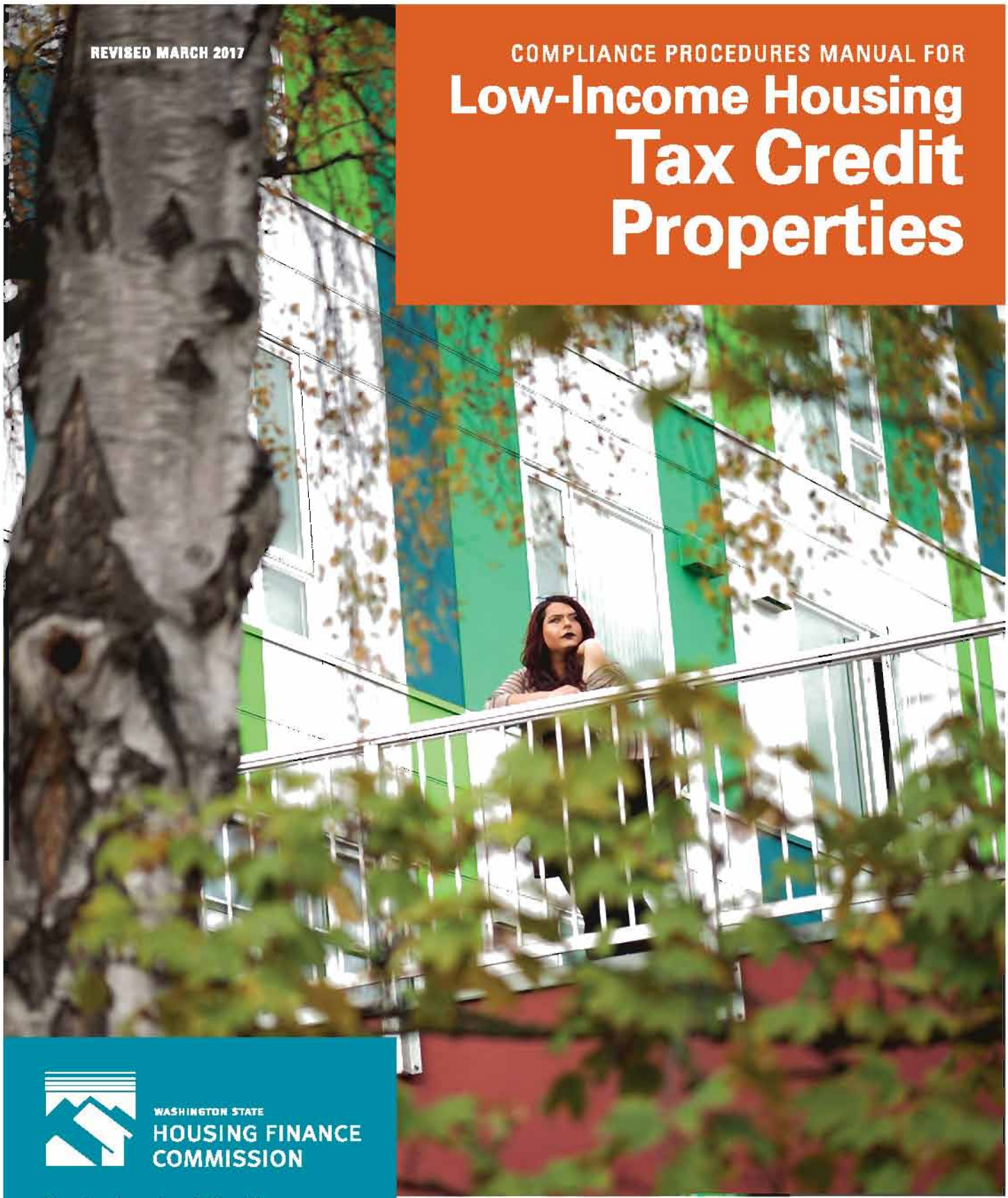
Note from Gwen: Includes updates from 2018 - 2021

REVISED MARCH 2017

COMPLIANCE PROCEDURES MANUAL FOR

Low-Income Housing Tax Credit Properties



Photos: UHI's Marion West Apartments in Seattle's U District.

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Dates on bottom of pages show updates from 2018, 2019, 2020 and 2021.

The Washington State Housing Finance Commission

Compliance Procedures Manual
for
Low-Income Housing Tax Credit Projects

Training **E**ducation **A**ssistance **M**onitoring

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Introduction

This Low-Income Housing Tax Credit Compliance Manual (the "Manual") is intended to provide a basic description and explanation of the rules and regulations to maintain compliance for properties which have received an allocation of affordable housing tax credits pursuant to Section 42 of the Internal Revenue Code (the "Code"). Please note that the Commission's website includes the most up-to-date versions of our compliance manuals, as well as copies of the most recent income and rent schedules used for tax credit units, samples of the most current forms used to collect resident income information, FAQs, and copies of applicable federal regulations issued by the IRS and other authorities.

The Owner is responsible for being aware of all applicable rules and regulations.

The Commission has modified its tax credit policies over the life of the program. This Manual contains a description of the most recent set of rules. Older properties may have slightly different requirements. An Owner is responsible for knowing the requirements that apply to their properties. Each property is assigned a Portfolio Analyst from the Commission's Asset Management & Compliance Division. Questions regarding tax credit compliance for a particular property should be directed to the Portfolio Analyst assigned to the specific property via email or phone. Refer to the list of Portfolio Analysts and Property Assignments on our website at ***wshfc.org/managers***.

This Manual does not address how to obtain an allocation of tax credits. Persons interested in developing tax credit properties should first consult with their attorney, CPA, or other tax credit advisor, and should contact the Commission's Multifamily Housing & Community Facilities Division (access their website at ***wshfc.org/mhcf***.)

Note: *Virtually every tax credit rule has a variation or exception for specific circumstances. The following overview by necessity oversimplifies some aspects; otherwise, no overview would be possible.* ***It is the responsibility of the property Owner and management company to be aware of applicable rules and regulations affecting the property and to ensure compliance with tax credit regulations and any additional contractual agreements with the Commission.***

Capitalized terms used in this Manual are defined in ***Appendix A, Glossary*** *at the end of this Manual.*

Tax Credit Program Overview

The Low-Income Housing Tax Credit ("LIHTC") was created in 1986 under Section 42 of the Internal Revenue Code to foster the development of affordable multifamily rental housing. The credit is generally referred to as Section 42 credit, low-income housing tax credits, or LIHTC. LIHTC provides equity from the sale of tax credits. The equity funds are used to pay for part of the property development costs. The equity comes into the property from investors as a contribution to the legal entity that owns the property. This entity is typically a limited partnership or a limited liability company, which are legal entities that allow the benefit of the tax credits to flow through to investors. Investors, in turn, use the credit to offset their income tax liability.

Credits are received annually over a 10-year period, while the equity funds are usually contributed during construction or soon after the completion of the property. The price paid for the credit is determined by the timing of the payments to the ownership entity as agreed upon between the Owner or general partner and the investors. The balance of the property costs are paid with conventional mortgage financing and other sources of funds. The trade-off for receiving tax credits is that the Owner must agree that the housing units receiving credit will be restricted to income-qualified Households for a specific period of time and that the rents for these units be capped, following a fixed formula. However, because a large portion of the property costs have been paid from equity, a property is designed so that the restricted rents are sufficient to pay the operational costs and mortgage debt on the property.

In return for the tax credits, an Owner must, at a minimum, commit to serve Households earning at or below 60% of the Area Median Gross Income (AMGI) for the county in which the property is located. A minimum of 40% of the units in a property must serve the 60% AMGI residents for the property to be eligible for tax credits. Alternatively, 20% of the units must service Households earning at or below 50% AMGI. These Owner elections are commonly referred to as the 40/60 or 20/50 test. Once the minimum election is made, it is irrevocable and cannot be switched. **The minimum election of 60% or 50% AMGI affects all low-income units within a property.** If the property falls below the minimum threshold limit, it is no longer considered a qualified property and is no longer eligible for credit. In addition, there is a possibility of recapture of credit claimed in earlier years, as well as other penalties.

The minimum election of 60% or 50% AMGI affects all low-income units within a property.

Since tax credits are only available for property costs associated with the affordable units and not for market-rate units, the economics generally promote properties that are 100% or nearly 100% "*low-income.*" Although this is called the "Low-Income" Housing Tax Credit Program, the Commission prefers to use the term "affordable" in place of "low-income."

The term "*affordable*" is used throughout this Manual to describe units with rent and income limits below 60% of AMGI.

Compliance Basics

Tax credits are available for each Qualified Low-Income Housing Unit, which is usually an apartment unit. However, a unit may be part of a duplex, triplex, apartment building or may be a single-room occupancy (SRO) unit, a rented manufactured home or a rented single-family house. Additionally, the term "*property*" includes both multifamily housing complexes and scattered site properties, and the rules apply to affordable units in any configuration that make up a Project.

The fundamental requirement for units to qualify for tax credits is that they must be rented only to income-qualified households and that the rents must be restricted. Generally, a resident's rent plus the utilities s/he pays for his or her unit must not exceed approximately 30% of Household income. In the tax credit program, certain assumptions about Household size are made in calculating the maximum rent level — as a result of these assumptions, a Household may in fact pay more than 30% of their actual income for rent and utilities. A property may have both tax credit units ("affordable units") and market-rate units. The income and restricted rent requirements explained in this Manual only apply to the affordable units. Household income is determined at the beginning of the lease term and is based on the actual number of persons in the Household at the time of initial occupancy and the median gross income for the county in which the property is located. This is known as the "Area Median Gross Income" or AMGI. The rent level is also tied to the AMGI. A more detailed discussion of Household income and rent and how they are determined is discussed in Chapter 4, *Rents & Tenancy Issues* and Chapter 5, *Income and Asset Certification*.

Minimum Low-Income Housing Set-Aside

A property receiving tax credits must meet one of these two basic federal standards:

1. At least 40% of the units in a property must be rented to Households earning 60% or less of the AMGI,

   OR

2. At least 20% of the units in a property must be rented to Households earning 50% or less of the AMGI.

Applicable Fraction

These elections are typically called the 40/60 or 20/50 election or test.

The fraction of low-income use is the lesser of the ratio of affordable units to total housing units (the "Unit Fraction") or the ratio of the floor area of the affordable units to the floor area of all housing units (the "Floor Space Fraction").

Example: *Yurt Apartments consist of a single building with 20 units, as follows: 10 one-bedroom units that are 600 square feet and 10 two-bedroom units that are 1,000 square feet, for a total of 16,000 square feet of housing. The Owner has selected the 20/50 test. To earn more tax credits, the Owner elects to increase the number of affordable units from 20% of all units to 45%.* ***Either*** *of the following results in a 45% affordable use (the* ***lesser*** *of the Unit Fraction or Floor Space Fraction):*

	600 sq. ft 1-Bdrm	*1,000 sq. ft 2-Bdrm*	*Total Units*	*Total Area*	*Unit Fraction*	*Floor Space Fraction*
Affordable:	*7 units*	*3 units*	*10*	*7,200*	*50%*	***45%***
	3 units	*7 units*	*10*	*8,800*	*50%*	*55%*
Market:						
Total	*10 units*	*10 units*	*20*	*16,000*	*100%*	*100%*

	600 sq. ft 1-Bdrm	*1,000 sq. ft 2-Bdrm*	*Total Units*	*Total Area*	*Unit Fraction*	*Floor Space Fraction*
Affordable:	*4 units*	*5 units*	*9*	*7,400*	***45%***	*46.25%*
	6 units	*5 units*	*11*	*8,600*	*55%*	*53.75%*
Market:						
Total	*10 units*	*10 units*	*20*	*16,000*	*100%*	*100%*

Once an Owner makes an election of one of these options, it cannot be changed. The election applies to ***all*** affordable units in the property.

Most Tax Credit Properties are 100% "affordable" units

Example: *Sunshine Apartments consists of 100 units. To maximize credits, the Owner designates all units as affordable units. The Owner has made the minimum 20/50 election. All 100 units must be set aside for Households with incomes at or below 50% of AMGI. If the Owner had elected the 40/60 minimum, all affordable units would be limited to Households with incomes at or below 60% of AMGI.*

Restricted Rents

The rents, including an estimate of resident-paid utilities for affordable units, are restricted for qualified residents living in affordable units. The rents are tied to the income level of the Households targeted, e.g., 50% AMGI or 60% AMGI. Rents are based upon the number of bedrooms in the unit, regardless of the number of persons renting the unit. The Commission provides schedules of the maximum rents by county and income set-asides on our website.

Note that the income and rent limit sets applicable to a property in any given year may not be the most current limits. Make sure to review the Commission's website every year to find the limits which apply to your specific property. Also remember that when there are multiple funders attached to a property, the most restrictive funder's limits are generally required to be used. If your property is eligible to use tax credit limits that are higher than those required by another funder, the Owner must coordinate with the more restrictive funder in order to apply a higher set of limits at a property.

Additional State Rules

Importance of Regulatory Agreement

An Owner must meet all federal requirements to maintain the tax credits, as set out in the Code and IRS regulations and rulings ***and must also maintain*** commitments and requirements of the initial tax credit application and the Commission's *Program Guidelines* and *Policies.* The commitments applicable to a particular property are identified in the Regulatory Agreement and/or Reservation and Carryover Allocation Contract for the property. **The Exhibit "B" to the Regulatory Agreement provides a Project summary of the various income set-asides and Special-Needs Commitments, and other property specifics.** Check your entire Regulatory Agreement to verify the requirements that apply to your property.

Compliance Process Overview

This manual is designed to assist Owners and managers in keeping their properties in compliance with federal and state requirements. Federal requirements are described in Chapter 2. State requirements are described in Chapter 3. A brief outline of the compliance process follows.

Tax Credit Only Properties

- Compliance begins prior to initial lease-up activity. The Owner or property management company representative must attend a compliance training sponsored by the Commission at least 120 days prior to the Placed-In-Service (PIS) date of the first building completed in the property. The Commission encourages property management personnel to attend a compliance training prior to any marketing and pre-leasing activities if these begin earlier than 120 days before the first building is placed in service.
- For new construction, property managers begin qualifying Households within 120 days of building PIS date or temporary occupancy date. Households are then re-certified annually.
- For acquisition/rehabilitation, property managers may begin initially qualifying Households within 120 days of acquisition. Households

must be re-certified annually during the rehabilitation period and throughout the term of the Regulatory Agreement.

- Owner receives an allocation of credit on IRS Form 8609 from the Commission for each building in the property. Buildings in the property may PIS in two different years.
- A copy of the first credit year Form 8609, filed with the IRS, must also be sent to the Commission.
- Owner makes election for first year of credit on each building (PIS year or following year).
- Owner must meet minimum set-aside selected (40/60 or 20/50) in the first credit year to claim any credit for the property. The minimum set-aside may be met by building *or* by property at the Owner's election on line 8B of Form 8609.
- Owner must also meet selected "applicable fraction" for affordable units vs. market-rate units (often properties are 100% affordable) during the first credit year to claim credit on additionally set-aside units.
- Owner income-qualifies Households to meet lowest selected federal or state set-aside. Owner may select 50% or 60% level to meet federal requirement and also elect units at 30%, 35%, 40%, 45% or 50% of median income for state requirements.
- Owner may have selected Special-Needs Housing Commitments which are also monitored by Compliance staff. These include commitments for Elderly, Large Households, Disabled, Homeless/Transitional, or Farmworker Households.
- Special-Needs Housing Commitments must be met by the end of the first year that credits are taken for the property.
- Owner must use Commission-approved forms to qualify Households.
- Annually, Owner completes the *Owners Annual Certification (formerly called the CCPC Part A),* Table 1, and Table 4, all of which provide summary data on all units in the property. Tables 1 and 4 must be submitted using the Web-Based Annual Reporting System (WBARS).
- Owner provides copies of Household certification packets (which include all verification forms) as requested by the Commission.
- Within the first year or following year after buildings PIS, and at least every three years thereafter, the Commission conducts on-site visits of the property. Portfolio Analysts will visit with the on-site/property

manager; randomly inspect 20% of all units; and inspect all vacant units, common areas and building exteriors.

