the property is brought back into satisfactory condition.

Section 11.4 Risk Share Annual Reviews

Annual Program Compliance Management Review

PCOs conduct full program compliance reviews annually for properties financed with Risk Share-enhanced loans. The PCO's first annual review will take place within 12 months once a permanent Risk Share-enhanced loan has fully funded.

As part of the annual compliance review, the PCO will verify if the owner has a current AFHMP on file, including documentation of the most recent five-year review, whether the plan required updates, and approval by HUD or CHFA (if applicable). In addition, the PCO will follow up on the property's most recent REAC inspection as necessary.

Once the compliance review is closed, CHFA shares it with the Risk Share project's HUD Account Executive.

Annual Asset Quality Loan Review

After receiving a Risk Share property's audited financial statements, CHFA's Asset Management staff prepare a loan review analysis based on the property's payment history, value, cash flow, debt service, reserves, vacancy rates, etc., and any findings noted by the auditor. Once the analysis is finalized, CHFA shares it with the project's HUD Account Executive.

Section 11.5 Risk Share Management Agent Changes

HUD Previous Participation Certification - Form 2530 Clearance

Prior to making any management agent change, owners of projects with Risk Share-enhanced loans must obtain HUD's approval of the new management agent's eligibility to participate in HUD programs. To obtain eligibility approval, the owner must initiate a Previous Participation Review by HUD (i.e., 2530 clearance process). HUD's *Processing Guide for Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs' Participants* provides detailed instructions on the process for owners.

The owner must submit the request for approval electronically to HUD, using HUD Form 2530, Previous Participation Certification (as well as other documents outlined in the HUD guide), with a copy of the request to the property's CHFA PCO. Following approval of the 2530 clearance by HUD, the owner is responsible for sending a copy of the clearance to the PCO.

Requests may be filed either by using HUD's Active Partners Performance System (APPS) at www.hud.gov/program_offices/housing/mfh/apps/appsmfhm, or by emailing the Denver Multifamily HUB office at den.incoming@hud.gov. HUD strongly encourages owners to utilize the APPS system.

Until the necessary 2530 clearance is obtained, CHFA will place a hold on withdrawals from the project's replacement reserve, residual receipts, and operating deficit accounts.



HUD's Processing Guide for Previous Participation Reviews (HUD Notice H 2016-15): www.hud.gov/sites/documents/16-15HSGN.PDF

Notification to CHFA

When a Risk Share project's management agent changes, the owner must submit a Notification of Change in Contact Information, along with a copy of the new Management Agreement, to the PCO within 30 days of the change.



Notification of Change in Contact Information: www.chfainfo.com/arh/asset/LIHTCForms/Notification_Change_Contact_Information.pdf

Approval to Change Management Agent

Although the owner must submit notice of a change and documentation of HUD's 2530 clearance to CHFA, CHFA's approval to change a Risk Share property's management agent is not required unless the change occurs prior to the CHFA loan closing. See Section 18.2, Management Agent Changes, for more information on notification and approval requirements prior to and after loan closing.

If a Risk Share property also has project-based Section 8 assistance, HUD's approval to change the management agent is required. The owner should contact HUD staff directly at den.incoming@hud.gov, for information on the approval process.

Section 11.6 Risk Share-enhanced Loan Prepayment

CHFA LOAN RS

To prepay a Risk Share-enhanced loan in part or in full, the owner must submit a prepayment request in writing to CHFA's Commercial Loan Services department at least 45 days in advance. CHFA will then prepare and submit form HUD-9807 Insurance Termination Request for Multifamily Mortgage for HUD's approval.

Section 11.7 HUD Handbook References

For FHA-insured projects, in addition to this manual, the following HUD Handbooks will serve as references and provide guidance.

Reference	Title
IG 2000.4	Consolidated Audit Guide for Audits of HUD Programs Chapter 3 – HUD Multifamily Housing Program
HUD Handbook 4350.1	Multifamily Asset Management and Project Servicing
HUD Handbook 4370.1	Reviewing Annual and Monthly Financial Reports
HUD Handbook 4370.2	Financial Operations and Accounting Procedures for Insured Multifamily Projects
HUD Handbook 4590.01	Housing Finance Agency Risk Sharing Program
HUD Handbook 4381.5	Management Agent Handbook

chapter 12

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO AHTC — Colorado State AHTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Restricted Accounts and Surplus Cash Distributions

Most borrowers receiving CHFA multifamily loan financing are required to maintain certain reserve accounts. Reserve for replacement, lease-up reserve, operating deficit reserve, residual receipts, and other restricted accounts required by the borrower's CHFA Regulatory Agreement, Land Use Restriction Agreement (LURA), and/or Loan Agreement are monitored by the Program Compliance Department and may be maintained by CHFA's Commercial Loan Servicing Department. The majority of these accounts require CHFA's prior approval to withdraw funds.

The following chapter outlines the borrower's responsibilities regarding restricted accounts and requirements for making withdrawal requests. Surplus cash distribution requests are also explained.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
12.1 Reserve for Replacement		✗	✗	✗	✓	✓	✓	✓
12.2 Reserve Withdrawal Requests		✗	✗	✗	✓	✓	✓	✓
12.3 Lease-up Reserve		✗	✗	✗	✓	✓	✓	✓
12.4 Operating Deficit Reserve		✗	✗	✗	✓	✓	✓	✓
12.5 Residual Receipts		✗	✗	✗	✓	✓	✓	✓
12.6 Audit Confirmation Requests		✗	✗	✗	✓	✓	✓	✓
12.7 Reserves Held by Other Financial Institutions		✗	✗	✗	✓	✓	✓	✓
12.8 Surplus Cash Distributions		✗	✗	✗	✓	✓	✓	✓

Section 12.1 Reserve for Replacement

Most multifamily borrowers are required to maintain a reserve for replacement (replacement reserve) as specified in the borrower's CHFA Regulatory Agreement and/or Loan Agreement. The purpose of the account is to help defray the costs of replacing a project's capital items. The majority of replacement reserve accounts are maintained by CHFA's Commercial Loan Servicing Department (CLS) with automated monthly deposits. For accounts maintained by other financial institutions, not CHFA, see Section 12.7, Reserve Accounts Held by Other Financial Institutions.

Monthly Deposits and Increases

Owners are required to make monthly replacement reserve deposits in accordance with the terms of the Regulatory Agreement and/or Loan Agreement. The deposit amount is established when the loan closes and may be subject to change according to the terms of the Regulatory Agreement or Loan Agreement, HUD's Operating Cost Adjustment Factor (OCAF), and/or the Section 8 Housing Assistance Contract, if applicable.

The annual deposit increase requirement, typically at least three percent, is cited in the project's Regulatory Agreement or Loan Agreement. Owners are responsible for ensuring that the deposit increase takes effect on time each year, regardless of whether the reserve account is maintained by CHFA or another finance institution.

Replacement reserve deposit increases for certain CHFA loans with Section 8 subsidy occur when a rent increase is implemented. The rent increase and the replacement reserve deposit are calculated by the CHFA Section 8 Officer. If more than one requirement is in place, the greater requirement must be implemented.

Minimum Required Balance

Withdrawals can be taken from the replacement reserve once approved by CHFA. However, for all CHFA loan types, CHFA requires that at least 12 months of contributions always remain in the account. Withdrawal requests that would result in a balance decrease below the minimum will be reduced to maintain the minimum required balance.



CHFA may elect to allow the balance to fall below the minimum required balance in an extreme emergency.

Eligible Items for Reimbursement

The replacement reserve may be used to reimburse the development's operating account or pay directly for any required repair or replacement costs that may be capitalized by the owner in accordance with generally accepted accounting principles consistently applied. However, funds cannot be used to purchase items that were not part of the original investment.

Items and expenses performed as part of routine maintenance are to be paid from the development's operating account and are not eligible for reimbursement from the replacement reserve. Examples include supplies to paint a unit, basic maintenance tools and equipment, maintenance staff labor costs, and individual items not part of a bulk replacement.

To determine eligible items for reimbursement, CHFA generally follows HUD's replacement reserve guidelines published by the Denver Multifamily Hub.



Denver Multifamily Hub Replacement Reserve Guidelines
www.hud.gov/states/shared/working/r8/mf/reserveguidelines/14

Minimum Replacement Reserve Request

The minimum request for processing a single replacement reserve request is $3,000. Requests below $3,000 may be considered on a case-by-case basis as warranted. Owners and management agents are encouraged to consolidate invoices and submit to CHFA when the aggregate amount is at least $3,000.

Developments in the HUD Mark-to-Market Program

For developments with loans in HUD's Mark-to-Market program, replacement reserve requests must be submitted by the owner directly to HUD at den.incoming@hud.gov. CHFA will not release reserve funds until an approved form HUD-9250 has been received.



If you are unsure if your property is Mark-to-Market, see CHFA's Insight system or contact your Program Compliance Officer.

Monthly Statements

For replacement reserve accounts maintained by CHFA, reserve deposits and balances are stated on the monthly multifamily loan or billing statement issued by CHFA's Commercial Loan Servicing Department. Monthly statements are available for owner to view and download at any time in CHFA's Insight System. Upon request, monthly statements may also be mailed to the owner or management agent in hard copy.



Insight login page: www.echfa.com/Insight/login

Insight enrollment form:
www.chfainfo.com/arh/asset/LIHTCForms/Insight-Enrollment-Form.pdf

Section 12.2 Reserve Withdrawal Requests

CHFA LOAN HHF CO CM FUND RS

With CHFA's written approval, withdrawals can be taken from the project's reserve for replacement, operating deficit reserve, or lease-up reserve as outlined in the development's Regulatory Agreement and/or Loan Agreement. Below is a summary of the items to be included in the reserve request and submitted directly to the Program Compliance Officer (PCO).



The development, management agent, and owner must be in compliance, current on submissions, and in good

standing with CHFA programs to obtain consent for a withdrawal request.

Item	Links and Additional information
Replacement Reserve Request Form	▪ www.chfainfo.com/arh/asset/LIHTCForms/Replacement_Reserve_Request.pdf ▪ All questions must be answered. ▪ If there are any outstanding submissions or any unresolved review or audit findings, the form must include an explanation. ▪ Must be signed by the owner or management agent ▪ Use this form for replacement reserve, operating deficit, and lease-up reserve requests.
Replacement Reserve Itemization Form	▪ www.chfainfo.com/arh/asset/LIHTCForms/Replacement_Reserve_Itemization_Form.xls ▪ Spreadsheet must be completed in full, including the following for each expense. o Item description o Supplier name and phone number o Purchase date o Invoice number o Purchase amount to be reimbursed o Location or unit number ▪ Expense amounts and other information must match the supporting documentation supplied. ▪ Spreadsheet total must match the total on the Replacement Reserve Request form.
Supporting Documentation for Each Expense	▪ Examples: invoices, receipts, bids ▪ The specific unit number or location for each expense must be noted on the invoice, receipt, etc. ▪ For receipts or invoices with multiple items, each item included in the request must be highlighted or circled. ▪ Documentation must be no more than one year old.
Written Approval of the Limited Partner or Investor Member	▪ Applicable only if such approval is required by the Regulatory Agreement and/or Loan Agreement.
Three Written Bids Along with Specifications, Contracts, and Other Pertinent Information	▪ Applicable only if any single expense/item is $10,000.00 or more. ▪ If three bids are impossible to obtain (e.g. in some rural areas or for highly specialized work), the request must include a thorough explanation.