- Portfolio Analysts will request copies of certification packets for all units inspected during the on-site visit to complete the file review.
- Portfolio Analysts send letters to Owners to gain clarification of issues noted during on-site inspections and during reviews of annual reports and Household certification packets.
- Owners are given time to correct issues during a provided "correction period" noted in correction letters which are issued by the property's Portfolio Analyst.
- Non-compliance issues are reported to IRS by the Commission on Form 8823. Most issues can be corrected but still must be reported to the IRS. IRS determines penalties, if any, on a case-by-case basis, and notifies the Owner directly.
- Any transfers of ownership that occur during the Compliance Period must be approved by the Commission.
- Owners are required to notify the Commission of any other significant changes to the property such as health, building or safety code violations, Fair Housing violations, or notices and changes in management or on-site personnel.

Tax Credit Properties with Tax-Exempt Bonds

Properties may receive an allocation of credits (without going through the competitive process) by financing at least 50% of the property with tax-exempt bonds. These properties receive a proportionally smaller allocation of credits than tax credit-only properties and generally have higher rent and income limits (50% to 60% of median versus 30-60% on tax credit-only properties). Properties with tax-exempt bonds are described further in ***Chapter 8, Tax-Exempt Bonds***.

In addition to above-mentioned Compliance requirements, properties with tax-exempt bond financing must also:

- Meet the selected federal set-aside (20/50 or 40/60) within one year of bond closing and every year thereafter on acquisition/rehabilitation properties.
- Owner must meet all selected set-asides and Commitments. Bond set-asides are income-restricted only; if tax credits subsequently are

obtained, the units must be rent- and income-restricted. The Owner may have selected different federal minimum set-asides for bonds and tax credits, and may have different state set-asides selected. The most restrictive requirements should always be used. Property managers should have copies of both Regulatory Agreements.

- Issues of non-compliance for bond requirements are reported to the bond trustee rather than the IRS until tax credits are taken.
- Properties with Commission-financed tax-exempt bonds combined with tax credits will have two Regulatory Agreements. Generally, the tax credit requirements will be more restrictive than tax-exempt bond requirements. For more information on bonds, review the Bond Compliance Procedures Manual online at ***wshfc.org/managers/ManualBondIndex.htm***, and check your bond Regulatory Agreement. Also review the primary differences between the two programs by consulting Appendix L, ***Differences between Bonds and Tax Credits*** at the end of this Manual.

Federal Requirements

Summary

- To qualify for tax credits, a property must meet either the 20/50 or 40/60 test (see ***Chapter 1, Introduction,*** for explanation of the 20/50-40/60 test).
- All affordable unit Households must have their anticipated income for the next 12 months certified at time of initial occupancy (see ***Chapter 5*** for more details on income qualification)
- 3rd party-verified recertifications of qualified households' eligibility must be completed only on the first lease anniversary (for 100% income-restricted projects). Self-certifications of household income may be used in subsequent years.
- 3rd party-verified recertifications of eligibility must be completed *every year* on restricted units at a **mixed income project** (tax credit property with market rate units).
- Certification of student status is required for **every** member of **every** qualified household at **every** tax credit project **every** year, regardless of project type or where the project is in its Regulatory Agreement period.
- Individuals in a Household don't have to be related.
- All affordable units must be rent and income-restricted. Income and rent limits are updated each January and accessible from our website.
- The maximum Resident rent that can be charged is determined after subtracting out a utility allowance for any Resident-paid utilities.
- Rules specify which utility allowance to use, depending on whether buildings receive HUD or Rural Development (formerly FmHA/RHS) assistance, or whether a Resident receives Section 8 assistance. Other allowance types may be used, but require Commission approval – see ***Appendix O*** for more information.
- Affordable units must be suitable for occupancy and be rented to the general public on a non-Transient basis.
- A unit is not "qualified" until it is initially occupied by a qualified Household.
- If an affordable unit becomes vacant, and the last occupant was a qualified Household, the vacant unit continues to be considered an affordable unit, as long as the next available unit of comparable size or smaller is rented to a qualified Household ("Vacant Unit Rule").

- If an affordable Household's income increases above 140% of the elected applicable minimum election income limit (50% or 60%), the next available unit of comparable or smaller size must be rented to a qualified affordable Household ("Available Unit Rule").
- Certain Households are not qualified for tax credit housing, e.g., if all the occupants of a unit are fulltime Students, the unit is generally not eligible for tax credits.
- Properties must comply with **all** Fair Housing regulations.
- Properties must comply with all requirements of the Violence Against Women Act (VAWA).
- All tax credit properties must have a Regulatory Agreement (extended use agreement) recorded as a restrictive covenant against the property.
- Owners must make annual certifications regarding compliance and must maintain records verifying Household qualification.
- Noncompliance is reportable to the IRS and may result in recapture of credit claimed.

For Use by the General Public

If a residential rental unit is not for use by the general public, the unit is not eligible for tax credits. A residential rental unit is for use by the general public if the unit is rented in a manner consistent with housing policy governing non-discrimination, as evidenced by rules or regulations of the Department of Housing and Urban Development (HUD) – see following **Fair Housing** section.

Units may be used by Residents to operate a home business, as long as the unit is still *primarily* used for residential purposes. In general, this standard can be measured by making sure the Resident maintains the unit as their principle household, does not attach business-related signage to the unit exterior and does not have excessive customer traffic in and out of the unit that might interfere with the peaceful enjoyment of other property residents.

If a residential rental unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for tax credits. In addition, any residential rental unit that is part of a hospital, nursing home, sanitarium, lifecare facility, trailer park, or intermediate care facility for the mentally and physically disabled is not for use by the general public and is not eligible for tax credits.

Authority:

IRS Regulation 1.42-9

Fair Housing

Tax Credit projects are governed by Fair Housing laws. These laws outline ways in which Owners must refrain from discrimination in their housing practices. Federal Fair Housing regulations are supplemented by laws in city, county or other geographic jurisdictions. It is vital for Owners to be familiar with the Fair Housing laws in their jurisdictions as well as the federal regulations. Note that the Commission is required to notify the IRS when we receive notices of Fair Housing Act administrative and legal findings issued by HUD or the Department of Justice against a property owner or management company. See our website for links to Fair Housing resources.

Violence Against Women Act (VAWA)

The Violence Against Women Act (VAWA) protects victims of domestic violence, dating violence, sexual assault and stalking from being evicted or denied housing assistance based on acts of violence committed against them. The Violence Against Women Reauthorization Act of 2013 extends VAWA's housing protections to include the Low Income Housing Tax Credit program, and are enforced by the Department of Justice.

Owners are responsible for meeting the requirements of this law. Owners should implement the following practices to ensure VAWA compliance:

- Prohibit eviction from housing (consistent with state eviction laws) on the basis that an applicant or resident is a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or resident otherwise qualifies for housing;
- Provide notices similar to HUD-5380 (Notice of Occupancy Rights Under VAWA) and HUD-5382 (Certification of Domestic Violence) to all residents in existing developments;
- Allow bifurcation of resident leases in order to evict or terminate assistance of the perpetrator and continue housing assistance for the victim;
- Develop policies on acceptable unit transfers, referencing guidance from HUD-5381 (Model Emergency Transfer Plan) and HUD-5383 (Emergency Transfer Request); and
- Train property management staff who interact with applicants and residents on VAWA requirements.

  A link to HUD's forms is available on the Resources page of our website.

Please note that following VAWA requirements does not exempt the Owner from being in compliance with LIHTC program requirements.

Suitable for Occupancy

Tax credits are available only for units that are suitable for occupancy and that are used other than on a Transient Basis. Section 42 states that "suitable for occupancy" will be determined under regulations issued by the IRS, taking into account local health, safety, and building codes. Part of a property's occupancy suitability requirement involves making sure that vacant units are always rent-ready. Additionally, Owners must be able to prove that they are making reasonable attempts to market their units so that units are not vacant for extended periods of time.

Authority:

IRS Regulation 1.42-5

Non-Transient Use

"Transient" is not defined in Section 42 or other IRS regulations, but the legislative history of Section 42 describes a "safe harbor" which states that leases with an initial term of six months which can then revert to a month-to-month tenancy are considered "non-Transient." Section 42 specifically provides that a single-room occupancy (SRO) unit may be rented on a month-by-month basis without it being considered "Transient." This is also the case for units set aside for the *Transitional Housing* Special Need Commitment. Such units may use month-to-month leases, although the Commission recommends using six-month leases on all initial lease terms for all tax credit and/or bond properties.

General Prohibition Against Student Housing

Generally, tax credits are not available for units occupied entirely by Students. A "Student" is an individual who is a **fulltime** student at an educational organization which maintains a regular faculty and curriculum, **for at least five calendar months during a calendar year.** The official out-of-compliance date for a Student household is the first day of the fifth month in a calendar year in which students attended school full time. However, if the Student household moves out before *the last day* of the fifth month, there will be no reportable noncompliance.

Note:

- "Fulltime" status is determined exclusively by the educational institution.
- School attendance at night or online does not exempt a Resident from "Student" status.
- Minors who are in school fulltime meet the definition of "Student" because they are enrolled **fulltime**.

- An individual who attended school fulltime for five or more months (consecutive or not) in the calendar year **prior** to move-in is considered a Fulltime Student for the entire calendar year.

It is permissible for one or more Students to be part of an otherwise qualified Household or for part-time students to be part of a qualified Household, but **if *all* the Residents of a unit are fulltime students, the unit will not be eligible for tax credits unless the Students fall within specified exceptions.** The following are the exceptions where occupancy by all fulltime students is allowed and does not affect the tax credits:

1. At least one individual is receiving assistance under Title IV of the Social Security Act (i.e. TANF);

2. At least one individual is enrolled in a job training program receiving assistance under the Workforce Investment Act or under other similar federal, state, or local laws;

3. Household consisting of a single parent and his/her dependents, where neither the single parent nor their children are dependents of another individual (other than a parent of such children);

4. Household consisting of persons who are married and eligible to file a joint tax return;

5. At least one individual was previously under the care of a state foster care program.

Note: Documentation required to verify certain exceptions to an all-Student Household are as follows:

For 1.: Verification of TANF benefits

For 2.: Fulltime Student Job Training Exception Verification

For 3.: Signed tax return required or completed Student Exception Affidavit

For 4.: Marriage certificate

For 5.: Written verification from Washington State's Department of Social and Human Services that the student was previously in foster care, or similar documentation if the person was in foster care in another state.

"Dependent" means that half of one's support for a calendar year was received from another person, or was treated as received in the case of

multiple support agreements or in the case of divorced parents of a dependent.

Example: *Louise, her 19-year old daughter Stella, and Stella's six year old son, Max, are initially qualified and sign a one-year lease. Louise does not attend school. Stella is a fulltime student at the local community college and Max is in elementary school. Four months into the lease, Louise moves out. This is now an all- Student Household, since both Stella and Max are fulltime students. However, assuming Stella is not the dependent of another person, and Max is either her dependent or that of his father, this household remains qualified under student exception #3.*

Owners should consider having leases include a prohibition against occupancy entirely by fulltime students, and that if a unit includes any fulltime students, management must be notified of any change in the occupancy of the unit during the lease term. Occupancy by Student Households not falling within the exceptions should be identified in the lease as potential cause for termination of the tenancy.

Keep in mind that the Commission continues to monitor **every** tax credit project for compliance with the Fulltime Student rule **for the duration** of the Regulatory Agreement.

Authority:

Code Section 151(c)(4).

Reference: Code Section 42(i)(3)(D) – Student defined

Reference: Code Section 152. – Dependent defined

Evictions

Pursuant to Revenue Ruling 2004-82, the Owner may only evict residents during the Compliance Period for "good cause" as defined by the state or local jurisdiction. Non-renewal of a lease by the Owner without cause is also prohibited. Per the language of the Commission's Lease Rider, "*The Owner is prohibited from evicting [the Resident], and is prohibited from refusing to renew [the Resident's] lease or rental agreement, other than for "good cause." Generally, good cause shall mean the serious or repeated violation of material terms of the lease or a condition that makes [the Resident's] unit uninhabitable. All termination and non-renewal notices served upon residents must include a list of the specific violations constituting "good cause" so as to enable the tenant to prepare a defense. Under federal law, [the Resident has] the right to enforce this requirement in state court as a defense to any eviction action brought against [the Resident]*" (emphasis,

bracketed language added). It is important to note that violations by the Resident of Tax Credit program requirements **are** considered "good cause." Increases in household income that occur after move-in are not considered "good cause" unless they are the result of failure to report all income at move-in.

Common Areas

Tax credits are only available for qualified affordable units and "Functionally Related and Subordinate Facilities," called Common Areas. These are facilities that are reasonably required for the property and include swimming pools, other recreational facilities, community buildings, and parking areas. For further information on parking areas, see ***Chapter 4, Rents & Tenancy Issues***. Common Areas can only be counted for tax credits if they are available to **all** Residents on a nondiscriminatory basis at **no charge**. For example, a weight room that required payment for use would be counted as a commercial facility, not eligible for tax credits. If there is a change in use, where a property facility that was available for Resident use at no charge becomes available only if a payment for use is made, the change could affect the amount of tax credits available to the property and could trigger a recapture of credit. Before making any such changes in use, an Owner should consult with qualified tax credit professionals and notify the Commission of the impending change.

Common Area Units

Units provided for fulltime resident managers, maintenance personnel or security personnel are called Common Area Units and are considered part of the Common Area of the property. The number of hours that constitutes "fulltime" may differ from project to project, depending on the needs of each property.

The Common Area Units are not considered residential rental units because they are not for rent to the general public — they are provided for property or management employees and are considered functionally necessary to the project.

The Owner must be able to defend the need for a Common Area Unit at the property and the exclusive use of that unit by a fulltime employee at that property.

There is no tax credit penalty for having Common Area Units in a property. When the percentage of affordable use is calculated, the Common Area Units are ignored.

Example: *A building in a 100% affordable property has 10 units, and one unit is the manager's unit. Calculate the affordable use of that building (based on Unit Fraction) as follows:*

Affordable Units:	*9 units*
Total Residential Units:	*9 units*
Affordable Percentage:	*9/9 = 100%*

Under the Commission's rules, Common Area Units are not counted in determining any Additional Low-Income Use Housing Set-Aside Units or Special-Needs Housing Units.

Example: *A property has 50 total units, which include a manager's unit and a maintenance person's unit that have been designated as Common Area Units. The total number of Housing Units is therefore 48. If 24 units were set aside for Households at or below 35% AMGI, for example, that would constitute 50% of the units (24/48), based on the unit percentage.*

No changes in location of Common Area Units can be made without prior Commission approval.

The Commission requires that an Owner designate any Common Area Units (and the buildings in which they are located) prior to the property being Placed-in-Service. The Commission also requires a written request from the Owner prior to any change in designation of Common Area Units. While moving a Common Area Unit from one building to another ***may*** be allowed by the Commission, if the change would result in a reduction in the affordable use of any building in the property, the move will not be allowed.

Example: *The Riverview Apartments consists of two buildings, each with ten identically-sized units. Building A has six affordable units and four market-rate units. Building B includes a manager's unit, so it contains only nine residential units, six of which are affordable and three of which are market units. Following is the affordable use of the property:*

Building A	*Building B*
*6/10 = 60% LI**	*6/9 = 66.67% LI*

** LI=Low Income*

Assume one of the affordable units in Building A becomes vacant and the Owner wants to move the manager's unit from Building B to that unit. First, the change in affordable use of each building must be analyzed. Converting the vacant affordable unit in Building A to a manager's unit would reduce the number of residential units in Building A to nine units and would change the affordable use as follows: Five affordable units/nine residential units = 55.56% LI use. Since this would be a reduction in affordable use, the change would not be allowed.

If a market-rate unit in Building A became available, the manager's unit could be moved to that unit, since the affordable use of Building A would not decrease, but in fact would increase to 6/9 = 66.67%.
The vacated manager's unit in Building B would have to revert to an affordable unit to maintain the affordable use of that building. If the manager's unit became a market-rate unit, the affordable percentage of Building B would be reduced to 6/10 = 60% LI, which would not be permitted. Therefore, the vacated unit would need to be rented to a qualified affordable Household, with the effect of increasing the affordable percentage of Building B to 7/10 = 70%.

Note: *That in this example, to prevent a reduction in the percentage of affordable use for either building, the total number of affordable units in the property must be increased if the manager's unit is moved from Building B to Building A.*

If the property has no need at the time for a manager, or the manager lives off-site, it is permissible to rent a Common Area Unit to a qualified household (in order to maintain the percentage of affordable set-asides of the property). It is not necessary to recalculate any Special-Needs Commitments of the property if the Common Area Unit is rented to a qualified Household. To maintain 100% affordable use, any Common Area Unit which becomes a residential unit **must** be rented as a qualified affordable unit.

If at a later date the Common Area Unit is needed for a manager or other service personnel, then it may revert back to being used for on-site staffing.

Example: *Assume a maintenance person who had been provided a unit as part of his/her employment is laid off and chooses to remain at the property as a Resident. For the property to stay in compliance, an income certification must be done for this Household, using the information from his/her new job, and the rent must be restricted according to the property income set-asides. Property managers may want to consider adding conditions to Common Area Unit leases to allow for this possibility.*

Authority:

Revenue Ruling 92-61: Manager's unit is Common Area Unit, eligible for credit.

PLR 9330013: Maintenance personnel's unit is Common Area Unit, eligible for credit.

PLR 9538015: Security personnel's unit is Common Area Unit, eligible for credit.

Mixed-Income Properties

The most difficult issues in tax credit compliance are related to properties that are mixed income, with both affordable units and market rate units. A property which has set aside 100% of its units for affordable use and further targets units for residents whose income is lower than the selected minimum 50% or 60% AMGI is *not* considered a mixed-income property.

Example: *The Golden Arms Apartments consists of 50 units. The Owner selected the minimum 40/60 election. The Owner set aside 20 units for residents at 60% AMGI, 20 units for residents at 50% AMGI, and 10 units for residents at 40% AMGI. This is a 100% affordable property with no market rate units.*

Owners of mixed-income properties should have competent tax credit consultants review the property's lease-up and on-going management plan to ensure rental procedures maintain compliance with the program.

Generally, the percentage of affordable units *in a building* is determined and must be maintained at that same percentage to maximize the amount of tax credit at the end of the first year credit is claimed. Each building does not need to meet the 40/60 or 20/50 test — that test can be applied property wide. However, a building's particular percentage becomes fixed at the end of the first year credit is claimed. The percentage of affordable use is the *lesser* of the Unit Fraction or the Floor Space Fraction, determined building by building. The Unit Fraction is the ratio of affordable units to total housing units in the building; the Floor Space Fraction is the ratio of the floor area of the affordable units to the floor area of all housing units in the building. If all the buildings are 100% affordable, this is insignificant since *all* units must be rented to eligible affordable households.

Example: *Twin Teepee Apartments consist of two buildings, each with ten identical units. The Owner has selected the 40/60 election, and the property will be mixed income, with 40% of the units as affordable. At the end of the first year credit is claimed, the property is fully occupied. At that time, Building A has three affordable units and seven market-rate units, and Building B has five affordable units and five market-rate units. The total property affordable use is 20 units x 40% percent affordable use equals eight affordable units. However, for the entire Property Compliance Period, the property must be maintained so that Building A has at least three affordable units and Building B has at least five affordable units. If at a later date, the mix changes so that each building has four affordable units (eight totals), there would be a recapture of credit from the reduction in affordable use of Building B, from five units to four affordable units. However, you do not receive credits for the additional affordable unit in Building A.*

Available Unit Rule

Under the Code, special rules apply when an originally qualified Household's income increases above 140% of the applicable income limitation (i.e., 140% above either 50% AMGI or 60% AMGI). Provided the Available Unit Rule is followed, a unit continues to be treated as Qualified even if the household's income exceeds 140% of the applicable income limitation on recertification.

The Available Unit Rule states that if a unit becomes an over-income unit, that unit can continue to be treated as a Qualified Unit ***only*** *as long as it remains rent-restricted and as long as no nonqualified resident occupies any Comparable Unit that is available or that subsequently becomes available in the building.*

Once a unit becomes over-income, if a nonqualified resident then leases a Comparable Unit in the building, the original over-income Household is no longer treated as qualified, and the building may be subject to recapture. The following definitions apply to the Available Unit Rule:

"Comparable Unit" means a residential unit in the building that is of comparable size or smaller than an over-income unit. For purposes of determining whether a residential unit is comparably sized, a Comparable Unit can generally be understood as a unit of the same or smaller **bedroom size** as the over-income unit.

"Nonqualified Resident" means a new occupant or occupants whose aggregate income exceeds the applicable income limitation.

"Over-Income Unit" means an affordable unit in which the aggregate income of the occupants of the unit increases above 140% of the applicable income limitation under IRC Section 42(g)(1), i.e., 140% above either 50% AMGI or 60% AMGI.

"Qualified Resident" means an occupant either whose aggregate income (combined with the income of all other occupants of the unit) does not exceed the applicable income limitation and who is otherwise a low-income Resident under Section 42, or who is a current resident.

Available Unit Rule and Mixed-Income Properties

The Owner of an affordable building must rent to Qualified Residents all comparable units that are available or that subsequently become available in the same building to continue treating the over-income unit as an affordable unit. Once the percentage of affordable units in a building (excluding the over-income units) equals the percentage of affordable units on which the credit is based, the over-income unit may be converted to a market-rate unit

if the committed percentage of affordable use of the building is maintained (this will only be possible in a mixed-income building).

Example: *A building with ten identically sized units is mixed income, with six affordable units set aside for residents earning 60% or less of AMGI. At recertification, one of the affordable units is found to be over-income, i.e., the household now earns more than 140% of 60% AMGI. To comply with the Available Unit Rule, any unit that becomes available* ***must*** *be rented to an income-qualified household or the over-income unit will not be treated as affordable. If a market-rate unit becomes available, it must be rented to a qualified affordable household. When the building once again has six affordable units, excluding the over-income unit, the over-income unit may then be converted to a market-rate unit.*

No available comparable unit may be rented to a nonqualified household before the Available Unit Rule is complied with.

Example: *A building with ten identically sized units is mixed income, with six affordable units set aside for residents earning 60% or less of AMGI. At recertification, one of the affordable units is found to be 140 % over-income. At that time, three market-rate units are vacant. The first occupant of any of the vacant units* ***must*** *be income-qualified, or the over-income unit will cease to be treated as an affordable unit. Holding one unit open for a new income qualified household will* ***not*** *comply with the Available Unit Rule.*

Example: *A building with ten identically-sized units has seven affordable units and three market rate unit, all of which are occupied. At recertification, it is determined that four of the affordable units are 140% over-income. As long as there are no vacancies, and all the affordable units remain rent-restricted, the building will continue to be treated as 70% affordable. Later, two of the market-rate residents move out of the building, and their units are rented to income-qualified households. The remaining market-rate Resident then moves out and his unit is rented to another market-rate Resident. Once that occurs, the above-income units are no longer treated as affordable units, and the building has only five affordable units (three of the original affordable units which were not over-income plus the two new affordable households). Since the percentage of affordable use has dropped from 70% to 50%, there may be recapture of credit.*

The Available Unit Rule is applied building-by-building.

The Available Unit Rule applies separately to each building in a property. In a mixed-income property, the affordable use must be identified and

maintained building-by-building, and the Available Unit Rule is applied building-by-building.

Example: *A property has two buildings, each of which contains ten identically-sized units and each of which is 60% affordable (six affordable units and four market rate units). At recertification, two affordable units in Building A are 140% over-income, but no units in Building B are over 140%. If a market-rate Resident moves out of Building B, that unit can be rented to another market-rate Resident without violating the Available Unit Rule, because the over-income units in Building A do not affect Building B.*

Mixed-Income Buildings with Different Sized Units

Mixed-income buildings where units are different sizes may need to increase the percentage of affordable use over time to maintain compliance with the Available Unit Rule.

Example: *The Peyton Place Apartments consists of a single building with 20 units:*

Unit Size	# of Units		Sq Footage		
One Bedroom	*10 Units*	x	*750 sq ft/unit*	=	*7,500 sq ft/unit*
Two Bedroom	*10 Units*	x	*1,200 sq ft/unit*	=	*12,000 sq ft/unit*
TOTAL:	*20 Units*				*19,500 sq ft/unit*

The property is mixed-income, selecting the 40/60 minimum election. The minimum number of affordable units is 20 units x 40% = 8 affordable units (rounded up). At the end of the first credit year, the building has rented up so that there are five affordable one-bedroom units and four affordable two-bedroom units. The Applicable Fraction **is the lesser of** the Unit Fraction (8/20 = 40%) **or** the Floor Space Fraction (5 x 750 sq ft) + (4 x 1,200 sq ft) = 8550 sq ft/19,500 sq ft total = 43.8% rounded to 44%.

At recertification, it is determined that 2 two-bedroom units are now 140% over-income, triggering the Available Unit Rule. The next two units that become available for rent are one-bedroom market units. To comply with the Available Unit Rule, the Owner rents these units to income-qualified affordable households. However, if the Owner raises the rent of the over-income two-bedroom units to market rates, the Applicable Fraction will drop, because the Floor Space Fraction will drop to 39.2% (because the floor area of the one-bedroom units is less than the two-bedroom units). While the drop in Applicable Fraction is not a large one, it may trigger recapture and reduction of credit. The alternative is to retain the over-income units as rent-restricted, increasing the number of rent-restricted units in the building from 14 to 16 affordable units, and lowering the gross rental income for the building.

The changes in the number of rent-restricted affordable units resulting from maintaining compliance with the Available Unit Rule may or may not be significant, depending on the difference between tax credit and market rents. However, the additional complexity imposed on management practice is substantial for mixed-income properties financed in part with tax credits. Failure to follow the Available Unit Rule will result in reports of noncompliance and recapture and reduction of credit.

Available Unit Rule and 100% Affordable Properties

The next available unit in a 100% affordable property is *always* rented to an income-qualified household, so the Available Unit Rule does not change normal rental practice for a 100% affordable property. However, if a unit is rented inadvertently to a nonqualified household, all over-income units in the building will cease to be treated as affordable units, and the building may be subject to recapture.

Example: *A property consists of a single building with 20 identically sized apartments, all of which are set-aside for households at or below 60% AMGI. Over time, 9 units become 140% over-income, determined at the annual recertification of household income. As long as the units remain rent-restricted, the building is counted as 100% affordable. All the 140% over-income residents continue to live in the building, and two years later the property manager inadvertently leases a unit to a household earning 62% AMGI. At that time, there is potential recapture for the unit rented to the nonqualified Household, as well as for the nine 140% over-income units. The affordable percentage of the building drops from 100% to 50%. Even if the nonqualified Resident moves out and is replaced with an income-qualified Household, the over-income units are no longer treated as affordable units.*

Effect of Resident Moving to Another Unit (100% Affordable Properties)

As long as a Household was qualified at initial occupancy, it will continue to be qualified if the Household moves to another unit in the Project, even if the Household income is above the applicable income limit at the time of the move. The vacated unit assumes the status the newly occupied unit had immediately before it was occupied by the current Resident. The newly occupied unit adopts the status of the vacated unit. Since the IRS no longer requires annual recertification of income on 100% affordable properties, a Household that was properly income-qualified at move-in remains qualified even as their Household income increases.

The Commission does require one third-party recertification of eligibility for every new household at the first lease anniversary. Self-certifications of household eligibility are acceptable for all subsequent recertifications.

Unless a critical error is found during a recertification that disqualifies the original certification, increases in income do not disqualify a household.

Assuming a 100% affordable property, each building is also 100% affordable. Therefore Household moves from one unit to another, anywhere in the Project, are permitted.

If a Household moves to another building, the Owner can simply swap status with the unit they left. **However, if a Qualified Household adds an adult member, the income of that new member must be verified and added to the total household income. If the new total income is over 140% of the federal limit (50% or 60% AMI), we do not believe the Owner should allow this "new" household to move to another building.**

Authority:

Treasury Regulation 1.42-15

Utility Allowances

The gross rent limit for a unit includes the cost of any utilities (other than telephone or cable TV) paid directly by the Resident. The utility cost is determined by using a utility allowance as described in this section. The utility allowance is an estimate of utility usage for a given unit. From the gross rent tables provided by the Commission, an Owner must subtract the appropriate utility allowance to determine the maximum rents that may be charged to Residents. Utility allowance deductions only apply to low-income units, and not to market-rate units.
Because gross rents are based on an imputed Household size and the utility allowance is an estimated figure, a Resident's actual rent plus utility costs might exceed 30% of their actual income.

It is the Owner's responsibility to obtain and use the appropriate utility allowance schedules.

Utility allowance tables are generated by the local public housing authority (PHA), Rural Development (RD), HUD or a local utility company. In certain circumstances, an Owner may be required to use different utility allowances for different units in a single property. **It is the Owner's responsibility to obtain and use the appropriate allowance figures.** Overcharging rent is an instance of noncompliance reportable to the IRS. Since using the incorrect utility allowance can result in overcharging rents, care should be taken in making a correct calculation and in using current utility allowance figures.

Utility Allowance Documentation

The form of utility allowance documentation varies. Sometimes, the utility allowance form identifies various possible uses, such as gas or electric cooking or heating, and estimated usage for the various major appliances in a

unit. In that case, the applicable utility allowance is the sum of the uses in the unit. Other times, the utility allowance is a letter identifying the unit size, with a lump sum allowance.

Appendix O

Appendix O contains a summary of the appropriate utility allowances to use and methods of calculating utility allowances other than the ones noted above.

Utilities Paid by Owner

No reduction of gross rent is made for utilities provided by the Owner. For example, if all utilities are provided by the Owner, no utility allowance is used and the rent that can be charged is the maximum gross rent from the rent tables. If the Owner provides centralized heat, a utility allowance is used only for the other utilities in the unit that the Resident pays. The Owner must select "Owner Pays all Utilities" as the utility allowance source in WBARS if s/he is paying ***all*** utilities.

Changes in Allowances

If at any time during the Project Compliance Period the applicable utility allowance for a unit changes, the new utility allowance must be used to compute gross rents of all rent-restricted units within **90 days after the allowance was changed**. For example, if rent must be lowered because the applicable PHA utility allowance shows a higher utility cost, the lower rent must be in effect no more than 90 days after the date of the effective date of the new utility allowance regardless of whether the change takes place in the middle of a lease term and regardless of the rent amount listed in the lease. **Note: Changes to utility allowances must be applied within 90 days after the change, regardless of whether the Owner or management is aware of the change.**

Example: *An Owner is unaware that the PHA has increased its utility allowances. After 90 days, the property could fall into noncompliance if the new utility allowance required a reduction in the maximum rent charged. The noncompliance would need to be corrected by refunding to the residents any overcharged rent, and the noncompliance would be reported to the IRS. The Owner must provide to the Commission evidence of all efforts to refund overcharges.*

The Commission requires an Owner to obtain updated utility allowances at least annually.