Item	Links and Additional information
Form HUD-9250	▪ www.hud.gov/sites/documents/9250.PDF ▪ Applicable only if the development is in HUD's Mark-to-Market program. ▪ Must be signed by the HUD Account Executive.

Reserve Request Processing Time and Format

Upon receipt of a complete request, including all required information on the forms and sufficient back up documentation, the PCO will notify the owner whether the request is approved or declined. Funds will be disbursed via check within 30 days. If a request is incomplete, CHFA will notify the owner and hold the request until a full submission is received.



CHFA issues reserve funds in the form of a check to the ownership entity. Funds will not be issued via a wire transfer except in emergencies.

Section 12.3 Lease-up Reserve

CHFA LOAN HHF CO CM FUND RS

For new construction and substantial rehabilitation projects, the owner shall establish and maintain a lease-up reserve account if required by the Regulatory Agreement and/or Loan Agreement. The purpose of the account is to provide the project with a funding source to carry the project to stabilized occupancy as defined in the loan documents. The amount of this fund is established at the time of closing and is set forth in the Regulatory Agreement and/or Loan Agreement. The funds in the account shall be used to cover operating expenses, including debt service, until sustaining occupancy is achieved. When a lease-up reserve fund is required, it shall at all times be under the control of CHFA.

Withdrawals

Withdrawals may be taken from the project's lease-up reserve for specific uses and only as permitted by the development's Regulatory Agreement and/or Loan Agreement. For withdrawals that require CHFA's prior written consent, see Section 12.2, Reserve Withdrawal Requests for the process for withdraw funds from a reserve fund. In addition to all standard items, the borrower must provide CHFA with supporting documentation, such as financial statements.

Section 12.4 Operating Deficit Reserve

CHFA LOAN HHF CO CM FUND RS

If required by the Regulatory Agreement and/or the Loan Agreement, the owner shall establish and maintain an operating deficit reserve fund. The purpose of the account is to support a development's cash flow and, under certain conditions, to fund operating expenses only as permitted by the agreement. The amount of this fund and the required minimum balance are established at the time of loan closing and are set forth in the Regulatory Agreement and/or the Loan Agreement. When an operating deficit reserve fund is required, it shall be assigned to and under the control of CHFA.

Withdrawals

Withdrawals may be taken from the project's operating deficit reserve for specific uses and only as permitted by the development's Regulatory Agreement and/or Loan Agreement. For withdrawals that require CHFA's prior written consent, see Section 12.2, Reserve Withdrawal Requests, for the process for withdraw funds from a reserve fund.

In addition to all standard items, the borrower must provide CHFA with supporting documentation, such as an itemized list of expenses, supporting documentation of expense amounts, financial statements, and the written approval of the Limited Partner or Investor Member, as applicable. CHFA, at its discretion, may require that funds are disbursed directly to a contractor/vendor.

Section 12.5 Residual Receipts

CHFA LOAN HHF CO CM FUND RS

If required by the Regulatory Agreement and/or Loan Agreement, the owner shall establish and maintain a residual receipts fund. When a residual receipts fund is required, it shall be assigned to and under the control of CHFA. Owners are required to make deposits to this account at the end of every annual fiscal period in the amount of the project's surplus cash, after deducting from surplus cash the amount of distributions (see Section 12.8, Surplus Cash Distributions).

Withdrawals

Withdrawals from the residual receipts account may be completed in accordance with the Regulatory Agreement and/or Loan Agreement. For withdrawals that require CHFA's prior written consent, borrowers must submit a Residual Receipts Request form and an explanation of the purpose of the withdrawal to the PCO.



Residual Receipts Request form:
www.chfainfo.com/arh/asset/LIHTCForms/Residual_Receipts_Request.pdf

Section 12.6 Audit Confirmation Requests

CHFA LOAN HHF CO CM FUND RS

All auditor requests related to CHFA multifamily loans, including reserve balances and loan history, should be emailed to CHFA's Commercial Loan Servicing Department at DL-AM-Commercial_Loan_Servicing@chfainfo.com.

Section 12.7 Reserves Held by Other Financial Institutions

CHFA LOAN HHF CO CM FUND RS

In some cases, a CHFA multifamily borrower has established reserve account(s) with a different financial institution to meet their obligation under the CHFA Regulatory Agreement or Loan Agreement. Prior to withdrawing funds from such an account, the owner must obtain CHFA's written approval. Failure to obtain CHFA's approval could result in the development, its owner, and management agent being designated as Not in Good Standing with the CHFA Loan program.

Monthly Statements

If a borrower has established CHFA-required reserve account(s) with a different financial institution, the owner must submit copies of monthly statements to the CHFA PCO. These statements are due to the PCO by the 20th of the month for the previous month.

Withdrawal Requests

To requests funds from an account not held by CHFA, follow the same process described in Section 12.2, Reserve Withdrawal Requests. Once a request is approved, CHFA will issue the owner a letter authorizing the release of funds that specifies the amount to be withdrawn and the expenses to be reimbursed.

Section 12.8 Surplus Cash Distributions

CHFA LOAN HHF CO CM FUND RS

CHFA's approval is required to release surplus cash for certain developments with CHFA multifamily loans, as specified below.

Nonprofit Borrowers

Nonprofit borrowers are permitted to take surplus cash distributions, and the distributions must be used for charitable/public purposes. For nonprofit borrowers, CHFA's approval to release surplus cash is not required.

For-profit Borrowers

Loans originated prior to 2007

For-profit borrowers whose loans originated prior to 2007 are permitted to take surplus cash distributions, but the distributions must be approved by CHFA. For-profit owners should refer to CHFA Resolution 80-110, Establishing Maximum Rate of Return on Equity for Partially Assisted Multifamily Housing Facilities.



CHFA Resolution 80-110:
www.chfainfo.com/arh/asset/LIHTCForms/CHFAResolution_80-110.pdf

Surplus Cash Distribution Requests

For-profit borrowers with loans originated prior to 2007 seeking CHFA approval to release surplus cash are required to submit the Computation of Surplus Cash, Distributions, and Residual Receipts form and, if applicable, evidence that residual receipts have been deposited in the project's residual receipts account. The owner's written request and computation form should be sent directly to the CHFA PCO.

Owners should review the project's Regulatory Agreement and/or Loan Agreement to determine limitations on distributions. In the case of a project subject to distribution limitations imposed by the U.S. Department of Housing and Urban Development (HUD), distributions will be approved only as permitted under applicable HUD regulations.



Computation of Surplus Cash, Distributions, and Residual Receipts form: www.chfainfo.com/arh/asset/LIHTCForms/ComputationofSurplusCash.xls



The development, management agent, and owner must be in compliance, current on submissions, and in good standing with CHFA programs before CHFA will process a request to release surplus cash.

Loans originated during or after 2007

For-profit borrowers whose loans originated during or after 2007 are not required to obtain CHFA's approval to take surplus cash distributions.

chapter 13

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Tax-exempt Bonds

Due to the tax-exempt status of their financing, tax-exempt bond-financed developments are subject to certain additional Internal Revenue Service requirements beyond LIHTC and CHFA Loan program requirements. The following chapter outlines those requirements.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
13.1 Tax-exempt Bond Overview		⇆	⇆	✗	⇆	✗	✗	✗
13.2 Tax-exempt Bond Annual Reporting		⇆	⇆	✗	⇆	✗	✗	✗
13.3 Tax-exempt Bond Lease Addendum		⇆	⇆	✗	⇆	✗	✗	✗
13.4 Tax-exempt Bond Student Rule		⇆	⇆	✗	⇆	✗	✗	✗
13.5 Tax-exempt Bond Unit Transfers		⇆	⇆	✗	⇆	✗	✗	✗
13.6 Tax-exempt Bond Noncompliance		⇆	⇆	✗	⇆	✗	✗	✗

Section 13.1 Tax-exempt Bond Overview

TC Y 1-15 PY 15+ CHFA LOAN

As an authorized issuer of tax-exempt bonds, CHFA may issue Private Activity Bonds (PAB) (qualified residential rental bonds) or other forms of qualified tax-exempt bonds to support affordable rental housing developments. Interest payments from tax-exempt bonds are not subject to federal income tax. CHFA issues tax-exempt bonds either on a conduit basis (as a Conduit Issuer) or as a Direct Issuer and Lender. PAB issued for qualified residential rental activities may be used to fund a CHFA loan, both FHA-insured and non-FHA-insured, and/or may be paired with the federal 4 percent LIHTC and the Colorado Affordable Housing Tax Credit.

Due to the bonds' tax-exempt status, developments financed with CHFA-issued PAB are subject to certain Internal Revenue Service (IRS) requirements, in addition to LIHTC and CHFA Loan program requirements, throughout the Qualified Project Period. The compliance-related IRS requirements discussed in this chapter include the minimum set-aside election, annual reporting, full-time student households, and unit transfers.

To determine if your project has tax-exempt bonds issued by CHFA, see CHFA's Insight system or contact your Program Compliance Officer.

Qualified Project Period

The Qualified Project Period of a tax-exempt bond financed affordable rental development is defined as:

- beginning on the first day that 10 percent of the residential units are occupied, and
- ending on the latest of
  - (a) the date that is 15 years after the date that 50 percent of the residential units are occupied,
  - (b) the first day that no tax-exempt private activity bond issued for the project is outstanding, or
  - (c) the date that any assistance provided for the project under Section 8 of the United States Housing Act of 1937 terminates.

26 U.S.C. § 142(d)(2)(A)

CHFA Compliance Monitoring

For developments receiving tax-exempt PAB financing through CHFA, either as a direct issuer and lender or as a conduit issuer, CHFA begins monitoring the project for compliance with the bond transaction Regulatory Agreement and with Section 142 of the Code once the development has placed in service and/or the permanent loan has funded.

Although the owner's IRS compliance obligations are applicable throughout the entire Qualified Project Period, CHFA's bond-related monitoring ends once the conduit bonds have been redeemed or the PAB-financed loan is paid in full, regardless of whether the project remains in the Qualified Project Period.