Although the Code states it is the Owner's responsibility to obtain updated utility allowances at least annually, the Commission recommends that Owners check for updates with the applicable utility allowance provider every 90 days.

It is the Owner's responsibility to determine when the utility allowance is updated and to obtain that update. The Owner must have current utility documentation on-site or ***a letter confirming that the prior utility allowances are still applicable***. The Owner must provide this utility allowance documentation with its annual report to the Commission.

Example: *An Owner obtained a PHA utility allowance letter in May and the PHA then adjusted its utility allowances on June 1. The Owner must apply the new utility allowances to rents due within 90 days after June 1 (i.e., rents due on and after September 1). The Owner cannot wait until the following May to get an updated letter.*

Compliance Affordable - Use Periods

The Owner is responsible for maintaining the property in compliance with federal tax credit regulations and in compliance with any additional commitments made to the Commission for the entire Project Compliance Period. That period extends to the latest of the following: the Compliance Period, the Extended Low-Income Housing Use Period, the Additional Low-Income Housing Use Period; or the Three-Year Period, all described below.

There are specific terms used to describe the periods of time that various sections of the tax credit program apply to a building. Except for the Three-Year Period, described below, all time periods for a building begin the first year credit is claimed, which is either the year the building is Placed-in-Service or, at the Owner's election, the following year.

- Tax credits can generally be claimed each year for a 10-year period (the **Credit Period**).
- The **Compliance Period** runs for 15 years, during which time any non-compliance with Section 42 could result in a recapture of a portion or all of the credit.
- The Extended Low-Income Housing Use Period runs 30 years, and can only be terminated earlier at the end of the Compliance Period under special circumstances (such as when no purchaser can be located who is willing to maintain the property as affordable for the balance of the Extended-Use period after a one-year notice period).
- The **Additional Low-Income Housing Use Period** is a commitment to the Commission to maintain the housing for a specified period of years, which may extend beyond the Extended Low-Income Housing Use Period, with an agreement not to terminate the affordable use or Regulatory Agreement during that period Such a commitment also prohibits an Owner from terminating the Extended Low Income Housing

Use Period. Many Owners make the maximum time commitment in the application process.

- The Three-**Year Period** is the three years following the last of any of the above periods, during which time no existing low-income Resident can be evicted except for cause and rents must remain at the restricted level. The Three-Year Period is intended to allow a transition of use of the property following the low-income use under the program.
- The **Project Compliance Period** includes ***all*** of the above periods of time, and is the overall period in which all the commitments in the Regulatory Agreement must be maintained.

Note: See ***Appendix J*** in this Manual for a chart illustrating how all these periods work together in an example property.

Resident Certification Packets

IRS Regulation 1.42-5 requires that the review procedures followed by the Commission must meet certain minimum requirements. Review requirements must be outlined in the state's Qualified Allocation Plan. **The Commission requires that the Owners of all tax credit properties provide to the Commission each year information on Resident income and rent for each Qualified Unit, in the form and manner designated by the Commission, and that all Owners must submit for compliance review:**

1) **Copies of all pertinent income certifications**
2) **Required documentation to support each certification**
3) **Rent records for each low-income Resident requested**

The Commission randomly selects the units it will review.

The certifications must be made under penalty of perjury. The forms used to document and report this information are described further in ***Chapter 6, Reporting & Records Retention***, and are located on our website at ***P:\wshfc\managers\forms-RC.htm***.

The Commission selects which Residents' records are to be inspected or submitted by the Owners for review. In accordance with IRS regulations, the records to be inspected must be chosen in a manner that will not give Owners advance notice that their unit and resident records for a particular year will, or will not, be reviewed.

The Commission reviews the certifications submitted by all Owners for compliance with Section 42 and for compliance with any additional commitments made to the Commission.

The certification and review process extends for the entire Project Compliance Period.

Demographic Data Collection

In 2008, federal legislation was passed that allows HUD to require that state housing finance agencies request certain Household demographic data from Owners on all Tax Credit-financed properties. This includes information on race, ethnicity, family composition, age, and income, use of rental assistance, disability status, and household rent payments, for all Tax Credit units.

The Commission asks Owners to collect this information by having all Households complete the *Household Demographics* form at the time of new move-in. Owners are then asked to enter the data into WBARS for each Household member.

Inspections

In addition to its review of the annual Owner certifications, the Commission conducts on-site visits which include a review of Resident files. On-site visits are separate from any review of low-income certifications, supporting documents, and rent records. In accordance with IRS regulation 1.42-5(d)(2), during property on-site visits, the Commission's Portfolio Analysts inspect units and buildings according to certain IRS standards.

Properties are inspected regularly by Commission staff or by one of our funding partners (currently Department of Community Trade and Economic Development, City of Seattle Office of Housing, City of Tacoma Community and Economic Development, USDA Rural Development and the Department of Housing and Urban Development via REAC). The property will receive a written notice before the inspection. Resident Managers must send a written notification to **ALL** residents at least 48 hours prior to the inspection in accordance with state Landlord/Tenant Law.

Section 42 states that housing finance agencies may use the HUD Uniform Physical Conditions Standards (UPCS) or local code for inspections of Tax Credit properties. Owners are required to abide by local codes, but Commission staff inspect to UPCS standards. Properties must be inspected a minimum of once every three years. At least 20% of the properties' units will be randomly selected for inspection. The IRS stipulates that Owners cannot be given advance notice of the units selected. Owners are required to submit copies of Resident Certification packages for all units inspected no later than 10 business days after the inspection per the instructions during the inspection. Most packages are sent to the Commission's Seattle office; properties monitored by our Spokane Portfolio Analyst should send their packets to our Spokane Office.

If there are items that need immediate attention or remedy, the inspector will complete an "**Items Needing Immediate Attention or Remedy**" form and leave a signed copy of this form at the property. After the inspection is completed, Asset Management & Compliance division staff will provide a written summary of any findings to the Owner and property manager. The Owner is responsible for maintaining the property and correcting deficiencies, other deficiencies could exist that were not detected by the inspector.

Additional information, forms and helpful links regarding Commission inspection procedures and requirements can be found on our website at ***www.wshfc.org/managers/prop_inspections.htm***.

Correction Period for Non-Compliance

The Commission notifies the Owner of any noncompliance, and provides a correction period of up to 90 days to supply any missing certifications and bring the property into compliance with the provisions of Section 42. Following the correction period, the Commission reports to the IRS the noncompliance and whether or not the noncompliance or failure to certify has been corrected. The IRS does not provide any notice to the Commission of any action the IRS determines in connection with an event of noncompliance. However, current program policies require that the Owner provide the Commission with true and complete copies of any and all notices, correspondence or other documents received from the IRS relating to the property within 15 days of receipt of same. Compliance with the requirements of Section 42 is the responsibility of the Owner of the building with an allocation of credit. **The Commission's obligation to monitor for compliance with the requirements of Section 42 does not make the Commission liable for an Owner's noncompliance.**

Tax Credit/Bond-Financed Properties

Combination Tax-Exempt Bond-Financed/Tax Credit Properties. For bond-financed properties in which the Commission is the bond issuer, the Commission has established a single compliance procedure. The Commission obtains property information and certifications on the forms it provides to the Owner, and internally determines both bond and Section 42 compliance. For tax-exempt bond-financed properties in which the Commission is not the issuer, the Commission follows the tax credit compliance procedures set out in this Manual. Bond compliance for those properties is administered by the particular bond issuer.

Washington State Requirements

Introduction

Section 42 grants authority to each state to adopt additional requirements to address local housing needs and priorities. In Washington, some requirements are imposed on all properties. Other requirements tie to commitments made by the Owner in the application for an allocation of credit. Following are various commitments that may apply to a property, depending on whether or not the commitment was made as part of the tax credit application. The Regulatory Agreement identifies which of the following apply to a given property.

Summary of State Requirements

- Owner may elect Additional Low-Income set-asides below the federal minimum of 50% or 60% AMGI.
  1. Commission's Additional Low Income Set-Asides are 30%, 35%, 40%, 45% and 50% AMGI.
  2. The percentage of units set aside is based on the lesser of the Unit Fraction or Floor Space Fraction of the units in the set-aside.
- Owners may elect Special-Needs Housing Commitments, such as for the Elderly, Large Households, Persons with Disabilities, Housing for the Homeless or Farmworker Households.
- Special-Needs Housing Commitments must be met upon initial lease-up of units. After the Commitment level is met on a project-wide level, subsequent vacancies that cause a Project to fall below its commitment level invoke the "30-Day Rule," described later in this Chapter (except Elderly and Homeless units which must always be reserved for that population).
- All affordable unit leases must attach the most current form of Commission lease rider (posted on Commission website). The lease rider describes the various set-asides and commitments in the property and rights and remedies available to Residents (see our website at ***www.wshfc.org/managers/forms-RC.htm***.
- Annual public notices must be sent regarding the availability of affordable units in the property to the local public housing authority and to two local community agencies.
- Up-front charges imposed on new Residents must be limited to no more than one month's gross rent (described in detail later in this Chapter).

- Transfers of the property (whether actual property is sold or a change in Ownership interest occurs) can only be made after notice to and prior approval from the Commission.
- Properties must use Commission-provided forms for reporting to allow for efficient and consistent reviews of properties.
- The Commission requires a third party-verified recertification of all qualified households on the first lease anniversary for all 100% income-restricted properties. Self-certification forms are allowed in subsequent years.

Additional Low-Income Housing Use Period

An Owner may commit to an **Additional Low-Income Housing Use Period**, during which time the Owner agrees to maintain the property as affordable and waives the ability to terminate the Regulatory Agreement. All of the commitments made in the Regulatory Agreement extend throughout the Additional Low-Income Housing Use Period. In more recent properties, it is common for the Additional Low-Income Housing Use Period to extend to 40 years following property completion. The term of the Additional Low-Income Housing Use Period is identified in the Regulatory Agreement.

Additional Low-Income Housing Commitments

An Owner may make a commitment to target Households at lower income levels than the minimum federal requirements. The targeting, called **Additional Low-Income Housing Commitments**, (formerly called "set-asides") may apply to all or part of the affordable units. The portion of the property subject to the Commitment and the percent of AMGI targeted are both identified in the Regulatory Agreement. The number of units set aside is determined using the lesser of the Unit Fraction or the Floor Space Fraction. Units in the Commitment must be income- and rent-restricted, using the targeted income level to determine rents.

Example: *Sunrise Apartments has 24 units of the same size, 12 of which are subject to an Additional Low-Income Housing Commitment targeting Households at 30% AMGI. The Owner has selected the 40/60 election and an applicable fraction of 100% committing all units to 60% AMGI or below. The 12 units in the additional state set-aside must be leased to income qualified Households at or below 30% AMGI, with the balance of the units leased to income qualified Households at or below 60% AMGI. Additionally, to remain qualified, the twelve units leased to qualified Households at or below 30% AMGI, must maintain rents at or below the 30% AMGI maximum rent levels, including any applicable utility allowance. Likewise, the 12 units rented to qualified Households at or below 60% AMGI, must maintain rents at or below the 60% AMGI, including utility allowance.*

Failure to maintain the Additional Low-Income Housing Set-Aside is a violation of the Regulatory Agreement and may result in Commission-imposed sanctions.

Special-Needs Housing Commitments

Special-Needs Housing Commitments are for groups requiring special targeting under the Tax Credit Program due to a lack of affordable housing. Owners may set aside units for Large Households, the Elderly, Persons with Disabilities, Farmworkers and permanent or transitional Housing for the Homeless. The Special-Needs Housing Commitment, if any, and the percentage of units to be targeted is identified in the Regulatory Agreement.

For all Commitments, an Owner must maintain documentation to demonstrate affirmative marketing, referrals, and other best efforts used to fill the units with Residents from the target group. Upon initial lease-up, properties must reserve a sufficient number of units to meet the level of Commitment. Once the Commitment level is met, the "30-Day Rule" (except for Elderly and Homeless units) for active marketing applies each time the level of Commitment falls below required minimum levels promised by the Owner in his/her Regulatory Agreement.

Note: 30-Day Rule does not apply to Elderly or Housing for the Homeless units.

All Special-Needs Commitments are administered under the assumption that once the Special-Needs household is qualified, it is always qualified (assuming at least one person from the originally qualified household still resides in the unit). None of the Commitments listed here need to be re-verified at a recertification, **only at the time of initial qualification.**

"Once Qualified, Always Qualified"

Newly Placed-in-Service Acquisition/ Rehab Properties

Newly Placed-in-Service Acquisition / Rehab properties may meet Additional Low Income and Special Needs Housing Commitments through attrition. Upon unit turnover, Owners must rent vacant units to Households that meet Commitments made by the Owner in the Extended Use Agreement.

Large Households

A **Large Household** Unit means an Affordable Housing Unit that contains three or more bedrooms that is occupied by four or more Residents. The Residents of a large Household unit do not necessarily need to be related. Market-rate units do not count toward this Commitment.

Persons with Disabilities

Persons with Disabilities means a physical or mental impairment that substantially limits one or more of the major life activities of an individual, such as taking care of oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, or learning. To meet the Commitment for persons with disabilities, at least one person in the unit must be Disabled.

Market-rate units can satisfy the Commitment for Persons with Disabilities but cannot be counted toward the property's Low Income Housing Units. Owners must take care not to violate federal rules prohibiting discrimination against persons because of a disability. Owners must notify all applicants that certain units are set aside for persons with disabilities and ask **every** applicant whether s/he claims Persons with Disabilities status for the purpose of meeting the Persons with Disabilities Commitment. Each applicant must complete the ***Disability Certification*** form.

If the applicant claims Persons with Disabilities status, s/he must provide written verification from a relative, social worker, or caregiver that states that the applicant falls within the definition of Disabled using our ***Disability Verification*** form. The person completing this verification form should have personal knowledge of the applicant's disability. Therefore, the form cannot be completed by property staff. If the applicant receives Social Security or Supplemental Security Income benefits as a result of a disability, s/he may submit a benefit letter as verification of his/her disabled status.

The written verification should be kept in the Resident's lease file.

Property staff ***should never inquire into the nature or severity of an applicant's/Resident's disability*.**

Units set-aside for persons with disabilities may be either affordable units or market-rate units.

Housing for the Homeless

There are two categories of Housing for the Homeless. The **first category** is defined under Section 42, as **Transitional Housing for the Homeless** and means a Housing Unit that contains sleeping, kitchen, and bathroom facilities and is located in a building:

1. That is used **exclusively** to ease the transition of homeless individuals to independent living within 24 months, and
2. Where a government entity or Qualified Nonprofit Organization (QNO) provides those individuals with temporary housing and supportive services to assist them in finding and keeping permanent housing.

Generally, SROs (single-room occupancy units) do not qualify for Transitional Housing for the Homeless units, since they usually do not contain kitchen and bathroom facilities. Also note that if ***any unit*** in a building is included in the Transitional Housing set-aside, **all** units in the building must be reserved exclusively for Transitional Housing.

To meet the Transitional Housing set-aside, an Owner must either be a Qualified Nonprofit Organization providing supportive services to the Residents or must have an agreement in place with a Qualified Nonprofit Organization or government entity to provide supportive services, and must be able to demonstrate that those services are being provided.

Transitional units are still subject to the rule against transient use and Residents must sign leases, but the leases do not need to be six months or longer. However, it is highly recommended that Residents sign long-term leases as one means of demonstrating that these units are not being used on a transient basis. The rules regarding Transitional Housing units are contained within Section 42. Failure to meet these rules constitutes material noncompliance reportable to the IRS.

The second category is Permanent Housing for the Homeless. Owners who select this category must set aside 10%, 20% or 75% of the total units in the Project for homeless Households. Unlike the first category, there is no requirement that the units be segregated from other units or that an entire building be reserved exclusively for homeless Households. Additionally, Residents in these units are not required to move or transition to other housing after 24 months. Residents in these units must execute long-term initial leases of at least six-months in duration.

As part of this Commitment, Owners must provide supportive services designed to promote self-sufficiency. Services may be provided by the Owner (if the Owner provides such services as part of its housing mission) or by a QNO or government entity (known as the Service Provider).

Both the Transitional Housing for the Homeless and Permanent Housing for the Homeless Commitments require that the Service Provider provide the Commission with proof of the qualified Household's homeless status by use of the Commission's *Homelessness Certification* form or similar form used by the service-providing agency. **The Commission will not accept self-certifications of homelessness completed only by the Household as adequate verification of the family's homeless status.**

The *Homeless Certification* form must be completed only at initial certification of the homeless Household**; it is not necessary to redo these forms annually or upon recertification.**

Annually, the Service Provider completes the *Homeless/Transitional Report* (or similar agency report) that provides a list of Households assisted during the calendar year.

If the Owner contracts with a separate Service Provider who is no longer able to provide services, the Owner **must obtain Commission approval to change Providers or to provide the services directly**. An Owner's written request to change Providers (or move to self-provision of services) must be sent to the Director of the Asset Management & Compliance Division and include the following:

• Development and operational capacity and experience with this type of service intensive supportive housing;

• A comprehensive service plan;

• A comprehensive funding strategy;

• A comprehensive operating subsidy strategy; and

• A description of the target population, including a marketing plan and screening criteria.

(Items above are excerpted from the Commission's *Housing Tax Credit Policies* found on the WSHFC website)

Housing for the Elderly

A property which includes a Commitment for the Elderly must conform to the federal Fair Housing Act rules pertaining to Elderly properties. The Act prohibits discrimination in residential rental activity and prohibits adults-only housing unless the housing falls within stated exceptions for housing of older persons. The Fair Housing Act lists the following permissible exceptions of housing for the Elderly:

1) Housing intended for and solely occupied by Residents who are 62 or older;
2) Housing intended and operated for persons 55 or older, where, at all times, at least 80% of the total housing Units are occupied by at least one Resident who is 55 or older; or
3) Housing which is financed, constructed, and operated under the RD Section 515 program for the elderly or a HUD Elderly program.

Although the Fair Housing Act stipulates that 80% of the total housing Units are occupied by at least one 55+ Resident, the language of the Act states that *all* units must be advertised and leased with the intent of leasing to 55+ Households. Therefore, the 20% stated in the Fair Housing Act should be used for attrition. For example, if a 60-year old and a 50-year old are residing in a unit and the 60-year old moves out the 50-year old may still reside in the Unit without jeopardizing the Elderly status of the property.

The Commission does not administer or enforce the Fair Housing Act. However, Owners of properties with Units for the Elderly must demonstrate they are operating in conformance with the Fair Housing Act as listed above. Properties must also verify the age of Residents using driver's licenses, identification cards, benefit statements from Social Security, birth certificates or other forms that prove a person's age. This verification must be part of the Resident's annual income certification.

Farmworker Housing

Farmworker housing consists of units that are set aside specifically for those employed in Farm Work as defined in this Manual's ***Glossary***. "Farmworker" means a household whose income is derived from Farm Work in an amount not less than $3,000 per year and which, at the time of initial occupancy at the property, has an income at or below 50% of the area median gross income.

All housing units subject to the Farmworker Housing Commitment must be rented to qualifying Farmworker households at ***initial*** property occupancy. For the full definition of Farm Work, including an explanation of exceptions and clarifications, please review the Farmworker forms and their instructions on our website at ***www.wshfc.org/managers/forms-RC.htm*** , under the "Commission Special Needs Commitments" section. In the same section, we also provide a link, "Farm Work Reference," that cites RCW and WAC definitions and requirements pertaining to labor and agricultural work.

Double Counting

Generally, if a property has more than one Commitment, the same Housing Units ***cannot*** be used for more than one of the Commitments, regardless of whether a Household is eligible for more than one.

Example: *Ginkgo Apartments consists of 20 units. The property has two Special-Needs Housing Commitments, one for Large Households and one for persons with Disabilities. At least 20% of the units, four units, must be reserved for persons with Disabilities, and at least four **different** units must be reserved for Large Household units. If a Resident has a disability and is moving into a three-bedroom unit that will have four persons in the Household, that unit may be counted either within the Large Household or the persons with Disabilities Commitment, but not both.*

An exception to the general rule is that any property **with at least a 75% Special Needs Housing Commitment**, such as Elderly or Farmworker, may use the same housing units to satisfy more than one Commitment, so long as the actual resident is eligible for each set-aside.

Example: *Gecko Apartments consists of 40 units. The property has two Special-Needs Housing Commitments, one for Elderly persons and one for persons with Disabilities. 100% of the units are set aside for the Elderly, and at least 8 units (20%) are set aside for persons with Disabilities. Janet Smith, a Resident of Unit 202, is both Elderly and Disabled. The Owner may count Unit 202 toward both Special-Needs Housing Commitments.*

Marketing and Good Faith Efforts (the "30-Day Rule")

Generally, Special-Needs Housing Commitment Units must be held vacant until a qualified Household rents the unit. Exceptions are made for units in the **Large Household, Farmworker and Persons with Disabilities** categories in certain circumstances. First, the Owner must demonstrate that they met the required Special-Needs Housing Commitment level upon initial lease-up. After the Owner meets the Commitment level, the "30-Day Rule" for active marketing applies each time the level falls below the required percentage. After good faith efforts, an Owner may rent a unit to a qualified Household that does not fall within the Special-Needs Housing Commitments.

"Good faith efforts" are defined as actively marketing any vacant housing units necessary to meet the Commitments to the proper group for at least 30 days. During this time, the unit must remain vacant until the Owner can rent it to a Household who meets the eligibility criteria for the Commitment selected. If an Owner is unable to secure a Household who meets the eligibility criteria after 30 days of active marketing, s/he may rent a unit to an otherwise qualified Household.

The minimum 30-day recruitment period begins once a previously rented vacant unit is ready for re-occupancy. Recruitment efforts, such as the use of the property's Referral and Marketing Agreements, must be documented.

After completing the minimum 30-day recruitment period, if a unit is rented to an individual or Household who does ***not*** meet the eligibility criteria, the next time a unit of comparable size and type becomes vacant, the Owner must again follow the same recruitment procedures until the Special-Needs Commitment is achieved and maintained. The next available unit must remain vacant during the 30-day recruitment period, after which it may be rented to an otherwise qualified Household. The 30-day recruitment period, during which the unit must remain vacant, continues each time a unit becomes vacant in the property until the Commitment is met.

The "good faith efforts" described above ***do not apply*** to the Special-Needs Housing Commitments for **Housing for the Homeless** (whether transitional or permanent) or for **Elderly Persons.** Vacant units in a property that would meet the Housing for the Homeless Commitment must remain vacant until a

qualified Household meeting the requirements rents the unit. The Commitment for Elderly Persons applies to the entire property, consistent with the Fair Housing Act.

For Special-Needs Housing Commitments, Owners must notify the relevant public housing authority (PHA) and at least two community agencies in the area of the property of the availability of low-income and Special-Needs Commitments set-aside units. If no PHA exists, Owners must notify an agency authorized to act in lieu of a PHA. For each vacancy, Owners must notify each local nonprofit organization with which they have Referral and Marketing Agreements.

Additionally, Owners must notify the general public, via general circulation advertisements in the area of the property, of the availability of low-income and units set aside for Special Needs Housing Commitments. Advertisements may be made in local newspapers/newsletters, in television or radio, and via the Internet.

Restricting Up-Front Charges

Properties must limit up-front rental charges to Residents. Acceptable items to charge a Resident are as follows:

1) A reasonable damage or security deposit no greater than the maximum applicable monthly Gross Rent;

   - If the Household is unable to pay this amount, the property shall charge no more than 50% of the applicable Tax Credit maximum rent limit up front and then provide a payment plan for the remaining amount over at least a five-month period.

Deposits are refundable, subject to condition of apartment.

2) A reasonable pet deposit;

3) A reasonable credit check fee. Note that application fees cannot exceed the out-of-pocket expense to the Owner.

Under the Landlord-Tenant Act, the term "deposit" can only be applied to money which can be refunded to the tenant. If Owners are concerned about being reimbursed for cleaning expenses, for example, they should itemize expenses at the time of move-out and then refund the deposit portion not used specifically for cleaning or repairs.

Additional Fees

Per the Regulatory Agreement, Owners may not charge any other up-front charges or fees, such as the last month's rent (except as noted below), or application fees. The Owner may collect last month's rent in advance only if the payment made is charged over a six-month or longer term on a prorated

basis beginning on the second month (e.g. one-sixth of the last month's due each month from the second through the seventh month).

A "Transfer Fee" that is charged to a Household when they move from one unit to another is not allowable. Transfers should be treated as any move-out and new move-in; therefore, the regular security deposit, and any additional cleaning fees would apply.

Mandatory Assisted-Living Services fees can cause a project to lose all tax credits for the year in which such fees are charged. However, charging for meals is acceptable as long as meals are ***optional*** and not a requirement of residency. All optional services must be clearly described in writing as optional; these descriptions must be included with all leases and must be readily accessible to Residents upon request.

If the Owner wishes to charge a month-to-month rental fee, it must be included in the gross rent calculation.

Washer/dryer hook-up fees or garage/carport fees are not permitted unless they are optional, i.e., there must be reasonable alternatives for the residents.

The Owner cannot charge any "lease-breaking" fee to the Resident if s/he moves out in the middle of a lease term. Landlord/Tenant law already makes tenants responsible for the remainder of any rent owed on an outstanding lease term, so it is inappropriate to charge additional fees in this situation.

After the initial six month period, if an Owner wishes to charge a break lease fee **in lieu of collecting the remaining rent on an outstanding lease term**, the Commission has determined this is an acceptable alternative. In this case, the Owner's lease must explicitly state that the Resident is not liable for the remaining rent on the outstanding period of their lease as long as they have paid the break lease fee.

Some properties that received credit allocations prior to 1998 and did not elect to limit up-front fees may be exempt from this requirement. However, the Commission recommends that all properties abide by these guidelines.

For further discussion of fees related to tenancies, please refer to the Revised Code of Washington's Residential Landlord-Tenant Act at RCW 59.18.

For additional information related to rents, leases and tenancy issues, please review ***Chapter 4, Rents & Tenancy Issues*** in this Manual.

Rents & Tenancy Issues

Remember that a Project's applicable income and rent limits may be the most recent limits or may be an older set of limits, depending on geographic location (i.e., county) as well as Placed-in-Service date. Be sure to consult the Commission's Income and Rent Limits web page to determine which limits apply to a particular Project.

Use the Commission's limit sets rather than making your own calculations to avoid any rounding errors. Remember that from these rents, you ***must*** subtract the appropriate utility allowance for any *Resident-paid* utilities based on appropriate utility allowance schedules. For example:

If the applicable utility allowance for a two-bedroom unit in the property is $54, the maximum rent that can be charged Residents at ***60%*** *AGMI is $655 ($709- $54 = $655). The maximum rent that can be charged Residents at* ***40%*** *AMGI is $419 ($473 - $54 = $419). This assumes a 40% rent limit of $473.00.*

If adding rent and a utility allowance results in cents, Owners must round the total up, not down, regardless of the amount of cents.

It is important to note that if a Project has public funding other than tax credits or bonds, another funder may require the use of more restrictive income and rent limits. Owners are responsible for knowing which funder requires the most restrictive income and rent limits; the most restrictive limit sets will be applied to each Household record in WBARS. If an Owner has a concern about not being able to use a higher set of income/rent limits (because of cash flow issues, for example), the Owner should contact the most restrictive funder to discuss the possibility of using the more financially optimal income/rent limit set.

Restricted Rent Requirements

- Use correct maximum rent table provided by Commission.
- Deduct correct utility allowance from maximum rent:

Note: See ***Chapter 2, Federal Requirements*** for rules regarding use of correct utility allowance.

- Changes in maximum rents apply to future Residents and existing qualified households ***after*** the effective date of the change.
- Changes in utility allowances must be used to adjust maximum rents for all existing qualified households and all future qualified households within **90 days** of effective date for new utility rates.

What is the consequence of overcharging rent? The unit is no longer qualified and must be reported by the Commission to the IRS. A refund of the rent overpayment must be made to each affected Household and verified to the Commission.

What Constitutes Rent

There are special rules for what is or is not counted as rent. Generally, rent includes any fees *required* for occupancy at the property. For example, if meals are provided in a central cafeteria and all Residents must pay for this meal service, that cost is included as part of rent. Similarly, if a fee is charged to each Resident for a parking space or garage, that charge is included as part of rent. However, *optional* costs are not included in rent. For example, if central meals are available but are not mandatory, and kitchen facilities exist in each unit so that Residents have a practical alternative for providing meals for themselves, the charge for optional meals is not part of rent. The same is true for optional charges for covered parking or garages. If a Resident pays for optional services, the property's lease should make clear what part of the monthly payment the Resident pays is rent and what part is for optional services.

In general, for a fee to be *optional*, Residents must have a viable alternate choice at no cost. For instance, to charge for parking in garages or carports, Residents must have a free option of parking in a paved uncovered area that is part of the property. The Owner must also be able to prove that the cost of developing these optional garages and facilities was excluded from the tax credit Eligible Basis, otherwise no fee can be charged at all, unless the fee, plus rent, plus utility allowance, is under the restricted rent level.

Mandatory requirements for features such as cable television or telephone service to allow guests into a secure apartment are considered rent and therefore must be included under the Gross Rent limit.

Gross Rent does not include assistance payments made by other government agencies or nonprofit organizations, such as Section 8 payments, RD rental assistance or any comparable rental assistance program. For example, if a Resident has Section 8 rental assistance, only the portion of the rent *the Resident actually pays* is counted toward the applicable rent ceiling amount.

In addition, if a fee for a supportive service and rental assistance is paid to the Owner of the unit (on the basis of the low-income status of the Household) by any governmental assistance program or by a 501(c)(3) organization *and* if the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services, the payment received for supportive services is not included in rent. The term "supportive service" means any service provided under a planned program of services designed to enable Residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically disabled. In the case of a single-room occupancy (SRO) unit or Transitional Housing for the Homeless, such term includes any service provided to assist Residents in locating and retaining permanent housing.

Changes in Rent Limits

If the rent limits for the county in which a property is located changes in the middle of a lease term, and the maximum rent that can be charged goes down, the Owner must reduce the rents of all affordable units to conform to the new schedule, regardless of the rent stated in the lease.

If rent limits **rise** during the term of a Resident's lease, the owner must wait until the end of the lease term to raise the rent. If the lease term is month to month, the landlord can raise the rent with appropriate advance notice. Current Washington State landlord/tenant law requires that landlords provide at least 60 days' written notice of rent increases to residents.

The maximum Gross Rent that can be charged may fluctuate up and down as the county median income fluctuates from year to year. For the latest Area Media Gross Income limits by county, see the Commission's website. However, the Gross Rent charged can never drop below an initial gross rent floor as applied to a unit. That initial Gross Rent floor is fixed by an election of the Owner no later than the date when the building was Placed in Service.