Owners of developments for which CHFA issues tax-exempt bonds on a conduit basis should notify the CHFA Program Compliance Officer (PCO) when the conduit bonds have been redeemed. The notification must include confirmation in writing from the bond issue's trustee that includes the following.

- Bond issue name

- Bond issue CUSIP number(s)
- Amount of bonds currently outstanding
- Date the bonds were redeemed

Minimum Set-aside Election

Tax-exempt bond-financed projects must meet and maintain one of two minimum set-aside restrictions to comply with bond financing requirements.

- 20% of units at 50% of Area Median Income
- 40% of units at 60% of Area Median Income

The minimum set-aside election and any additional restrictions are determined at bond closing. The election is made on IRS Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues, and is also outlined in the occupancy requirements indicated in the project's Bond Regulatory Agreement.

CHFA Program Compliance staff monitor compliance with the minimum set-aside through periodic reviews of occupancy and demographic data (via WCMS or TRACS) and regular onsite or electronic compliance reviews.



26 U.S.C. § 142(d)(1)

501(c)(3) Tax-exempt Bonds

Qualified 501(c)(3) bonds are tax-exempt Private Activity Bonds issued by a state or local government entity, the proceeds of which are loaned to and used by a Section 501(c)(3) nonprofit organization in furtherance of its exempt purpose. CHFA may issue 501(c)(3) bonds to qualified developments.

The Internal Revenue Code restricts the ownership and use of all properties financed by a qualified 501(c)(3) bond issue. Owners of developments financed with CHFA-issued 501(c)(3) bonds must certify compliance in the following areas in the annual owner certification (see Section 3.2, Owner Certification Forms).

- The property must be owned by a 501(c)(3) organization or a state or local government throughout the term of the bonds.
- At least 95 percent of net bond proceeds must be used for a "good" use as defined by the Code. "Unrelated trade or business" use and income are not considered "good" use.
- Owners must follow IRS safe harbor rules against private use for service and other management contracts.



26 U.S.C. § 142(a), (b)
26 U.S.C. § 145
Rev. Proc. 97-13

To determine if your project has 501(c)(3) tax-exempt bonds issued by CHFA, see CHFA's Insight system or contact your PCO.

Change of Use

Owners of developments receiving tax-exempt PAB financing through CHFA must notify the CHFA PCO regarding any change of use as it pertains to the use of the bond proceeds.

Ownership Transfers

When there is an anticipated ownership change for any development financed by CHFA, the current owner is required to obtain CHFA's written approval. See Chapter 18, Ownership and Management Agent Changes, for instructions on the transfer approval process.

Developments funded with 501(c)(3) bonds are required to have a qualified 501(c)(3) borrower own the project at all times.

Section 13.2 Tax-exempt Bond Annual Reporting

TC Y 1-15 PY 15+ CHFA LOAN

Developments financed with CHFA-issued tax-exempt bond funds must follow all applicable reporting requirements for the LIHTC and/or CHFA Loan programs. In addition, such developments are subject to the reporting requirements summarized below.

Annual Owner Certification of Continuing Compliance

Annually, owners must submit a signed certification in which the owner certifies compliance with various Private Activity Bond (PAB) requirements, including use as a qualified residential rental project under Section 142(d) of the Code. See Section 3.2, Owner Certification Forms, for more information.

Additional Certification for Projects Financed with CHFA Tax-exempt Bonds

Owner certifications include additional sections that must be completed only by developments that were issued tax-exempt PAB financing by CHFA. Such developments must complete all applicable bond-related questions on the certification.

If your development does not have CHFA-issued PAB, please leave the Additional Certification sections blank.

Property Type	Owner Certification Form	Additional Information
LIHTC Projects with CHFA-issued PAB Via Conduit Bond Issue	CHFA's LIHTC Owner Certification of Continuing Program Compliance, or LIHTC Post Year 15 Owner Certification of Continuing Program Compliance	Complete all questions in Additional Certification Required Only for LIHTC Projects Financed with CHFA Tax-Exempt Bonds via a Conduit Bond Issue
CHFA Loan Projects Financed by PAB Issued Directly by CHFA to Fund the CHFA Loan	CHFA's Owner Certification of Continuing Loan Compliance	Complete all questions in Additional Certification Required Only for Projects Financed with CHFA Tax-Exempt Bonds

All projects with CHFA-issued PAB, both via conduit and direct loan, must answer questions regarding:

- IRS Form 8703 filing,
- use as a Qualified Residential Rental Project, and
- compliance with the requirements of the bond documents executed upon issuance of the bonds.

All projects with CHFA-issued PAB that are 501(c)(3) bonds must also answer questions regarding:

- IRS Safe Harbor Contract Rules,
- IRS Form 990 filing, and
- use of bond proceeds and unrelated trade or business use and income.



If applicable bond-related questions are blank or inaccurate, the certification will be returned to the owner for correction.

IRS Form 8703, Annual Certification of a Residential Rental Project

IRS Filing Requirement

Annually by March 31 during the Qualified Project Period, all borrowers receiving tax-exempt PAB financing are required to file with the Internal Revenue Service Form 8703, Annual Certification of a Residential Rental Project, for the previous calendar year. The form certifies whether the project continues to meet the requirements of Section 142(d) of the Code. Failure to file Form 8703 each year during the Qualified Project Period subjects the project owner to an IRS penalty.



26 U.S.C. § 142(d)(7)

CHFA Reporting Requirement

Annually by April 30 while CHFA-issued tax-exempt bonds remain outstanding, the owner is required to submit a copy of the IRS Form 8703 to CHFA via CHFA's secure Insight system. For more information, see Section 3.7, IRS Form 8703.



Properties that receive PAB financing issued by another entity and not CHFA, are not required to submit a copy of IRS Form 8703 to CHFA.

IRS Form 990, Return of Organization Exempt from Income Tax

Most tax-exempt organizations, including 501(c)(3) borrowers, are required to file an annual IRS Form 990 - Return of Organization Exempt from Income Tax with the IRS. For CHFA borrowers receiving tax-exempt Private Activity Bond (PAB) financing, the IRS Form 990 must be filed annually in accordance with IRS requirements.

CHFA does not, in general, require the owner to submit a copy of the return to CHFA. However, the owner must submit the return upon request.

If an organization fails to file an annual return or submit a notice as required for three consecutive years, it will automatically lose its tax-exempt status and will be in default on its tax-exempt loan with CHFA.

Section 13.3 Tax-exempt Bond Lease Addendum

TC Y 1-15 PY 15+ CHFA LOAN

All resident leases at developments receiving tax-exempt Private Activity Bond (PAB) financing through CHFA shall contain a clause, among others, wherein the resident agrees that his or her lease may be terminated if any noncompliance by such tenant would adversely affect the federal tax-exempt status of interest on bonds issued to provide funds to make the loan (if applicable).

The Affordable Housing Lease Addendum available on CHFA's website satisfies this requirement.



Affordable Housing Lease Addendum:
https://www.chfainfo.com/arh/asset/LIHTCForms/Affordable_Housing_Lease_Addendum.pdf

Section 13.4 Tax-exempt Bond Student Rule

TC Y 1-15 PY 15+ CHFA LOAN

Projects financed with tax-exempt bond financing are subject to the IRS Student Rule under Section 142(d)(2)(C) of the code, regardless of whether they also have LIHTC. The Student Rule states that a household comprised entirely of full-time students (as defined by the IRS) is ineligible to occupy a unit unless one or more of five criteria is met. As long as at least one household member is not considered a full-time student, the household complies with the Student Rule.

See Chapter 8, Students, for information on student status certification and verification requirements and an explanation of the Student Rule and its exceptions.

For developments with CHFA loans financed with CHFA-issued tax-exempt bond financing but not LIHTC, CHFA will monitor for compliance with the Student Rule until the year following bond redemption irrespective of whether the project remains in the Qualified Project Period.

26 U.S.C. § 142(d)(2)(C)
26 U.S.C. § 42(i)(3)(D)

Section 13.5 Tax-exempt Bond Unit Transfers

TC Y 1-15 PY 15+ CHFA LOAN

For a multiple-building property, unit transfer rules depend on the property type and the household's current income.

- Developments with both CHFA-issued tax-exempt bond financing [Private Activity Bond (PAB)] and LIHTC are monitored for compliance according to the LIHTC transfer rules.
- CHFA Loan properties that have CHFA-issued PAB and do not have LIHTC are monitored according to PAB transfer rules.

See Section 7.6, Unit Transfers, for detailed rules on unit transfers.

Section 13.6 Tax-exempt Bond Noncompliance

TC Y 1-15 PY 15+ CHFA LOAN

Noncompliance with tax-exempt bond requirements may cause the bonds to become taxable and trigger an Internal Revenue Service audit. For loans that are pooled, this risk attaches to the entire bond issue and not just the noncompliance of a single project.

Borrowers receiving tax-exempt bond financing must inform CHFA by written notice of any violation of their obligations under the Bond Regulatory Agreement executed at bond closing, including non-compliance with arbitrage or other applicable federal tax requirements. If a violation is discovered by CHFA or by the borrower/project owner and is not corrected sufficiently by the established cure date, CHFA shall declare a default under the Bond Regulatory Agreement.

All other non-compliance with requirements of the Code, the Bond Regulatory Agreement, or this manual will be handled according to Chapter 17, Noncompliance.

chapter 14

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Post Year 15 LIHTC Compliance

The purpose of this chapter is to provide owners of Low Income Housing Tax Credit projects with an understanding of how CHFA monitors projects beginning year 16 of the Extended Use Period, after the initial 15-year Compliance Period is complete.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
14.1 Post Year 15 LIHTC Overview		✗	✓	✗	✗	✗	✗	✗
14.2 Post Year 15 LIHTC Compliance Reviews		✗	✓	✗	✗	✗	✗	✗
14.3 Post Year 15 LIHTC Annual Submissions		✗	✓	✗	✗	✗	✗	✗
14.4 Post Year 15 LIHTC Tenant Income Certifications		✗	✓	✗	✗	✗	✗	✗
14.5 Post Year 15 LIHTC IRS Student Rule Monitoring		✗	✓	✗	✗	✗	✗	✗
14.6 Post Year 15 LIHTC Unit Transfers		✗	✓	✗	✗	✗	✗	✗
14.7 Post Year 15 LIHTC Next Available Unit Rule Monitoring		✗	✓	✗	✗	✗	✗	✗
14.8 Post Year 15 LIHTC Ownership Transfers		✗	✓	✗	✗	✗	✗	✗
14.9 Resyndication		✗	✓	✗	✗	✗	✗	✗
14.10 Good Cause Eviction and Rent Increase Protection		✗	✓	✗	✗	✗	✗	✗
14.11 Post Year 15 LIHTC Record Retention		✗	✓	✗	✗	✗	✗	✗
14.12 Post Year 15 LIHTC Noncompliance		✗	✓	✗	✗	✗	✗	✗

Section 14.1 Post Year 15 LIHTC Overview

LIHTC developments are subject to Section 42 of the Code throughout the Extended Use Period. Likewise, the Land Use Restriction Agreement (LURA) remains in effect for the entire Extended Use Period unless the property is acquired by foreclosure or deed-in-lieu of foreclosure (unless it is determined that such an acquisition is part of an arrangement with the taxpayer, a purpose of which is to terminate the Extended Use Period). The Extended Use Period, defined in Section 1.2, Federal LIHTC Program, lasts for a minimum of 30 years.

While the Internal Revenue Service's direct oversight and compliance enforcement is limited to the initial 15-year Compliance Period, CHFA monitors LIHTC developments for compliance with Section 42 and the LURA throughout the Extended Use Period. Affordable housing practitioners uses the term "Post Year 15 Period" to refer to the 15-plus years remaining in the Extended Use Period once the 15-year Compliance Period has ended.

CHFA's Post Year 15 LIHTC compliance monitoring ensures that properties comply with LIHTC requirements until the completion of the Extended Use Period specified in the LURA. CHFA has elected to revise several of its compliance monitoring practices during the Post Year 15 Period, since the IRS no longer oversees compliance with Section 42 at that point. Except for the revised monitoring specifically outlined in this chapter, compliance with all other requirements under the LURA and Section 42 of the Internal Revenue Code of 1986 as amended and the Treasury Regulations thereunder as applicable will continue to be monitored.

Throughout the Extended Use Period, CHFA reserves the right to conduct a review of any building after serving appropriate notice and to examine all records pertaining to the rental of tax credit units.



Post Year 15 properties with other programs such as Section 8, Rural Development, HOME, FHA and CHFA Loan programs, and tax-exempt financing must still comply with the rules associated with those programs.

Determining When the Post Year 15 Period Begins

For all LIHTC developments, the Post Year 15 ("PY15") Period begins with Year 16 of the Extended Use Period. To identify Year 16, you must determine Year 1 of the Extended Use Period. Year 1 is the first year of the Credit Period which is determined by the owner after a building places in service. The owner may elect to begin the Credit Period in either the year in which the building is placed in service or the following year.

Owners must make their election of when to begin the Credit Period on line 10a of the IRS Form 8609 filed with the IRS for each LIHTC building at the beginning of the Credit Period. As stated in the LURA, the owner must provide CHFA with a copy of the completed and signed IRS Form 8609 for each building for the first year of the Credit Period, within 90 days of the owner's filing with the IRS. Below are examples of Year 1 and Year 16 based on receipt of the filed Forms 8609 and the owner's 10a election.



Should the owner not provide the completed and filed Form 8609 as required, CHFA'S policy is to determine the start of the Credit Period as the year after the date the last building was placed in service.

IRS Form 8609	Owner's Election on Line 10a	PIS Date	Year 1	Year 15	Year 16 / PY15 Period Begins
Completed form received by CHFA - Yes	Elect to begin Credit Period the first year after the building is placed in service – **No**	June 22, 2004	2004	2018	2019
Completed form received by CHFA - Yes	Elect to begin Credit Period the first year after the building is placed in service – **Yes**	June 22, 2004	2005	2019	2020
Completed form received by CHFA - No	n/a - Unknown	June 22, 2004	2005 (per CHFA policy)	2019	2020



If you are unsure whether your LIHTC project has entered the Post Year 15 Period, see CHFA's Insight system or contact your Program Compliance Officer.

Section 14.2 Post Year 15 LIHTC Compliance Reviews



During the Post Year 15 Period, compliance reviews and physical inspections will be performed at least every five years. At least 10 percent or 10 units and files, whichever is greater, will be inspected during the review. See Chapter 10, Program Compliance Reviews, for more information.

CHFA reserves the right to inspect additional units, files, and records pertaining to the rental of tax credit units if it is deemed necessary by CHFA staff. In addition, in the event of an ownership or management change, a LIHTC management review may occur within that year to ensure the new entity is complying with the requirements of the LURA.

Section 14.3 Post Year 15 LIHTC Annual Submissions



Except as outlined below, in the Post Year 15 Period, all submission requirements in the LURA and/or CHFA Regulatory Agreement and per this compliance manual remain in effect. See Chapter 3, Required Submissions, for a detailed summary.

Owner Certification

Instead of using the LIHTC Owner Certification of Continuing Program Compliance, for Year 16 the owner should begin using the abbreviated LIHTC Post Year 15 Owner Certification of Continuing Program Compliance. See Section 3.2, Owner Certification Forms, for more information.



LIHTC Post Year 15 Owner Certification of Continuing Program Compliance: www.chfainfo.com/arh/asset/LIHTCForms/CHFA_Y15_Certification.pdf



If applicable questions are blank or inaccurate, the certification will be returned to the owner for correction.

Additional Certification Sections

The LIHTC Post Year 15 Owner Certification includes additional questions and/ or sections that must be completed only by developments that were allocated Colorado state Affordable Housing Tax Credits (state AHTC, which are not the same as LIHTC) and/or were issued tax-exempt Private Activity Bond (PAB) financing by CHFA.

Property Type	Owner Certification Form	Additional Information
LIHTC Projects with Colorado State AHTC	LIHTC Post Year 15 Owner Certification of Continuing Program Compliance	Complete all questions related to state AHTC compliance
LIHTC Projects with CHFA-issued PAB Via Conduit Bond Issue	LIHTC Post Year 15 Owner Certification of Continuing Program Compliance	Complete all questions in "Additional Certification Required Only for LIHTC Projects Financed with CHFA Tax-Exempt Bonds via a Conduit Bond Issue"

- See Section 1.3, Colorado Affordable Housing Tax Credit Program, for more information on state AHTC.
- See Chapter 13, Tax-exempt Bonds, for more information on tax-exempt PAB financing by CHFA.



To determine if your PY15 project has state AHTC or CHFA-issued PAB, look in CHFA's Insight system or contact your Program Compliance Officer.



If your development does not have state AHTC or CHFA-issued PAB, please leave the Additional Certification sections blank.

Annual Post Year 15 LIHTC Monitoring Fees

To offset the cost of monitoring a development during the Post Year 15 Period, CHFA charges a compliance monitoring fee. As stated in the LURA, all LIHTC projects are required to pay annual monitoring fees beginning in Year 16 of the Extended Use Period. For developments in Years 1 through 15 of the Compliance Period, compliance monitoring fees are not due annually, because they are paid in advance for the first 15 years.

Effective November 1, 2015, the Post Year 15 monitoring fee is $25 per tax credit unit, including employee units, not to exceed $2,500. All fees are due on January 15 each year.

The fee will be reviewed on an annual basis to reassess its reasonableness and whether it covers CHFA's costs of monitoring. The fee is subject to change upon written notice from CHFA.



CHFA encourages owner and management agents to set a recurring annual reminder regarding submissions due January 15, including the monitoring fee.



CHFA may issue a monitoring fee invoice as a courtesy. However, it is the owner's responsibility to ensure the fee is submitted to CHFA timely, regardless of whether an invoice is received.

Section 14.4 Post Year 15 LIHTC Tenant Income Certifications

PY 15+

Move-in Certifications

For a Post Year 15 LIHTC development, a full certification, including third-party verification of household income and assets (if applicable) continues to be required prior to move-in. See Section 7.3, Move-in Certification, regarding how to complete a full move-in certification.

Annual Recertifications

After move-in, however, for both 100-percent PY15 LIHTC developments and for mixed-income PY15 LIHTC developments, tax credit households may self-certify their income and assets beginning with the first annual recertification.

For a self-certification, third-party verification of income and assets is not required. Nevertheless, annual recertification records must still include the following documentation. See Section 7.4, Annual Recertification, on how to complete an annual self-certification.

- Tenant Income Certification form
- Supplementary Demographics Information form (only if household composition has changed)
- Self-Certification Questionnaire
- Student Status Certification (if CHFA-issued tax-exempt bonds remain outstanding)
- Affordable Housing Lease Addendum attached to current lease
- Documentation of current tenant rent (e.g., current lease or most recent lease addendum)



For units with Section 8, HOME, USDA-RD assistance, etc. or with CHFA Loan financing, the owner must continue to follow recertification verification requirements specific to those programs and may not be permitted to use self-certifications.

Section 14.5 Post Year 15 LIHTC IRS Student Rule Monitoring

Since student status is not one of the defined requirements of the LURA, CHFA no longer monitors compliance with the student rule under IRC Section 42 during the Post Year 15 Period. Therefore, owners are not expected by CHFA to obtain annual Student Status Certifications after the PY15 Period begins.



For developments financed with CHFA-issued tax-exempt bonds, CHFA will continue to monitor compliance with the Student Rule after Year 15 for as long as the bonds remain outstanding.

Section 14.6 Post Year 15 LIHTC Unit Transfers

Transfers Between Buildings at Post Year 15 Multiple-building LIHTC Projects

Post Year 15, unit transfers from building to building within multiple-building LIHTC projects, both 100-percent LIHTC and mixed-income, are allowed without triggering noncompliance, regardless of current household income. A Unit Transfer Tenant Income Certification (TIC) must be completed to document the transfer, including any changes in rent, utility allowance, and set-aside. See Section 7.6, Unit Transfers, for detailed unit transfer rules.

Transfers Between Buildings at Post Year 15 Separate-building LIHTC Projects

If a LIHTC owner elected to treat multiple buildings at a property as separate LIHTC projects, unit transfers continue not to be permitted during the Post Year 15 Period. If a household wishes to move from one building to another building at the property, the move must be treated as a move-out/move-in. A new move-in certification, including all required forms and verifications, must be prepared for the household and they must requalify for the new unit based on the current applicable income limit.

Section 14.7 Post Year 15 LIHTC Next Available Unit Rule Monitoring

Although owners must continue to maintain each LIHTC building's applicable fraction during the Post Year 15 Period, CHFA no longer monitors compliance with the Next Available Unit Rule. A unit occupied by a household that qualified at move-in may retain its designation until it is reoccupied if the unit remains rent-restricted.

Section 14.8 Post Year 15 LIHTC Ownership Transfers

CHFA's prior written consent is required for transfers of ownership or ownership interest related to a LIHTC property. Owners contemplating transfers of ownership must notify CHFA and will receive a Multifamily Request Packet that

outlines the requirements of the specific transfer, including a checklist of submittals and fees that must be received before a transfer application will be considered.

See Chapter 18, Ownership and Management Agent Changes, for further instructions and information on the transfer approval process.