Tax Credit Properties with Section 8 or RD Subsidies

In properties with Section 8 and/or Rural Development subsidies, a Resident's rent portion may exceed the Tax Credit maximum rent limit, as long as subsidy is being paid on the Resident's unit. Note that other public funders may not allow the Resident's rent to exceed the applicable tax credit or Section 8 rent limit.

Restricting Up-Front Charges

For information on this topic, please see ***Chapter 3, Washington State Requirements*** in this Manual.

Model Units

Properties may utilize a vacant unit as a model unit for purposes of showing to prospective Residents. However, the model unit must always be available to rent and it cannot be permanently designated as a model unit. A model unit must be rotated on a regular basis if the Owner claims credit for that unit.

Household Composition Issues

In general, no changes to a Qualified Household should be made within the first six months of the Household's lease. This applies to adults only – minors and/or Live-in Aides may be added to the Household at any time.

Changes in Household Composition

After the first six months, the Resident may request adult additions to the lease. Whether or not such household additions are approved by the Owner depends on the provisions of the Owner's lease and applicable landlord/tenant regulations.

New additions to a Qualified Household must be income-certified, but the Owner is not obligated to require that the whole household be re-certified. As long as one member of the original Qualified Household continues to reside in a unit, the unit *remains qualified*, regardless of how many other members are added or removed.

Victims of Domestic Violence

A change to the Household may be requested at any time by a victim of domestic violence. Under Landlord-Tenant law as well as the Federal Violence Against Women Act (VAWA), a domestic violence victim can seek an emergency transfer and/or to get out of a lease early, and has the right to be free from discrimination by a landlord when entering into or renewing a lease.

For more information on this issue, Owners are encouraged to consult with their attorneys and review the Residential Landlord-Tenant Act found at RCW 59.18, as well as understand and carry out their responsibilities under VAWA.

Live-in Aides

Live-in Aides are persons who reside with one or more elderly persons or persons with disabilities and who are:

- Determined to be essential to the care and well-being of the Resident(s)
- Not obligated for the support of the Resident(s) and
- Would not be living in the unit except to provide the necessary supportive services.

Before allowing a Live-in Aide to live in a unit, Owners must first obtain written verification that a household needs a Live-in Aide. However, an Owner cannot require access to confidential medical records in order to verify the need for an Aide. A Live-in Aide (LIA):

- qualifies for occupancy only as long as the Resident needing supportive services remains qualified and requires the Aide's services.
- never qualifies as a remaining family member who can continue to live in the Unit after the Resident moves out.
- does not count as a Household member when determining the income limit, their income is excluded from the Household income certification, and they are not included on the lease.
- is not allowed to be classified as a LIA AND have their family members living in the qualified unit. HUD guidance associated with the **HUD Occupancy Handbook 4350.3** makes clear that the children or other family members of a LIA are not allowed to reside in the unit because they do not meet the definition or requirements to be considered live-in care providers.
    - If a LIA has accompanying family members AND the Resident still wishes to have the LIA in their unit, then the LIA and their family members become full members of the household. They are counted for purposes of calculating income and they retain rights to the unit. If the Resident does not agree to this, then they must find a LIA without family members to reside in their unit.
- Relatives may be considered Live-in Aides only if they would not otherwise be living in the Unit except to provide necessary supportive services to a household member. A spouse can never be considered a Live-in Aide.
- Owners are encouraged to use appropriate lease language to deny occupancy to Live-in Aides after the household member needing assistance is no longer living in the Unit, and to enable the eviction of Live-in Aides for violations of the terms of the lease (including house rules, if any).

Anticipated Children

For the purpose of determining Household size, the Owner should count all children anticipated in the next 12 months to be:

- Born to a pregnant woman
- Adopted

- Coming into the home through foster care
- Whose custody is being obtained by an adult household member
- Present in the Household more than 50% of the year through a joint-custody agreement

The Owner may also count children who are away at school but who reside with the Household during school recesses.

Income & Asset Certification

Summary

Household income is the gross amount (before any taxes or deductions) of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation of all the adults of the household, as well as the gross amount of all unearned income from all members of the Household. Household income also includes income from assets, from all members of the Household. The income used for tax credit purposes is the *anticipated* income for the 12 months following the signing of the lease. All current sources of income must be verified at initial occupancy and annually thereafter depending on the recertification rules that apply to the property.

HUD Occupancy Handbook 4350.3, Chapter 5

Chapter 5, Sections 1 and 3, of the HUD Occupancy Handbook 4350.3 is used as a guide to determine income for the Tax Credit program. These sections are an excellent resource for managers and are included as *Appendix N* to this Manual.

Income – General Information

Household Income is —

- Based on actual household size
  - Household members do not have to be related
  - Based upon current income but calculated forward for the next 12 months.
  - When determining anticipated income, count any wages to be received by any minor who will be turning 18 within the next 12 months. Begin counting the wages from the date that the person turns 18, through the remainder of the 12-month period.
- Third-party certified at initial occupancy and at the first anniversary of the lease. Annual self-certifications of income are permitted after the first recertification (for 100% Low Income properties **only**).
- Third-party certified at initial occupancy and every year thereafter (tax credit properties with market rate units).
- Based on income limits provided by the Commission in effect at the time of initial occupancy or recertification.

- When calculating gross income, add all exact income and asset amounts together, then round the **final**, gross amount. Round up to be conservative, or use the standard rule that 49 cents and below rounds down, 50 cents and above rounds up to the next dollar amount.

Renting to a nonqualified household means the Unit is no longer considered affordable, credit cannot be claimed for the Unit, and recapture of credit is triggered.

Verification

Income and assets must be verified using the following methods, in order of acceptability:

- Third party verification
- Reviews of documents submitted by the Resident
- Resident certifications made under penalties of perjury *(only if first two types of verification cannot be obtained).*
- An Owner may accept a Resident's *notarized statement or signed affidavit* regarding the veracity of information submitted only if the information cannot be verified by another acceptable verification method.

Verification documents may not be older than 120 days prior to the certification effective date. If verification has aged past 120 days, new documents must be obtained.

When third-party verification is not available, Owners must document in the file efforts made to obtain the required verification and the reason the verification was not obtained. The Owner must include the following documents in the applicant's or Resident's file:

- A written note to the file explaining why third-party verification is not possible;

  or

- A copy of the date-stamped original request that was sent to the third party;
- Written notes or documentation indicating follow-up efforts to reach the third party to obtain verification; and
- A written note to the file indicating that the request has been outstanding without a response from the third party.

Determining Annual Wage Income

To determine annual income for fulltime employment, multiply:

- **hourly** *wages by* **2080**
- **weekly** *wages by* **52**
- **bi-weekly** *wages by* **26**
- **semi-monthly** *wages by* **24**
- **monthly** *wages by* **12**

To determine annual incomes for other than fulltime employment, multiply:

- **hourly wages** by the number of hours the individual is expected to work per week x 52. If a range of hours is given, Owners or their agents must use the highest number of hours. If this puts them over, staff may need to contact the employer and clarify. In these instances, the Commission recommends getting written clarification from the employer.
- **weekly pay** by the number of weeks the individual expects to work; if the pay is irregular, calculate a weekly average pay.
- other periodic amounts (monthly, bi-weekly, etc.) by the number of periods the individual expects to work.

Use an annual wage without additional calculations. For example, if a teacher is paid $15,000 a year, use $15,000, whether the payment is made in 12 monthly installments, nine installments or some other payment schedule.

Overtime

When determining annual gross income, if the employer has indicated the Resident works overtime and gives a range of hours, Owners or their agents must always use the highest number of hours. For instance, if the employer has stated the Resident works 5-10 hours overtime, staff must use 10 hours multiplied by the overtime rate. If using the higher number of hours puts the Resident over the income limit, staff should clarify actual overtime hours worked by using the *Income Verification/Clarification by Telephone* form or request a recent pay stub that has year-to-date figures.

Year-to-Date Information

If Year-to-Date (YTD) information is not provided on the *Employment Verification*, obtain this information from a paystub. YTD information from the previous calendar year will also identify regular bonuses and overtime that must be included in the income calculations.

Year-to-Date Information (continued)

To calculate YTD wages, count the number of weeks from the date the YTD period starts to the end of the YTD period noted on the most current paystub. Then take the total YTD wages and divide them by the number of weeks in the entire period. Take the resulting amount and multiply it by 52 in order to project the applicant/Resident's income for a full year.

Example: *You are qualifying Tina for a unit in May and she is employed. You are unable to third-party verify her wages through her employer so you use her most current six consecutive paystubs to determine her income for the next 12 months. The most recent paystub lists her YTD wages, as of April 30, as $5500.00. The paystub does note that she started her job January 25. Count the number of weeks between January 25 and April 30; if partial weeks are included, round the number of weeks down,* ***not*** *up. In this example, we'll say the total number of weeks equals 13. Divide $5500 by 13, which equals $423.08 per week. Then multiply $423.08 by 52 in order to project Tina's wages for a 12-month period. In this case, Tina's annual gross wages would be $22,000.16.*

You would complete the same calculation process for any tips/bonuses/ commissions noted on Tina's current paystub.

Remember that you cannot calculate gross annual wages from YTD figures unless you have verification of when the YTD period began.

Include Raises When Calculating Wages

Any pay raise that an applicant will receive within 12 months of signing the lease or their recertification must be included when determining income. Note that the pay raise must be confirmed in writing.

Example of anticipated increase in hourly rate:

February 1	Certification Effective Date
$7.50 hour	Current Hourly Rate
$8.00 hour	New rate to be effective March 15

(40 hours per week x 52 weeks = 2080 hours per year)

Annual income is calculated as follows:

February 1 through March 15 = 6 weeks
6 weeks x 40 hours = 240 hours x $7.50 = $ 1,800

March 16 through January 31 = 46 weeks
46 weeks x 40 = 1840 hours x $8.00 = $14.720

Total Annual Income = $16,520

Tips

Tip income must be included when determining annual gross income. Individuals working in the food industry or in personal services — e.g., hair stylists, baristas or manicurists – typically receive tips. If tip income is not separately listed on the *Employment Verification* form Owners or their agents must add an additional 20% of the verified gross annual income.

For individuals who work in the gaming industry, add in 40% of the verified gross annual income (if their tips are not listed on the *Employment Verification* form).

Owners or their agents are required to use the above percentage for tips unless the employer verifies a different tip amount.

Seasonal or Sporadic Wage Income

Residents employed in a seasonal line of work, such as landscaping, construction, or other jobs dependent on weather conditions, may collect unemployment or have another source of income during the "off" months. In such cases, Owners should complete the Commission's *Seasonal Worker Statement* and both incomes should be used for the appropriate number of months. It is imperative that all income sources anticipated for the twelve month period following move-in be included in annual income.

Example: *An individual makes $1,200 a month and typically works nine months per year and collects unemployment in the amount of $600 a month for the remaining three months. The income is calculated as follows:*

$1,200 x 9 months. = $10,800

600 x 3 months. = 1,800

$12,600 = Total Annualized Income

Owners may consider income from the preceding 12 months when calculating income for seasonal workers and workers with sporadic income.

There are several ways of verifying employment income:

Outside Agency Verifying Income

The Commission will accept employment verification forms from agencies who provide this employment information as a matter of course.

An example of such an agency is *The Work Number for Everyone*, which contracts with employers to provide employee information to housing providers and other benefit-providing entities. For more information on how to use *The Work Number for Everyone's* documents as wage verification, please review the ***Tax Credit Compliance FAQs*** on our website.

Written Verification

The **first** acceptable method of verifying wage income is to obtain written verification from the employer. Therefore, the first step in verifying wage income is to send the Commission's *Employment Verification* form to the employer. Please note that the Resident must sign this form, and it must be mailed or faxed to the employer. Upon completion, the form cannot be hand-carried or otherwise returned to the Owner directly by the Resident.

As a last resort, and only after three (3) documented attempts to obtain a verification over a two (2) week period fail, Owners may accept pay stubs to document employment income only if the Resident can provide the most recent six consecutive pay stubs to illustrate variations in hours worked and/or amounts received.

Verbal Verification

If written verification cannot be obtained, income may be verified verbally using the *Income Verification/Clarification by Telephone* form. The Owner or their agent must fill out the form completely and include back-up documentation (such as a pay stub). Please refer to the form instructions for more details.

Note that staff must document why written verification could not be obtained.

Picture Identification

When a Social Security number or other acceptable identification number is not available, Owners should send a copy of the applicant/Resident's picture identification to the employer, along with the *Employment Verification* form, to verify that the applicant/Resident is their employee.

Self-Employment Income Verification

When determining income from a business, staff must include salaries paid to adult family members, net income from the business, and other cash or assets withdrawn by any family member—except if the withdrawal is the reimbursement of cash or assets the family invested in the business. Owners or their agents can use the *Self-Employment Worksheet* to assist in calculating self-employment income.

When computing net income:

- **Do NOT deduct**: principal payments on loans, expenses for business expansion, or outlays for capital improvements;
- Do NOT deduct depletion or depreciation/sec. 179 expenses (lines 12 and 13 on Schedule C);

Self-Employment Income Verification (continued)

- Do **deduct**: business expenses; interest payments on loans (unless the expenses or loans are for business expansion or capital improvement); and depreciation computed on a straight-line basis.
- If the net income from a business is negative, it will be considered as zero income.
- As long as a Unit is the household's primary residence, they may use a portion of the Unit as their principle place of business, and claim associated expenses as tax deductions.

The following documents show income for the previous year. Owners or their agents must consult with Residents and use this data to estimate income for the next 12 months on the *Self-Employment Verification* form:

1. Signed copy of individual federal income tax return (1040) including all schedules and attachments for the following:
   - Schedule C for Small Business
   - Schedule E for Rental Property Income
   - Schedule F for Farm Income

Note: If a Resident is employed by a business owned by the Resident's family, a copy of a recent pay stub, verifying year-to-date earnings, is also required.

2. Copy of Corporate or Partnership tax return (if applicable).
3. Audited or unaudited financial statement(s) of the business.
4. If Resident has been in business for less than one year, they should provide a Profit and Loss statement or business proforma *and* a notarized affidavit stating that s/he agrees to provide the required tax returns and self-employment documentation at the time of recertification.

If a Resident is engaged in a business partnership, staff must obtain a copy of the Partnership tax return as well as a copy of the Resident's personal tax return.

Note: All tax returns and related documents must be signed and dated by the taxpayer.

Self-Employment Income Verification (continued)

If an individual's only income is from self-employment, the net amount on Schedule C should be the same as the gross amount on the first page of the 1040. However, if the household had additional income, such as part-time wages and $20,000 in savings (so there was interest and dividend income), the net amount from Schedule C should be used. Then staff must document the additional wages and savings funds via third-party verification.

On-Site Staff and Management Personnel

Property management staff, such as managers, assistant managers, maintenance, or security personnel must be rent- and income- qualified unless they meet the requirements for a Common Area Unit as described in ***Chapter 2, Federal Requirements.***

Any rental concession given, or the fact that the onsite employee is *not* receiving a rental concession must be noted on the *Employment Verification* form.

Non-Wage Income

The following sources of non-wage income must be included when determining annual income:

Social Security, Supplemental Security Income (SSI)

Include the gross amount (before deductions for Medicare, etc.) of periodic Social Security payments. This includes payments received by adults on behalf of minors or by minors for their own support. Note that Social Security Administration applies a Cost of Living Adjustment (COLA) increase to benefits once per year, typically by December 1st to be effective in the following calendar year.

Documentation Required:

The following items are required to verify income derived from the above:

- Copy of award or benefit statement. This statement is issued when benefit commences or when a change in the benefit occurs, such as a cost-of-living raise;

  or

- Copy of award or benefit verification form completed by the agency or company providing the benefit.