Section 14.9 Resyndication

PY 15+

Resyndication occurs when an existing LIHTC project in the Post Year 15 Period receives a second allocation of LIHTC to be acquired and rehabilitated by a new ownership entity. If a new allocation is made, the project must meet all Section 42 requirements. These include compliance with the Student, Unit Transfer, and Next Available Unit rules. See Section 7.10, Resyndication Certification, for key points for the owner and management to keep in mind at resyndication.

Section 14.10 Good Cause Eviction and Rent Increase Protection

PY 15+

"Good cause" for eviction or termination of tenancy is determined by applicable state and local law. The owner should specify what "good cause" is in the lease.

If a LIHTC property's Extended Use Period is terminated early due to foreclosure or deed-in-lieu of foreclosure, the property owner is prohibited from the following two actions for three years following the termination of the Extended Use Period.

- Evicting an existing household from a LIHTC unit or terminating their tenancy within the lease term other than for "good cause," or
- Increasing the gross rent of an existing household in a LIHTC unit in a manner not permitted by IRC Section 42



26 U.S.C. § 42(h)(6)(E)(ii)
IRS Revenue Ruling 2004-82
IRS 8823 Guide, Chapter 26



For questions as to what constitutes good cause under Colorado state law, consult legal counsel.

Section 14.11 Post Year 15 LIHTC Record Retention

Records for the first year of the Credit Period must be retained for a minimum of 21 years, which is equivalent to six years after the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

Owners are required to retain all other records, including resident files, for each building for a minimum of six years after the due date (with extensions) for filing the federal income tax return each year. Resident file retention is based on the year the resident moved out of the unit. The IRS allows records to be kept electronically provided they remain retrievable throughout the required record retention period.



26 CFR 1.42-5(b)

Section 14.12 Post Year 15 LIHTC Noncompliance

All noncompliance with federal statutes and regulations, the LURA, and the CHFA program requirements specified in this manual must be sufficiently corrected and documented by the owner within CHFA's required timeframes. When potential or confirmed noncompliance is identified, the Program Compliance Officer will notify the property owner and management agent and specify a correction period. By the end of the correction period, the owner must submit a complete response, including supporting documentation if the noncompliance has been cured.

If the owner of a Post Year 15 LIHTC development fails to provide a complete and accurate response by the end of the correction period, CHFA will designate the development, owner, and management agent as Not in Good Standing with CHFA Programs.

See Chapter 17, Noncompliance, for detailed information, including the consequences associated with the Not in Good Standing designation.

chapter 15

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO AHTC — Colorado State AHTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Developments with Multilayered Programs

The following chapter outlines CHFA's guidance regarding multifamily developments operating under multiple affordable housing programs. It also includes information on the Project-based Section 8 program monitored by CHFA and referral information for affordable housing programs not monitored by CHFA.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
15.1 Multilayered Development Guidance	✓							
15.2 LIHTC/CHFA Loan and Project-based Section 8	✓							
15.3 Affordable Housing Programs Not Monitored by CHFA	✓							

Section 15.1 Multilayered Development Guidance

ALL PROG

Many Colorado developments in the LIHTC and CHFA Loan programs also operate under other affordable housing programs, including the following.

- Federal Home Loan Bank
- FDIC - RTC
- U.S. Department of Housing and Urban Development
    - Community Development Block Grant (CDBG) programs
    - HOME Investment Partnerships program (administered by local or state authorities)
    - Housing Trust Fund
    - Project-based Section 8 Rental Assistance
    - Section 8 Housing Choice Vouchers (tenant- or project-based)
    - Section 8 Moderate Rehabilitation
    - Section 8 Rental Assistance Demonstration (RAD)
- USDA Rural Development - Section 515
- Other city, county, and state affordable housing programs

Among these different programs, there are variations and sometimes inconsistencies in program rules. When there are multiple programs associated with a housing development, CHFA advises owners to ensure they comply with all requirements, with particular attention to the most restrictive requirements. In many cases, following the most restrictive requirement will satisfy multiple programs. However, in some cases where rules differ significantly (e.g., regarding students), the owner must ensure that each rule is applied properly to maintain compliance with each program.



To maintain compliance, it is critical that multilayer property owners and management understand the rules and regulations of all applicable programs.

Section 15.2 LIHTC/CHFA Loan and Project-based Section 8

ALL PROG

In Colorado, CHFA serves as the Performance-based Contract Administrator (PBCA) for HUD's Project-based Section 8 program and as the allocator and monitor for the federal LIHTC Program. With some exceptions, CHFA monitors multifamily projects that receive CHFA Loan financing for compliance according to the LIHTC Program. Therefore, staff within CHFA's Asset Management Division can advise owners on requirements of these programs and the differences between them.

Project-based Section 8 Compliance Contacts

For questions related to Project-based Section 8 compliance, please use the following contacts.

CHFA Section 8 Officer

- See CHFA's Insight System to identify the Section 8 officer assigned to each property in CHFA's portfolio.

HUD Multifamily Account Executive

- Most questions for HUD should be emailed to the Denver HUD Multifamily Office's at den.incoming@hud.gov.
- For HUD's list of Account Executive assignments in Colorado, visit this HUD webpage and select the list for Colorado: www.hud.gov/states/shared/working/west/mf/ownmgmt/ae.

Examples of LIHTC/CHFA Loan Program vs. Project-based Section 8

Below are examples of some key areas where the LIHTC/CHFA Loan and Project-based Section 8 programs differ. Refer to the HUD Handbook 4350.3 for a detailed explanation of all Project-based Section 8 requirements.



HUD Handbook 4350.3
www.hud.gov/program_offices/administration/hudclips/handbooks/hsgh/4350.3

Topic	LIHTC/CHFA Loan	Project-based Section 8
Certification form	Tenant Income Certification (TIC)	Form HUD-50059
Income Limits	HUD Multifamily Tax Subsidy Projects (MTSP) Income Limits	HUD Income Limits for the Public Housing and Section 8 Programs
Tenant Rent	Not based on actual household income	Based on actual (adjusted) household income
Deductions from Income	Not permitted	Required
Enterprise Income Verification (EIV)	Not directly permitted for the LIHTC program. However, LIHTC/Section 8 owners may use CHFA's Summary of EIV Third-party Verification for Annual Recertifications form.	Required for most income at annual recertification
Child Support Affidavit	Required unless both parents are household members	Not required
Verification When Assets Total $5,000 or Less	Not required	Required
Over Income Households	Unit must remain rent restricted. Follow Next Available Unit Rule.	Household must pay contract (market) rent.
Citizenship Status	No restrictions Declaration of citizenship or immigration status is not required.	Rental assistance restricted to U.S. citizens or nationals and noncitizens who have eligible immigration status. All family members must declare their citizenship or immigration status.

Topic	LIHTC/CHFA Loan	Project-based Section 8
Student Rule	26 U.S.C. § 42(i)(3)(D)	24 C.F.R. § 5.612
Annual Recertification Notice to Tenants	Not required	Required
Interim Certifications Due to Changes in Household Income	Not required	Required
Utility Allowance Sources	Unless property has a USDA-RD or Section 8 contract or is otherwise HUD-regulated, multiple options allowed.	Owners must prepare property-specific allowances for approval by the PBCA.
Initial Lease Term	6-month minimum	12-month minimum
Background Checks: Criminal/Sex Offender/Credit	Not required	Required
Identification: SS card, Photo ID, Birth Certificates	Not required	Required

Section 15.3 Affordable Housing Programs Not Monitored By CHFA

ALL PROG

Other affordable rental housing programs in Colorado are administered by the HUD Multifamily West Region Office based in Denver, USDA Rural Development, FDIC, the Colorado Division of Housing – Department of Local Affairs, local governments, public housing authorities, and direct service providers. For all other affordable housing programs not administered by CHFA, CHFA is unable to advise on compliance requirements.

Below is a summary of administrators for the programs most frequently layered with LIHTC and CHFA multifamily loans. Owners and management should refer to the appropriate program administrator with compliance questions.

Program	Administrator(s)	Website
Community Development Block Grant (CDBG) Programs	▪ Colorado Department of Local Affairs (DOLA) ▪ Local governments	▪ https://cdola.colorado.gov/community-development-block-grant-cdbg ▪ https://www.hudexchange.info/grantees/#/byState ▪ https://www.hud.gov/states/colorado/community/cdbg
Federal Home Loan Bank Affordable Housing Program	▪ Federal Home Loan Bank Topeka	▪ https://www.fhlbtopeka.com/ahp

Program	Administrator(s)	Website
HOME Investment Partnerships Program	▪ Colorado DOLA ▪ Local governments (participating jurisdictions)	▪ https://cdola.colorado.gov/home-program ▪ https://www.hudexchange.info/grantees/#/byState ▪ https://www.hud.gov/states/colorado/community/home
Housing Trust Fund	▪ Colorado DOLA	▪ https://cdola.colorado.gov/national-housing-trust-fund-htf
Resolution Trust Corporation (RTC)	▪ FDIC ▪ Phoenix Revitalization Corporation (PRC)	▪ https://www.fdic.gov/buying/owned/affordable/ ▪ http://www.phxrevitalization.org/housing/ahdp.htm
Section 8 Housing Choice Vouchers	▪ Colorado DOLA ▪ Public Housing Authorities ▪ Service Providers	▪ https://cdola.colorado.gov/office-of-rental-assistance/housing-voucher-programs ▪ https://www.hud.gov/states/colorado/renting/hawebsites
Section 8 Rental Assistance Demonstration (RAD)	▪ HUD Multifamily Housing – West Region	▪ https://www.hud.gov/states/shared/working/west/mf/ownmgmt/ae
USDA Rural Development - Section 515	▪ USDA Rural Development state and local offices	▪ https://www.rd.usda.gov/contact-us/state-offices/co

chapter 16

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Post Loan Payoff

In some cases, a CHFA multifamily loan is paid in full while the Regulatory Agreement remains in effect. During this period after loan payoff, CHFA's Asset Management Division will continue to monitor the development as required by the Regulatory Agreement. This chapter outlines what takes place after a multifamily loan is paid in full, and the owner's obligations for post loan payoff compliance.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
16.1 Post Loan Payoff Period		✗	✗	✗	✓	✓	✓	✓
16.2 Post Loan Payoff Compliance Monitoring		✗	✗	✗	✓	✓	✓	✓

Section 16.1 Post Loan Payoff Period

All multifamily developments financed with a CHFA Loan have an associated CHFA Regulatory Agreement with a specified term or a "Qualified Project Period" (QPP), during which the CHFA Regulatory Agreement remains in effect (See Section 1.6, CHFA Loans).

- If a CHFA Loan is paid in full after the specified term, the CHFA Regulatory Agreement will expire and no further compliance related to the Regulatory Agreement is required.
- When a loan is paid in full during the specified term or QPP, the Regulatory Agreement will continue to be in effect until the specified term or QPP ends. For Regulatory Agreements with a QPP, CHFA must determine if the QPP is satisfied after loan payoff.
- For developments with a Regulatory Agreement that remains in effect after loan payoff, the remainder of the specified term or QPP is referred to as the **Post Loan Payoff Period**. During this period, the Program Compliance Officer (PCO) will continue to monitor the development in accordance with the requirements of the Regulatory Agreement as explained later in this chapter.

Regulatory Agreement Release

For a CHFA multifamily loan financed with tax-exempt bonds, the Regulatory Agreement will have a QPP. CHFA will make a determination of the QPP and eligibility of release of the Regulatory Agreement upon request by the owner. Requests may be submitted in writing to CHFA's Multifamily Asset Manager.

If CHFA approves the release of the Regulatory Agreement, a termination may be executed, and no further compliance related to the Regulatory Agreement is required.



Although a CHFA Loan Regulatory Agreement may expire or be released, owners must ensure that requirements associated with any other CHFA-monitored programs, such as LIHTC, other CHFA Loan programs, and Project-based Section 8, continue to be met.

Reserve Accounts

Upon loan payoff, it is the responsibility of the property owner to request closure of any CHFA-managed reserve accounts. Requests may be submitted in writing to the PCO. Upon receipt of an owner's closure request, the PCO will evaluate the property's compliance status. Once a request is approved, the remaining reserve funds will be released to the owner.



The development, management agent, and owner must be in compliance, current on submissions, and in good standing with CHFA programs to obtain consent for the release of a reserve account.

Section 16.2 Post Loan Payoff Compliance Monitoring

In cases where a multifamily loan is paid in full and the Regulatory Agreement remains in effect, the PCO will monitor the property's program compliance in the Post Loan Payoff Period as follows. If the development operates under another program monitored by CHFA's Asset Management Division, that program's monitoring practices will be applied in lieu of separate CHFA Loan program monitoring, as specified below.

Project Type	Monitoring Type	Management Reviews	Annual Submissions
No Other CHFA-monitored Programs	Post loan payoff program compliance	Post loan payoff program file review and physical inspection every five years	▪ Owner Certification of Continuing Loan Program Compliance ▪ WCMS data ▪ IRS Form 8703, if applicable. The last Form 8703 due will be the form filed for the calendar year in which the loan was paid off. ▪ Budgets not required. ▪ Audited financial statements not required.
LIHTC: Yrs 1-15	Full LIHTC compliance	LIHTC file review and physical inspection every three years	LIHTC Yrs 1-15
Post Year 15 LIHTC	Post Year 15 LIHTC compliance	Post Year 15 LIHTC file review and physical inspection every five years	Post Year 15 LIHTC
Project-based Section 8 Rental Assistance	Section 8 compliance	Management and Occupancy Review (MOR) as scheduled by HUD and CHFA	Section 8
Moderate Rehabilitation (Mod Rehab)	Mod Rehab compliance	Mod Rehab file review and physical inspection every year	Mod Rehab



See Chapter 3, Required Submissions, and Chapter 10, Program Compliance Reviews, for detailed information.

chapter 17

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO AHTC — Colorado State AHTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Noncompliance

It is the property owner's responsibility to ensure compliance with LIHTC and CHFA Loan requirements. CHFA's Multifamily Program Compliance Department supports property owners and management agents with training and guidance to help them avoid noncompliance. When noncompliance is identified, CHFA will notify the property owner and agent, ensure the noncompliance is corrected timely and, when applicable, report it to the IRS, Colorado Department of Revenue, and/or HUD. This chapter outlines cure timelines and the consequences of failure to cure and patterns of noncompliance.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
17.1 Types of Noncompliance	✓							
17.2 Consideration of Noncompliance	✓							
17.3 Noncompliance Process	✓							
17.4 Potential Consequences of Noncompliance	✓							
17.5 Noncompliance Reporting		✓	✓	✓	⇆	✗	✗	✓
17.6 Not in Good Standing with CHFA Programs Designation	✓							
17.7 Owner and Management Agent Fraud	✓							
17.8 Tenant Fraud	✓							

Section 17.1 Types of Noncompliance

ALL PROG

Noncompliance Examples	Noncompliance Examples
Incomplete tenant file documentation that does not meet standard of the LIHTC and/or CHFA Loan programs	Inaccurate, incomplete, or missing submissions
Leasing low-income units to non-qualified households (e.g. over-income, non-qualified students, etc.)	Failure to pay monitoring fees
Charging gross rent in excess of applicable maximum rent	Failure to maintain the AMI set-asides required by the LURA or Regulatory Agreement
Incorrectly calculated or outdated utility allowances	Failure to follow NAU rule, Vacant Unit rule, etc.
Charging impermissible fees	Failure to maintain units, common areas, buildings, or site in a decent, safe, and sanitary manner and in good repair
Failure to comply with program compliance review notification period	Failure to make and maintain vacant units ready for occupancy in a reasonable amount of time
Failure to submit complete and satisfactory corrections to close out file review and physical inspection findings timely	Pattern of accepting fraudulent information (owner/agent)
Intentionally providing fraudulent information (applicant/resident)	Forging signatures and falsifying documents
Failure to notify CHFA of a management agent change	Failure to obtain CHFA's written consent prior to an ownership transfer

Section 17.2 Consideration of Noncompliance

ALL PROG

Requests for Tax Credits, CHFA Multifamily Loans, and Ownership Transfers

An applicant's track record and ability to demonstrate capacity sufficient to operate a multifamily project is considered a key factor when awarding tax credit allocation, approving a new multifamily loan, or approving an ownership transfer. Therefore, CHFA evaluates the development team or proposed new owner to identify if it has a history of chronic and/or substantive non-compliance with CHFA including submission of fees, reports, and required documents within the established timeframes.

Applications will not be accepted or approved and transfers will not be approved if there are any uncorrected IRS Forms 8823 or if there is any other uncorrected noncompliance with the provisions of any Land Use Restriction Agreement (LURA), CHFA Regulatory Agreement, or similar document on any projects that are owned or managed by the applicant or the applicant's management agent. The same restriction applies if the applicant or the applicant's management agent is designated as Not in Good Standing with CHFA Programs.

Section 17.3 Noncompliance Process

ALL PROG

All noncompliance with federal statutes and regulations, the LURA, the CHFA Regulatory Agreement, as well as CHFA program requirements specified in this manual must be sufficiently corrected and documented by the owner within

CHFA's required timeframes. For LIHTC properties, violations of federal requirements may or may not have to be reported to the IRS and the Colorado Department of Revenue, depending on the type of violation, when it occurred, who detected it, and when it was corrected. For developments with 542(c) Risk Share-enhanced loans, violations of program requirements will be reported to HUD when required.

When potential or confirmed noncompliance is identified, the Program Compliance Officer (PCO) will notify the property owner and management agent and specify a correction period. By the end of the correction period, the owner must submit a complete response, including supporting documentation if the noncompliance has been cured.

When a complete response is received, CHFA will confirm whether the noncompliance has been resolved (or if the owner was always in compliance) and determine if any of the specific findings or deficiencies must be reported to other agencies. If the PCO determines that any corrected or outstanding noncompliance is reportable, the PCO will notify the owner and allow a period to submit any documentation they request to be attached to the filing. CHFA may also designate the development, owner and management agent as Not in Good Standing with CHFA Programs.

If the owner fails to provide a complete and accurate response by the end of the correction period, CHFA will determine if the noncompliance must be reported to other agencies. In addition, CHFA will designate the development, owner, and management agent as Not in Good Standing with CHFA Programs.

Section 17.4 Potential Consequences of Noncompliance

ALL PROG

Type of Consequence	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
General								
100% file audit and/or physical inspection by a third-party at the owner's expense	✓							
Requirement to hire a professional consultant at the owner's expense	✓							
Staff training at the owner's expense	✓							
External Reporting								
IRS Form 8823 filing		✓	✗	✗	✗	✗	✗	✗
Colorado Department of Revenue filing		✗	✗	✓	✗	✗	✗	✗
Notification to IRS of tax-exempt bond program violations		⇆	⇆	✗	⇆	✗	✗	✗
Notification to HUD resulting in a flag in the owner and agent's previous participation history		✗	✗	✗	✗	✗	✗	✓
Not in Good Standing with CHFA Programs Designation (can result in any of the following actions)								
Additional and/or more frequent monitoring	✓							

Type of Consequence	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
Requirement to change management agent or site staff	✓							
Disqualification from consideration for future CHFA financing and LIHTC allocations	✓							
Denial of ownership transfer requests	✓							
Prohibition of any modification to existing financing terms		✗	✗	✗	✓	✓	✓	✓
Suspension of reserve withdrawals		✗	✗	✗	✓	✓	✓	✓
Additional reporting requirements	✓							
CHFA may secure the appointment of a receiver to operate the project in compliance with the LURA or Regulatory Agreement.	✓							
CHFA may declare a default under the LURA or Regulatory Agreement and may apply to any court, state or federal, for specific performance of the LURA or an injunction against any violation of the LURA.	✓							

Section 17.5 Noncompliance Reporting

TC Y 1-15 PY 15+ CO AHTC CHFA LOAN RS

LIHTC Developments: Years 1-15

CHFA is required to report any noncompliance of which it becomes aware to the IRS, without regard to whether the identified outstanding noncompliance is subsequently corrected. Therefore, in some instances, CHFA may be required to file an IRS Form 8823 even though the noncompliance has already been resolved.



26 C.F.R. § 1.42-5(a)

CHFA's policy is to report to the IRS any noncompliance that constitutes the following:

- Violation of IRC § 42 as amended or Treasury Regulations thereunder;
- Violation of the LURA that is reportable under IRS guidelines; and/or
- Violation of local health, safety, or building codes.

The IRS allows an exception to its reporting requirement. If the owner identifies and corrects noncompliance prior to CHFA's notification of an upcoming compliance review, CHFA is not required to report it to the IRS.



CHFA excludes noncompliance with maximum rents from this exception. All findings of gross rent in excess of the maximum will be reported to the IRS.

Once the PCO determines that an IRS Form 8823 filing is required to report corrected or uncorrected noncompliance, the PCO will notify the owner and management agent and provide the dates by which the filing will be made and by which the owner and management agent may submit any additional documentation they request to be attached to the filing. Once completed, a copy of the 8823 filing will be forwarded to the owner and management agent.



8823 filings are due to the IRS no later than 45 days after the end of the correction period.