Social Security, Supplemental Security Income (SSI) (continued)

Owners must use the **gross** Social Security/SSI benefits to calculate annual income. Copies of checks or bank statements showing **net** amounts (after Medicare deductions are taken) are acceptable *temporary* verification, provided a benefit statement or verification, as mentioned above, is forwarded within a reasonable time frame (generally, thirty days).

Options available for obtaining a SSA/SSI Benefit Statement when the Resident/Applicant cannot provide their own statement: :

Option One—The Resident/Applicant may print out a verification at the time of their certification interview by using the My Social Security website. The Resident/Applicant must have or create an account at www.socialsecurity.gov/myaccount to have access to their benefit information.

Option Two—The Resident/Applicant may call the regional office of the Social Security Administration at 1-800-772-1213

- Resident supplies his/her social security number, and requests a copy of his or her benefit statement for either Social Security or Supplemental Security Income.
- The Social Security Administration has stated that benefit statements are mailed out within one day of receiving the request.

Note: For guidance on including anticipated SSA/SSI benefits please review the ***Tax Credit Compliance FAQs*** on our website

Alimony and Child Support

Any alimony or child support received by a Resident must be included when determining income.

Note: Child support **paid by** a resident is never deducted from their annual income.

Documentation Required:

Obtain ***one*** of the following items if alimony or child support is received:

- Copy of a separation or settlement agreement or copy of a divorce decree stating amount and type of support and payment schedule.
- Statement from the Office of Support Enforcement showing support amounts paid.

Alimony and Child Support (continued)

- A notarized statement from the person paying the support (when support agreement is informal and not established by a divorce decree or settlement agreement).
- A copy of the latest support check.
- Resident's statement of amount received; use *Child Support Affidavit* form.

In many cases, child support has been ordered but is not paid. Only the amount received should be counted. If nothing is being received, request the Resident check the appropriate box on the *Child Support Affidavit* form attesting to the fact that support payments are not being received, are not expected in the next 12 months, and that a reasonable effort has been made to collect the amounts due.

If there is court ordered support and reasonable efforts have not been made to collect the amounts due, such as opening a case with Support Enforcement, then the court ordered amount must be counted as income even though it is not being received.

Note: The *Child Support Affidavit* requires notarization.

Foster Child Income

Include in annual income all *unearned* income received by foster children. Include in annual income all unearned *and* wage income received by foster adults. Do **not** include in annual income any *state foster care payments* received by the household for their care of a foster child/adult

Public Assistance/ Welfare Income

The gross amount of welfare or public assistance received is considered income, including any housing assistance or vouchers for housing with the following exceptions *(which should **not** be included as income*):

- HUD housing assistance
- Plymouth Housing (Downtown Seattle only)
- Food stamps
- Shelter Plus Care

Public Assistance/ Welfare Income (continued)

Documentation Required:

To verify income from welfare, a written statement from the welfare agency is required. The statement should address the type and amount of assistance the family is currently receiving and note any changes in assistance expected during the next 12 months. Owners or their agents may use the *Public Assistance Verification* form as documentation.

Unemployment, Disability, Worker's Compensation, Severance Pay

Include payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay. Also include any payments that will begin during the next 12 months. Obtain a statement from the provider that verifies this amount.

Unemployment compensation must be included when figuring annual income and needs to be verified by any of the following:

- A completed *Unemployment Benefits Verification Request* form.
- Statement from Employment Security office showing payment dates and amounts.
- Statement from the Department of Labor & Industries, showing award amount and payment schedule.

Note: HUD income calculation rules (by which the Tax Credit program abides) require unemployment benefits be annualized for the next twelve months, regardless of documentation that benefits will end less than twelve months after the Resident certification. For more information, please see HUD Occupancy Handbook 4350.3, Chapter 5-Section 1 (under ***Appendix N*** on the Commission's website).

Military Pay

All of the following entitlements must be used to determine total income for military personnel (Active Duty and Reserves):

- Base Pay
- BAH (Basic Allowance for Housing – include in gross income **except** for military in certain counties, a list of which can be found on our website under the link to the Military Pay Verification form)

Military Pay (continued)

- BAS (Basic Allowance for Subsistence; i.e., food)
- Family Separation Allowance.
- CA (Clothing Allowance)
- FDP (Foreign Duty Pay)

Also include additional pay for special assignments such as:

- sea duty
- flight duty
- submarine duty

And pay for specialty fields such as:

- explosives
- jumping

The following sources of military income do ***not*** need to be included when determining annual income:

- One-time payments such as a re-enlistment bonus. (This should be treated as an asset.)
- "Hostile Fire" pay. "Hostile Fire" is defined as combat in a hostile fire zone. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm) is excluded.

Documentation Required:
A copy of the service member's recent Leave and Earnings Statement (known as an "L.E.S.") or a complete *Military Pay Verification* form. If an L.E.S statement is used, add the applicable annual clothing allowance.

Also, please note that there will be times when the L.E.S. will not show all entitlements or may show entitlements such as the BAH for a different locality. If this is the case, Owners or their agents must contact the Base Finance Officer to verify all income.

Military Pay (continued)

At some properties BAH may be excluded from income. Please review the ***Tax Credit Compliance FAQs*** on our website for further information.

Additional HUD Guidance:
Owners are encouraged to be as lenient as is responsibly possible to support households where persons are called to active duty. This may include allowing a temporary guardian to move into an assisted Unit to care for dependents – income of such a person would be excluded from annual income.

Pensions, Veteran's & other Periodic Benefits

Include payments from insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.

Pension Funds Paid to a Former Spouse

Federal government pension funds paid directly to Resident's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are not counted as annual income. The state court has, in the settlement of the parties' marital assets, determined the extent to which each party shares in the Ownership of the pension. That portion of the pension that is ordered by the court (and authorized by the Office of Personnel Management (OPM), to be paid to the Resident's former spouse is no longer an asset of the applicant/Resident and therefore is not counted as income.

However, any pension funds authorized by OPM, pursuant to a court order, to be paid to the former spouse of a Federal government employee is counted as income for a Resident receiving such funds.

VA Disability Income

Deferred income payments from the Veterans Administration, whether received monthly or in lump sums, are excluded from income. However, this does not apply to pension or regular, non-deferred disability payments.

VA Aid & Attendance Payments

VA Aid & Attendance is an enhanced or special monthly pension benefit paid in addition to the basic pension. There is no statutory or regulatory exclusion for the A&A benefit. Accordingly, this benefit must be included as income. However according to HUD's RHIIP Listserv Posting #284, any money received by the family that is specifically for, or in reimbursement of, the cost of medical expenses for any family member is excluded from annual income. Because of this, the owner must verify any amount provided for A&A which is used for medical expenses and exclude the verified amount. Any portion of the benefit not being used for medical expenses must be included as income.

VA Aid & Attendance Payments

Use the *Pension Verification* form to document these benefits, or obtain a copy of the Resident's benefits letter, quarterly statement, etc.

Annuities

An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals. Annuities may be counted as either income or as an asset.

When to count as income:

- The insurance company managing the annuity indicates the household member is expected to receive **regular payments** from the annuity;

When to count as an asset:

- Count the annuity as an asset IF the household member has the right to withdraw the balance of the annuity at any time (even if there is a penalty incurred to do this).
- Remember to obtain the cash value of the annuity by subtracting from the current value any fees/penalties involved in withdrawing the entire balance.

Use the *Annuity or Stock Verification* form to document the income received from annuities, or else obtain a copy of the Resident's benefits letter, quarterly statement, etc.

On-Going Monetary or In-kind Gifts

Annual income includes any recurring monetary contributions or gifts regularly received from persons not living in the unit. This includes rent, utility payments and other payments (insurance, car, cellphone) regularly paid on behalf of the Resident

Documentation Required:
Verification of ***continuing*** gifts may be verified using either one of the following methods:

- A notarized statement or affidavit, signed by the person providing the assistance, stating the purpose, dates, and value of the monetary gifts.
- A notarized statement or affidavit from the Resident stating the purpose, dates, and value of the gifts. Use the *Gift Affidavit* form as necessary.

Rental Income

For rental income from property owned by the Resident, request:

- IRS Form 1040 with Schedule E (Rental Income);

  or

- Lessee's written statement identifying monthly payments due the Resident or copy of the Lease Agreement, and Resident's affidavit as to net income realized after mortgage interest, taxes, insurance and other rental expenses.

Note: If the net rental income is zero, then the property should be valued as an asset – see Real Estate Owned under assets.

Student Income

Non-wage Income

The **non-wage** (unearned) income of **any** student in the Household **is counted in its entirety.**

Student Financial Assistance

Student financial assistance **is not** counted in determining income eligibility unless the household is receiving Section 8 Project Based or Voucher assistance. If the household **is** receiving Section 8 assistance, Financial Assistance may be excluded **if** the resident:

1) is living with their parents, **or**

2) is at least 23 years old and has dependent children.
If the student doesn't meet one of the above exceptions, then count any amount of financial assistance above and beyond the cost of tuition and fees.

"Financial assistance" includes educational entitlements, financial-aid packages, grants, scholarships and work-study programs. Student loans are never counted as income.

For additional information about how to count a student's financial assistance, see Chapter 5 of HUD's Occupancy Handbook 4350.3. Also see HUD's PIH Notice 2015-21, published in December 2015, which provides good examples of how to define "required fees and charges."

Any monetary school-related assistance provided to the resident by individuals outside the household (like a parent) is counted toward the resident's gross income.

Wage Income

When fulltime students 18 years of age or older are dependents, only a small amount of their earned income will be counted. Count earned income up to a maximum of $480 per year for fulltime students, age 18 or older, who are not the head of the family, spouse, or co-head. If the annual income is less than $480, count all the income. If the annual income exceeds $480, exclude the amount exceeding $480.

Additional Income Verification Guidelines

- If an hourly wage is being verified, the employer must also provide the number of hours worked per pay period.
- If a year-to-date (YTD) figure is not provided on third-party wage verification, staff must obtain a recent pay stub from the Resident that shows the YTD figure. Calculation of the Resident's income must include the ***greater*** of the verified salary or the annualized YTD wages.
- If a Resident works overtime, the employer must provide the number of hours worked and the hourly rate. If the employer indicates a range of hours (e.g. 4-10 hours per week), always use the highest number of hours in the range.
- If a Resident receives a bonus, verify how much it is and how often it is received.
- If a Resident is receiving Social Security or SSI benefits, always use the gross amount of benefits. A benefit statement (received by the recipient in November or December each year) is acceptable verification throughout the following calendar year.
- If a Resident is receiving a rent subsidy from a government rental source (e.g. Section 8), do not count the subsidy as income. However, staff must obtain documentation verifying the Resident's rent portion and their subsidy portion and include this with the Resident's package. Rent assistance from non-profits and churches whose source was from private grants, foundations, or donations are all considered income.
- When calculating income, all verified amounts should be converted to **annual** amounts.

- If a household receives very little income, their income fluctuates, or there is no solid third party verification of current and expected income, Owners should be prepared to certify the household's annual income by using verification of income received in the *previous* 12 months.

Income from Assets

Annual income includes amounts derived from assets to which family members have access.

Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the *income* from that asset. Some belongings of value are not considered assets. Necessary personal property (such as clothing, family car, wedding rings, T.V. and stereo) is not counted as an asset.

Types of Assets

Following is a listing of different types of assets with descriptions of the documentation needed to determine the asset value. In situations where Owners or their agents are not sure whether to include something as an asset, they should contact the Project's assigned Portfolio Analyst for assistance.

Net Household assets DO include:
Cash held in savings and checking accounts, safety deposit boxes, homes, etc.

Documentation Required:

Account statements, passbooks, certificates of deposit, verification forms, letters or documents from a financial institution or broker. Owners or their agents can use the *Deposit Verification* form if necessary.

- For savings accounts, use the current balance.
- For checking accounts, use the average balance for the last six months.

If a **bank** provides ***less than six*** months' worth of checking account activity (and refuses to provide six or more), the Owner may accept verification spanning less than 6 months. If a **financial institution** has provided current third-party documentation of the average balance in a checking account, even if it's less than 6 months' worth, that is acceptable, *unless* there are other facts/circumstances in the applicant's situation which create a question about their eligibility. In such a situation, obtaining applicant/ resident-provided bank statements may be necessary or may be required by the Commission.

- If a bank verification shows *more* than six months' worth of checking account activity, use the average balance based on the total number of months (e.g., if statement shows 9 months, divide by 9 for accurate average).

Gross Assets Less Than $5,000

- If a household has indicated on their REA that their gross assets total less than $5,000, have them complete the ***Under $5,000 Asset Certification/Sworn Statement of Net Family Assets*** form. There is never any need to third-party verify assets totaling *less than* $5,000 unless there are other facts/circumstances in the applicant's situation which indicate a conflict with their REA or which create a question about their eligibility.

Stocks, Bonds, Treasury Bills, Certificates of Deposit, Money Market Funds

The primary income from these types of assets is interest and dividends. Income can also be gained from the sale of either stocks or bonds for a profit.

Documentation Required:

Broker's quarterly statements showing value of stocks or bonds, or quotes from a stockbroker as to net amount family or household would receive if they liquidated securities, less any penalties/fees for early withdrawal of funds. If appropriate, Owners or their agents can also use the *Annuity or Stock Verification* form to verify stocks.

Trusts

A trust is generally considered a legal arrangement regulated by state law in which one party holds property for the benefit of another. A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Trust assets are typically transferred to the beneficiary upon the death of the grantor. There are two types of trusts, revocable and non-revocable (irrevocable trusts).

Revocable Trusts

The grantor of a revocable trust can change this type of trust as often as she/he wishes and, therefore, has access to this asset at any time. Count this trust as an asset.

Non-revocable Trusts (Irrevocable Trusts)

This is a trust agreement allowing an individual to permanently transfer assets during his/her lifetime to someone else.

Trusts which are not revocable by or under the control of any member of the family are ***not*** considered assets.

As long as the trust exists, the actual income distributed to the Resident from such a trust must be counted when determining Annual Income. (As with all income, this is the gross amount received before taxes or other deductions.)

If there is no income distributed from the trust, then do not count any income from the trust (e.g., income from the trust that is reinvested into the trust.)

Individual Retirement, Keogh, and 401(k) Accounts

These are included because participation is voluntary and the holder has access to the funds, even though a penalty may be assessed.

While the individual is employed, include only amounts the family or household can withdraw without retiring or terminating employment.

If benefits will be received in a lump sum, include the total dollar value of the benefits as an asset. If benefits will be received through periodic payments, then they will be treated as part of the estimated annual income.

When periodic payments and/or withdrawals of cash or assets are being made from an investment account where the household has access to the remaining balance of the account, the payments/withdrawals should be calculated and compared to the investment earnings on the account.

The higher of the two should be counted towards total household income – either the periodic payments/withdrawals as income ***or*** the earnings on the asset as income from assets.

If the household has no access to the remaining balance in the investment account, such as an annuity which has been annuitized, then the periodic payments/withdrawals should be counted as income and the investment account not valued as an asset.

This does not apply to checking, savings, or money market accounts, which typically have multiple deposits and withdrawals on a regular basis. These types of accounts should always be valued as assets.

Real Estate Owned

Include the current market value of all properties owned ***minus***:

- any unpaid balance on any loans secured by the property AND
- any reasonable costs incurred to sell the asset—penalties, broker fees, etc.

Use the *Real Estate Evaluation Worksheet* to calculate income from real estate owned by an Applicant/Resident.

Mortgage or Deed of Trust

Occasionally, when an individual sells a piece of real estate, the seller may loan money to the purchaser through a mortgage or deed of trust. This may be referred to as a "contract sale."

A mortgage or deed of trust held by a Household member is included as an asset. Payments on this type of asset are often received as one combined payment which includes interest and principal. The value of the asset is determined by calculating the unpaid principal as of the effective date of the certification. Each year this balance will decline as more principal is paid. The interest portion of the payment is counted as actual income from an asset.