Uncorrected and "back in compliance" forms 8823

When an uncorrected Form 8823 is filed, it is the responsibility of the owner to submit documentation to CHFA confirming that the noncompliance has been remedied. If the owner provides CHFA with documentation showing that correction occurred within three years after the end of the correction period, the PCO will submit a "back in compliance" Form 8823 to the IRS to report the correction of previously reported noncompliance.

Denial or recapture of LIHTC

After an IRS Form 8823 is filed, the IRS determines the impact on current and previously claimed LIHTC. CHFA is not involved in the determination and cannot advise owners and agents in this area. Please consult your tax accountant for specific guidance.

Colorado AHTC Developments: Years 1-15

For developments with Colorado AHTC, whenever CHFA files an IRS Form 8823, CHFA will forward the 8823 filing to the Colorado Department of Revenue. The owner shall also provide the Colorado Department of Revenue and the PCO with any determination from the IRS regarding loss of credits.

Denial or recapture of Colorado AHTC

After an IRS Form 8823 is forwarded, the Colorado Department of Revenue determines the impact on current and previously claimed tax credits. CHFA is not involved in the determination and cannot advise owners and agents in this area. Please consult your tax accountant for specific guidance.

Developments Financed with CHFA-issued PAB

For developments with CHFA-issued tax-exempt bonds, CHFA will determine the appropriate reporting and actions, including use of the Tax-Exempt Bond Voluntary Closing Agreement Program, to address noncompliance that may constitute a violation of IRC § 142 or any event of noncompliance with arbitrage or other applicable federal tax requirements.

Developments Financed with 542(c) Risk Share-enhanced Loans

For developments with 542(c) Risk Share-enhanced loans, if required, violations of program requirements will be reported to HUD. This may result in a flag in the owner and agent's previous participation history, as well as other consequences outlined above.

Section 17.6 Not In Good Standing with CHFA Programs Designation

ALL PROG

When owners and agents are consistently noncompliant and/or do not comply by the end of the correction period, the owner, agent, and property will all be designated as Not in Good Standing with CHFA programs. Once such a designation has been made, CHFA will notify the owner and management agent in writing.

Regardless of any outstanding Not in Good Standing designation, CHFA will continue all compliance monitoring of the property, owner, and agent.

After a Not in Good Standing designation is made, it is the responsibility of the owner and management agent to submit documentation to CHFA confirming that the noncompliance has been remedied. If the owner and management agent provide CHFA with satisfactory documentation showing that the development is back in compliance, CHFA will issue a letter removing the designation.

Section 17.7 Owner and Management Agent Fraud

ALL PROG

When potential fraud by the owner and/or management agent is detected, CHFA may require the owner and management agent to conduct or engage a third-party auditor to conduct a 100-percent file audit or inspection to determine the extent of the fraud.

If fraud is confirmed, the owner will be required to correct any resulting noncompliance, submit a written action plan to prevent the fraud from recurring and, going forward, to report to CHFA on its implementation. The property, owner, and/or management agent may also be designated as Not in Good Standing with CHFA Programs.

LIHTC developments: Years 1-15

If CHFA becomes aware of an apparent fraudulent act by the owner, management agent, or other party associated with the LIHTC property, or a party responsible for providing income/asset verification for tenants, CHFA may submit Form 3949-A, Information Referral to the IRS.

Section 17.8 Tenant Fraud

ALL PROG

Owners of all LIHTC and CHFA Loan developments should demonstrate due diligence to prevent tenant fraud. If misrepresentation of income or other information is suspected, the owner should take additional steps to verify the accuracy of information provided by the tenant. If an owner discovers that a tenant has deliberately misrepresented their income level, student status, household size, or any other item used to determine eligibility, the owner should consult state or local landlord-tenant laws to determine whether the tenant can be asked to vacate the unit.

IRS Reporting

Owners must report suspected or known misrepresentation of income to the IRS' Whistleblower Office using IRS Form 211, Application for Award for Original Information. The IRS may consider the difference between the market-rate rent and the restricted rent to be taxable income for a resident found to have committed fraud.

LIHTC Developments: Years 1-15

Tenant fraud detected prior to the scheduling of a compliance review

The IRS will not consider there to have been reportable noncompliance if the LIHTC owner discovers and addresses tenant fraud prior to receiving notification that a compliance review has been scheduled, notifies CHFA timely of their actions, and satisfies CHFA of the following:

- the tenant provided false information;
- the owner did everything a prudent person would do to avoid fraudulent tenants (due diligence) and has implemented any needed changes to avoid future problems;
- the tenant has vacated the unit (if possible); and
- there is no pattern of accepting fraudulent tenants.



To avoid possible credit loss, LIHTC owners must immediately report any suspected deliberate misrepresentation or fraud by a tenant to the development's PCO.



Refer to the IRS 8823 Audit Technique Guide, Chapter 25, for further informal guidance.

Tenant fraud detected during a compliance review

If the LIHTC owner does not discover and address tenant fraud prior to receiving notification that a compliance review has been scheduled, CHFA must report any associated noncompliance with Section 42 or IRS regulations to the IRS on Form 8823.

chapter 18

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO AHTC — Colorado State AHTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Ownership and Management Agent Changes

The following chapter addresses CHFA's requirements when ownership or management of a LIHTC or CHFA Loan development is transferred to a new entity.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO AHTC	CHFA LOAN	HHF CO	CM FUND	RS
18.1 Ownership Changes	✓							
18.2 Management Agent Changes	✓							
18.3 Contact Information Updates	✓							

Section 18.1 Ownership Changes

ALL PROG

Requirement for CHFA's Written Consent

Throughout the LIHTC Extended Use Period and the term of the CHFA Regulatory Agreement, owners of all developments financed with LIHTC and/or CHFA Loan programs must advise CHFA in writing prior to any building disposition, including transfers of partial interest in the ownership entity and sales of ownership entities. If an owner is considering disposing of a building or an interest in a building, CHFA's written consent is required prior to any such transfer. Transfer fees may also be required.

CHFA will consent to the transfer only if the purchaser is, in CHFA's discretion, reasonably expected to continue to operate the property as a qualified low-income building for the duration of the Extended Use Period and/or term of the Regulatory Agreement, as applicable. Owners are advised to review the project Land Use Restriction Agreement (LURA) and/or CHFA Regulatory Agreement, as applicable, for any additional requirements.



The development, management agent, and owner must be in compliance, current on submissions, and in good standing with CHFA programs at the time of the proposed transfer to obtain consent for an ownership transfer.

Process to Request an Ownership Transfer

To begin the process for requesting CHFA's consent to an ownership transfer, the current owner must notify in writing both the Program Compliance Officer (PCO) assigned to the property and CHFA's Multifamily Asset Manager. Upon the owner's notification to CHFA of an impending transfer, CHFA's Multifamily Asset Manager will provide a Multifamily Request Packet that outlines the requirements of the specific transfer. The owner and applicant will be required to complete forms in the packet and provide authorization to CHFA to process the request. The packet will provide guidance, including a checklist of submittals and fees that must be received before a transfer application will be considered.

Depending on the new owner's or management agent's experience with LIHTC and CHFA Loan compliance in Colorado, CHFA may require, as a condition to the transfer consent, that CHFA-administered compliance training is completed.



In the event of an ownership change, a program compliance review may occur within that year to ensure the new entity is complying with the requirements of the LURA, Regulatory Agreement, etc.

Considerations for LIHTC Developments

- For LIHTC developments in the 15-year Compliance Period, CHFA is required to file an IRS Form 8823, which includes the new owners tax identification number, for all building dispositions to advise the IRS of a change in ownership.
- When a transfer will take place during the Compliance Period, CHFA recommends the LIHTC development owner consult a tax accountant or attorney to avoid the possibility of recapture.

Considerations for CHFA Multifamily Loan Developments

- If a project undergoing an ownership transfer is financed with a CHFA loan that will not be paid off as part of the transfer, a separate loan assumption will be required in addition to the transfer consent.
- When an ownership transfer involves the full payoff of a CHFA loan during the loan term or Qualified Project Period, the development may be subject to ongoing program compliance requirements in the Post Loan Payoff Period. See Chapter 16, Post Loan Payoff, for more information.

LIHTC Developments – General Partner and Managing Member Changes

LIHTC property owners must notify the PCO assigned to the property in writing of all General Partner or Managing Member changes within the development's ownership entity within 30 days.

Section 18.2 Management Agent Changes

ALL PROG

Changes After the First Credit Year or After CHFA Multifamily Loan Closing

After the first year of the Credit Period for LIHTC projects and after closing for CHFA multifamily loan developments, CHFA's approval to change the management agent is not required. Nevertheless, whenever the owner makes a change in management agent, they are required to submit a Notification of Change in Contact Information form signed by the owner to the PCO who monitors the property within 30 days of the change.

In the event of a management change, a program compliance review may occur within that year to ensure the new management agent is complying with the requirements of the LURA, Regulatory Agreement, etc.



Notification of Change in Contact Information: www.chfainfo.com/arh/asset/LIHTCForms/Notification_Change_Contact_Information.pdf

LIHTC Developments: Changes Prior to the End of the First Credit Year

When a LIHTC project owner makes a change in management agent before the end of the first year of the Credit Period, CHFA's approval of the new agent is required. Specifically, the owner or agent must submit the following to the PCO who monitors the property at least 30 days before the change is scheduled to occur.

- Notification of Change in Contact Information form signed by the owner
- LIHTC Property Management Questionnaire
- Training certificate(s) for the date(s) when the new site contact, management agent, and any compliance staff who work on tenant certifications last attended LIHTC training, including CHFA's Advanced LIHTC class through the chfareach program.
- Confirmation that the new site contact, management agent, and any compliance staff who work on tenant certifications have reviewed CHFA's Multifamily Program Compliance Manual and are familiar with Colorado-specific LIHTC program requirements.

CHFA may require training for companies or managers with limited experience managing LIHTC developments in Colorado.



LIHTC Property Management Questionnaire: www.chfainfo.com/arh/lihtc/lihtc_application_documents/PA_Prop_Mngmnt_Questionnaire.pdf

CHFA Multifamily Loan Developments: Changes Prior to CHFA Loan Closing

When the owner makes a change in management agent before a CHFA multifamily loan closing, CHFA's approval of the new agent is required. Specifically, the owner or agent must submit the following to both the PCO assigned to the property and CHFA's Multifamily Asset Manager at least 30 days before the change is scheduled to occur.

- Notification of Change in Contact Information form signed by the owner
- Property Management Agreement
- Property Management Plan
- Lease Form with Addenda
- Confirmation that the new site contact, management agent, and any compliance staff who work on tenant certifications have reviewed CHFA's Multifamily Program Compliance Manual and are familiar with CHFA Multifamily Loan program requirements.

CHFA may require revisions to these documents prior to closing if the required elements are not found or are in need of revisions. In addition, CHFA may require training for companies or managers with limited experience managing developments with CHFA multifamily loans.

Management Agent Changes for Developments with Risk Share-enhanced Loans

Although CHFA's approval is not required after loan closing, prior to making any management agent change, owners of projects with Risk Share-enhanced loans must obtain HUD's approval of the new management agent's eligibility to participate in HUD programs. To obtain eligibility approval, the owner must initiate a Previous Participation Review by HUD (i.e., 2530 clearance process). See Chapter 11, Risk Sharing Program, for further information on this process.

Section 18.3 Contact Information Updates

ALL PROG

The current property manager, management agent, and ownership entity contact information associated with each LIHTC or CHFA Loan program development is maintained in CHFA's Insight system. To alert CHFA of any updates in contact information, please submit a Notification of Change in Contact Information form to the PCO who monitors the property within 30 days of the change.



Notification of Change in Contact Information:
www.chfainfo.com/arh/asset/LIHTCForms/Notification_Change_Contact_Information.pdf

glossary

The following words or terms as used in this manual shall have the following meaning.

Term	Definition
4 Percent Annual Credit	The approximate applicable percentage used to calculate the annual amount of tax credits given for the cost of constructing a new building or substantially rehabilitating an existing building with a federal subsidy or the cost of buying an existing building for which substantial rehabilitation expenditures also are incurred; the actual applicable percentage is determined each month by the Department of Treasury based on current interest rates. This percentage is then multiplied by the qualified basis to determine the actual annual tax credits. In this case, the aggregate amount of tax credits would have a present value of 30 percent of the qualified basis.
9 Percent Annual Credit	The applicable percentage (fixed permanently at 9 percent) used to calculate the annual amount of tax credits given for the cost of constructing a new building or substantially rehabilitating an existing building; this percentage is then multiplied by the qualified basis to determine the maximum amount of annual tax credits. In this case, the aggregate amount of tax credits would have a present value of 70 percent of the qualified basis.
Act	The Colorado Housing and Finance Authority Act, part 7 of article 4 title 29 of Colorado Revised Statutes, as amended and supplemented from time to time
Applicable Fraction	The proportion of units or square footage occupied by qualifying low-income households; this is one factor used in calculating the amount of tax credit an owner can claim for a building.
Applicable Percentage	The type of annual credit (4 percent or 9 percent) that was allocated
Assets	Items of value that can be turned into cash
Average Income Test	Minimum set-aside requirement in which at least 40 percent of a development's units are both rent-restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective unit. (I) Designation The taxpayer shall designate the imputed income limitation of each unit taken into account under such clause. (II) Average test The average of the imputed income limitations designated under subclause (I) shall not exceed 60 percent of area median gross income. (III) 10-percent increments The designated imputed income limitation of any unit under subclause (I) shall be 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, or 80 percent of area median gross income.

Term	Definition
Bonds	The obligations of CHFA issued to provide funds to make a loan, including any refunding obligations
Compliance Period	The 15-year period, beginning the first year of the Credit Period, in which the project must meet LIHTC program requirements to avoid the recapture of tax credits
Credit Period	The 10-year period during which tax credits are claimed; the Credit Period begins the year the project is placed in service or, at the election of the taxpayer, the year after the project is placed in service.
Deep Rent Skewed Projects	IRC Section 142(d)(4)(B) - If an owner elects to have a project treated as a deep rent skewed project, the following requirements must be met: • Fifteen percent of the low-income units in the project must be rent-restricted and occupied by households whose income does not exceed 40 percent Area Median Income. • The gross rent of each low-income unit in the project must not exceed 50 percent of the average gross rent of the comparable unrestricted units if there are any. • The Available Unit Rule defines an over-income unit in a deep rent skewed project as a low- income unit in which the aggregate income of the occupants of the unit increases above 170 percent of the applicable income limitation.
Distribution	Any withdrawal or taking of cash or any assets of the project excluding payments of debt service on the loan (and the second mortgage loan) and the payment of reasonable expenses incident to the operation and maintenance of the project
Educational Institution	An educational institution is one that maintains a regular faculty and curriculum, and has an enrolled body of pupils or students in attendance at the place where its educational activities are regularly convened. An educational institution includes kindergarten; elementary and middle schools; junior and senior high schools; colleges; universities; and technical, trade, and mechanical schools. It does not include on-the-job training courses or correspondence courses.
Eligible Basis	A new project's adjusted basis; generally, the eligible basis is composed of the eligible development costs minus the cost of land. Eligible basis for acquisition credit is the eligible costs of acquiring a building. Eligible basis for rehab credit is the eligible rehab expenditures aggregated over 24 months, which are chargeable to the development's capital account.

Term	Definition
Extended Use Period	Owners of developments receiving an allocation of credits on or after January 1, 1990, are subject to a Land Use Restriction Agreement (LURA) between the owner and CHFA that requires the development to comply with the program requirements for the entire Extended Use Period. The Extended Use Period is the period beginning on the first day of the 15-year Compliance Period on which such building is part of a qualified low-income housing project and ending on the later of: (1) 15 years after the close of the 15-year Compliance Period, or (2) the date specified by the agency in the LURA.
Financing Documents	All documents and instruments executed by the mortgagor or borrower or CHFA in connection with financing of the project
Floor Space Fraction	The total square footage of the residential low-income units divided by the total square footage of all the residential rental units in the building
Full-time Student	A full-time student is an individual whose enrollment status is determined to be full time by the educational institution he or she attends. Students who are enrolled full time for at least five months during a calendar year may not be eligible to occupy a tax credit unit unless certain exceptions are met. The five calendar months need not be consecutive. Enrollment during any point in a month counts as a full month. For example, a student enrolled from January 21 through May 2 has been enrolled for five calendar months per IRS guidance.
Gross Rent Floor	Revenue Procedure 1994-57 - This ruling allows the owner to establish floor rent amounts that will not be affected by fluctuations in the annual income limits and rent ceilings. Developments with established gross rent floors will not be required to charge gross rents (rent plus utilities) below their floor amounts. Owners of developments that received an allocation of credits or determination letters on or after October 6, 1994, may elect to establish the gross rent floor as the maximum rents in effect either on the date the development was placed in service or on the date the development received an allocation. This election is irrevocable and must be made by the owner and submitted in writing to CHFA no later than the development's placed-in-service date. For developments that received an allocation of credits prior to October 6, 1994, the owner and CHFA may use a date based on a reasonable interpretation of the Code.
HUD	The United States Department of Housing and Urban Development
Lease-up Reserve Fund	A separate account for New Construction or Substantial Rehabilitation projects held in the name of the project established for the purpose of paying for or reimbursing the owner for operating expenses, including debt service during the period of lease-up.

Term	Definition
Low-income Unit (LIHTC program)	A unit that is rent-restricted and occupied by a household who qualifies under the applicable set-aside restriction of 50 percent or 60 percent of the area median income. For LIHTC buildings with the Average Income Test set-aside restriction, the applicable restriction may be 20, 30, 40, 50, 60, 70, or 80 percent Area Median Income.
Minimum set-aside	Minimum compliance qualification designation for a tax-exempt bond-financed project or a LIHTC-financed project.
Mixed-income Development	A development for which the owner has set aside fewer than 100 percent of the units for low-income households. As a result, mixed-income developments have both low-income units and unrestricted or market-rate units.
Mortgage	The deed of trust, mortgage or other instrument securing the promissory note
Note	The promissory note of the mortgagor or borrower, secured by the mortgage, evidencing the mortgagor's obligation to repay the loan
Operating Deficit Reserve Fund	A separate account or irrevocable letter of credit established for the purpose of paying or reimbursing the owner for reasonable expenses incident to the operation and maintenance of the project. This may include mortgage payments.
Owner	The general partner or developer of a project; for the purposes of this manual, the term is used to encompass the owner's legal and business representatives as well, including his/her accountant, property manager, property management company, and/or onsite leasing staff.
Owner/Borrower/ Mortgagor	The entity named in the first paragraph of the Land Use Restriction Agreement (LURA), Regulatory Agreement, and/or Loan Agreement
Placed-in-Service Date	The date a building is considered for tax purposes to be ready for occupancy, usually when a building receives its Certificate of Occupancy (CO) or Temporary Certificate of Occupancy (TCO)
Private Activity Bond	Tax-exempt bonds issued by or on behalf of local or state government for the purpose of providing special financing benefits for qualified projects that have some public benefit (e.g. residential rental projects). The financing is most often for projects of a private user, and the government generally does not pledge its credit.
Project	The real property, the improvements from time to time constructed thereon, and all other assets used in connection with the operation of the real property and such improvements and owned by the mortgagor of whatsoever nature or wheresoever situated

Term	Definition
Qualified Basis	An amount related to the cost of a building that is used in calculating the amount of tax credits awarded for that building. A building's qualified basis is determined by multiplying the building's eligible basis by its applicable fraction. The qualified basis is determined each year as fluctuations may occur with the applicable fraction.
Qualified Project Period	The period that the project is subject to the rent and occupancy restrictions of the Regulatory Agreement; refer to the Regulatory Agreement for definition
Rent	Tenant-paid rent (excluding any Section 8 or other rent subsidy) plus the tenant-paid utility allowance and any non-optional fees
Replacement Reserve Fund	A separate account held in the name of the project established for the purpose of paying for or reimbursing the owner for the payment of any required repair or replacement costs that can be capitalized by the owner in accordance with generally accepted accounting principles
Residual Receipts	Any cash remaining at the end of an annual fiscal period after deducting from Surplus Cash the amount of Distributions, as determined by the annual audit
Resolution	The resolution of CHFA or the indenture of trust pursuant to which the bonds are issued and secured
Second Mortgage Loan	The loan made to the mortgagor by CHFA from monies other than proceeds of the bonds, evidenced by a promissory note and secured by a deed of trust for the benefit of CHFA creating a second lien against the real property and the project and the revenues therefrom
Section 42	The section of the Internal Revenue Code that applies to the LIHTC program (also referred to as 26 U.S.C § 42 or IRC Section 42)
Section 142	The section of the Internal Revenue Code that applies to tax-exempt bonds (also referred to as 26 U.S.C § 142 or IRC Section 142)
Surplus Cash	Any cash remaining at the end of each annual fiscal period
Tax-exempt Bonds	The obligations of CHFA issued to provide funds to make a tax-exempt loan, including any refunding obligations. The interest payments from tax-exempt bonds are not subject to federal income tax. Therefore, loans made with tax-exempt bond funds have special rules for project management.
Trustee	The corporate fiduciary designated as Trustee under the Resolution
Unit Fraction	The total number of residential low-income units divided by the total number of all residential rental units in the building
Verification of Employment	Form authorizing third-party disclosure of an applicant's employment income