Personal Property Held as an Investment

Include gems, jewelry, coin collections, or antique cars held as an investment. A Resident's wedding ring and other personal jewelry are NOT considered assets.

Net Household assets do NOT include:

- Necessary personal property such as clothing, furniture, cars (those for personal use), etc.
- Interests in Indian trust land.
- Term life insurance policies (i.e., where there is no cash value).
- Assets that are part of an active business are not considered part of the household assets; however, property that is being held as an investment and not as the main business activity is considered an asset.
- Assets that are **not** accessible to the Resident and provide no income are **not** considered part of household assets.
  Example: *A victim of domestic violence owns a house jointly but because of the domestic situation, receives no income from the asset and cannot convert the asset to cash.*

Lump-Sum Receipts

Generally, lump sum amounts received by a Household are considered assets, not income. Include inheritances, capital gains, one-time lottery winnings, settlements on insurance, and other claims or lump-sum payments received because of delays in processing unemployment, social security, welfare, or other benefits as assets.

Lump-Sum Receipts (continued)

For a more detailed discussion of what types of lump sum receipts are counted as assets and what are counted as income, please review the HUD Handbook 4350.3, Chapter 5, Section 1.P (found under Appendix N on our website).

Instructions for Valuing Assets

In computing assets, Owners or their agents must use the **cash** value of the asset; that is, the amount the individual or household would receive if the asset were converted to cash. Cash value is the market value of the asset minus any loans secured by the asset, such as a mortgage on rental property, and less any reasonable costs that would be incurred in selling or converting the asset to cash.

Expenses which may be deducted include:

- Penalties for withdrawing funds before maturity.
- Broker/legal fees assessed to sell or convert the asset to cash.
- Settlement costs for real estate transactions.

For non-liquid assets, enough information should be collected to determine the current cash value—the net amount the Household would receive if the asset were converted to cash.

If an applicant/ Resident has sold his/her home within the past two years (either a private residence or rental) for cash, request:

- Copies of closing documents (*Closing Disclosure* form, formerly known as a HUD 1 Statement) showing the selling price, the distribution of the sales proceeds, and the net amount to the Resident.
- A statement from the Resident explaining what they did with the proceeds.

Assets Disposed of for Less than Fair Market Value

If an asset was disposed of for less than fair market value, the value of the asset must be counted for a two year period following its disposition. See ***Appendix N – HUD Handbook 4350.3*** for additional information on how to calculate assets disposed of in this manner.

Calculating Income from Assets

If net Household assets **exceed $5,000**, the annual income must include the greater of:

- Actual income from assets

  OR

- A percentage of the value of Household assets based upon the current passbook savings rate as established by HUD. This is called imputed income from assets.

Example of Calculating Income from Assets:

Type of Asset	Cash Value of Asset	Imputed Value x 2%	Actual Income Per Year
Checking Account	$300.00	$6.00	$0.00
Savings Account	$2,000.00	$40.00	$60.00
Certificates of Deposit	$10,000.00	$200.00	$526.00
Rental Property	$15,000.00	$300.00	$0.00
Totals	$27,300.00	**$546.00**	**$586.00**

Household Assets Greater than $5,000.00

Since total assets **exceed $5,000**, imputed income must be calculated as follows:

Total Assets x 2% ($27,300 x .020) = $546.00

In this example where 2% was used as the HUD passbook savings rate, annual income must include the **$586.00** (actual income) because it is greater than the imputed income received on the assets.

Note: HUD may change the passbook savings rate annually. The Commission continues to use 2% on our forms and in our Web Based Annual Reporting System (WBARS). Owners may choose to use the actual published rate in place of the 2%.

Household Assets Less than $5,000.00

If Household assets are **less than $5,000**, the applicant/Resident may complete the *Under $5,000 Asset Certification or Sworn Statement of Net Household Assets* form instead of verifying all household assets. The asset income noted on that form must then be added to the gross annual income total for the Household.

Types of Excluded and Included Income

For a list of all income types to be excluded or included when determining eligibility, please review ***Appendix N, HUD Handbook 4350.3*** at the end of this Manual.

Additional Income and Asset Information

For more tips and reminders regarding what sources and forms to use to verify income (and assets), refer to the calculation and verification sections from HUD Handbook 4350.3, excerpted in ***Appendix N*** of this Manual as well as the **Tax Credit Frequently Asked Questions** document on our website.

Reporting & Records Retention

Summary

At least annually, Owners must provide certain reports and forms to the Commission. All reports and forms — including samples and detailed instructions for filling out each document - can be found on our website at *www.wshfc.org/managers/forms-RC.htm* .

Owners must submit:

1. Annual Report comprised of the following (due January 31st of each year):
   a) *Certificate of Continuing Compliance* (CCPC), Owner Annual Certification.
   b) Table 1 of the Combined Funders Annual Report in the Web-Based Annual Reporting System (WBARS).
   c) Utility allowance schedules for the reporting year.
   d) Other reports as noted below (where applicable)
   e) Resident packages as noted below in (5.)
2. *Special Needs Vacancy Report* (where applicable)
3. *Extended Vacancy/Rent-Ready Report* (where applicable)
4. *Farm Work Move-in Report, Homeless/Transitional Report* (where applicable)
5. Household Certification Packages which include:
   a) *Eligibility Certification* for each Household.
   b) *Rental Eligibility Application* (REA) for each adult Resident.
   c) Supporting documentation forms as needed OR
   d) Self-Certification of Annual Income (2nd re-certification and beyond)
   e) Copy of lease and *Lease Rider* for audited households (**inspection year only**).

Table 4 (Income & Expense Report) in WBARS (due June 30th of each year).

Owner Annual Certifications

As the allocating agency for tax credits in the state of Washington, the Commission is responsible for monitoring properties that are financed through the Low-Income Housing Tax Credit program. Compliance reports are designed to meet this requirement in the most efficient manner possible, monitoring both federal and state commitments made by the Owner in his/her Regulatory Agreement. Each year, Owners certify information about their properties to the Commission for review. A brief explanation of each form follows.

Annual Report

1. **Owner Annual Certification** (formerly CCPC Part A). A report where Owners certify annually concerning specific information about their property. This form is generated from our database and sent to Owners in December of each year. It is due by January 31st of each year.

2. **Table 1**. Generated in the Web-Based Annual Reporting System (WBARS) where Owners provide information on all Households in the property including move in and move out dates; recertification dates; annual incomes of each Household; and actual rents and utilities charged. Due January 31st of each year.

3. **Utility Allowance Schedule(s)**, for the reporting year. Utility numbers set up in WBARS should match those on the utility schedule submitted with your report. The specific types of utilities present in the property (type of heat, for instance) should be circled on the schedules. Due January 31st of each year.

4. **Table 4.** Generated in WBARS where Owners provide property income, expense and vacancy rate information. Due June 30th of each year.

Special Needs Vacancy Report

This report must be completed if the required number of Special-Needs units was NOT met by the end of the reporting year. The ***Vacancy Report*** can only be used after the units have been *initially* rented to Special-Needs Households and the units are now vacant. This Report confirms that units were held vacant in a rent-ready condition for a minimum of 30 days, and that advertising targeted to Special-Needs groups was also carried out.

Requirements of the Report also include providing a copy of the rent roll for affected units to show they were indeed vacant for a full 30 days. This report is due January 31st of each year and should be submitted with the annual report.

Extended Vacancy/Rent-Ready Report

This report is optional and is intended to be used when a property has units that have not been made rent-ready within 30 days of resident move-out and/or have been vacant for longer than 90 days.

Farm Work Move-in Report – Homeless/Transitional Report

These reports must be completed for properties with these Commitments so the Commission can determine if the set-aside is being applied properly.

These reports are due January 31st of each year.

Please review each report's instructions for more information on how to properly complete them.

Resident Certification Packages

Packages should include all the forms management must complete to certify each Household to meet tax credit requirements. There are three basic forms to certify Households:

1. ***Eligibility Certification***. A three-page form with summary information, income and asset calculations. This form is completed and signed by property representatives.
2. ***Rental Eligibility Application***. A questionnaire for the Residents regarding income and assets to verify eligibility for the program. This form is completed and signed by applicants/Residents, and is witnessed by property representatives.
3. ***Self-Certification of Annual Income***. Can be used in place of 1 & 2 for certifications completed after the first recertification year and beyond.

Demographic Data Collection

In 2008, federal legislation was passed that allowed HUD to require that state housing finance agencies request certain Household demographic data from Owners on all Tax Credit-financed properties. This includes information on race, ethnicity, family composition, age, and income, use of rental assistance, disability status, and household rent payments, for all Tax Credit-restricted units.

The Commission asks Owners to collect this information by having all Households complete the *Household Demographics* form at the time of new move-in. Owners are then asked to enter the data into WBARS for each

Household member. The form itself should **not** be submitted to the Commission.

Supporting Documentation Forms

The Commission provides forms that must be used to verify specific Resident information such as employment status, unemployment benefits, self-employment, SSI benefits, assets and Student status, among other things. If any of these income or asset types apply to a Resident (whether at initial qualification or a third party-verified recertification), the corresponding form or an alternate form of verification must be included in the Resident file as supporting documentation.

If a tax credit property is required to verify household information for a HUD or Rural Development housing program, that property may use corresponding HUD/RD forms to verify household member information, including income and assets, in place of using the Commission's forms.

Income Verification Forms

- ***Employment Verification.*** Used to verify a Resident's employment information (wages, tips, when started, etc.). To be completed by employer only. *(Required for all adult [18+] Residents with jobs and for any household member who is turning 18 within twelve months of certification date.)*
- ***Income Verification/Clarification by Telephone.*** Used to clarify another income verification form when that form is returned with incomplete or confusing information. The form can also be used in combination with a pay stub or other back-up documentation to verify income if a third-party income verification form cannot be obtained for some reason (the reason should be documented).
- ***Self-Employment Verification.*** Form that summarizes basic information for those with a personal business. The most recent tax return or profit & loss statement must be attached. *(Required for all self-employed Residents)*
- ***Self-employment Income Worksheet.*** This is not a verification form. Management staff may use this form to calculate income received from a Resident's business.
- ***Child Support Affidavit.*** Used for Residents who are eligible for child support payments but are not receiving them. Can also be used to verify the amount of support when it is being received. This form **must** be notarized.

- ***Public Assistance Verification.*** Used for Residents who are receiving any kind of public assistance from the government. *(Required for all Residents receiving public assistance)*
- ***Unemployment Benefits Verification Request.*** Used for Residents who receive unemployment benefits. Unemployment benefits must be annualized even if Employment Security notes that the claimant is not eligible for further benefits as of a specific date. *(Required for all adult [18+] Residents receiving unemployment benefits)*
- ***Seasonal Worker Statement.*** Used to certify what income the Resident intends to earn during a primary job's off season.
- ***Military Pay Verification Request.*** Used to verify employment for Residents who receive military income. A copy of the Resident's most recent Leave and Earnings Statement may be substituted for this form; however, an additional verification of the clothing allowance must accompany the L.E.S. *(Required for all Residents receiving active duty or reserve pay from the military)*
- ***Pension Verification Request.*** Used to verify income for Residents who receive a pension or annuity. *(Required for all Residents receiving benefit checks from a pension fund)*
- ***Annuity or Stock Verification Request.*** Used to verify income for Residents who receive income from an annuity or stocks. *(Required for all Residents who hold an annuity or stocks)*
- ***Gift Affidavit.*** Used to verify income from ongoing gifts. This form may be completed either by the gift donor or the Resident, and **must** be notarized. *(Required for all Residents who receive an **ongoing** gift)*
- ***Zero Income Certification.*** Self-certification form completed by all Residents who have no source of income whatsoever. *(Required for all adult [18+] Residents who are claiming no income either from a wage source or a non-wage source)*

Asset Verification Forms

- ***Under $5,000 Asset Certification or Sworn Statement of Net Household Assets.*** Form completed by Households who certify that their total assets are below $5,000.00. *(Required for all Residents who have assets under $5,000; they will not be required to itemize assets)*
- ***Deposit Verification Request.*** Used for those Households with a savings, checking, money market account, certificate of deposit or any other type of bank account where the combined totals of the

accounts are $5,000 or greater. *(Required for all Households with bank/asset accounts which total $5,000 or more)*

- ***Real Estate Evaluation Worksheet.*** This is not a verification form per se, but should be used to calculate income derived from/value of real property.

- ***Cash On Hand Affidavit.*** Used to verify cash on hand when assets are over $5,000 and a cash amount needs to be certified.

Student Verification Forms

- ***Student Certification.*** A form completed by a Household when it is comprised entirely of fulltime students, including minors, to show that they are eligible under certain exceptions. *(Required for fulltime Student household wishing to qualify for exception)*

- ***Student Status Verification.*** Used to verify the Student status – fulltime or part-time – of a Resident *(Required for all adult [18+] Residents who indicate Student status in a household comprised solely of fulltime students. Also required for any dependent student who is working and attending school fulltime to only count $480 of earned income.)*

- ***Student Exception Affidavit.*** To be completed by a single parent head of household to certify that s/he is not the dependent of another person – only use if head of household cannot provide a federal tax return to show independence *(Required for fulltime Student Household wishing to qualify for the single parent with dependents exception)*

- ***Foster Care Verification.*** Used to verify Resident was in a foster care program for purpose of qualifying a Fulltime Student.

- ***Fulltime Student Job Training Exception Verification.*** Used to verify that a Resident is enrolled in a qualified job-training program for the purpose of qualifying a Fulltime Student.

Other Forms

- ***Identification Certification.*** This form must be completed by all Household adults who *a)* do not have a Social Security number, *b)* do not have an acceptable document to verify their Social Security number, or *c)* provide identification documentation other than a Social Security number

- ***Authorization (optional)***. Management may use this form to have applicant/Resident authorize them to check information necessary to qualify the Household for the Tax Credit program.
- ***Pregnancy Self-Certification***. If an applicant/Resident claims to be pregnant, Owners must allow the Resident to write a statement certifying such. Owners are not allowed to require the Resident to get medical verification of the pregnancy; they must accept the self-certification as sufficient documentation.
- ***Estrangement Certification***. If an applicant/Resident confirms that s/he's separated from a spouse but not divorced, s/he should complete the Commission's ***Estrangement Form*** to certify that s/he understands the potential income-related consequences of moving a new adult into the qualified household (if s/he reconciles with the estranged spouse).

  *Note that a spouse **not** living in the qualified household, and **not** estranged from the head of household, should be considered a "temporarily absent family member." This means that property management staff must count the absent spouse's income when determining if the household qualifies for housing.*

- ***Live-in Aide Agreement.*** If the necessity of a Live-in Aide has been confirmed by an appropriate third party, the applicant/Resident, property representative and the approved Aide must all sign/date this form.

Commission Special-Needs Commitments Verification Forms

- ***Disability Certification.*** Used to determine Disabled status of Households residing at properties which elected the Special-Needs Housing Commitment for persons with Disabilities. *(Required to be completed at move-in by all Households at Properties with* the *Special-Needs Commitment for persons with Disabilities, whether or not the Household meets the Disabled Commitment)*
- ***Disability Verification.*** Used to provide acceptable verification of Disabled status at properties which elected the Special-Needs Housing Commitment for persons with Disabilities. *(Required at move-in for those Households who claim the status of Disabled)*
- ***Farm Work Household Initial Certification.*** Used to determine whether a Household meets the requirement of the Farm Work Commitment at properties which elected a Farm Work Commitment. The principal occupation of all Households at these

properties must be Farm Work. *(Required for all Households at properties with a Farm Work Commitment)*

- ***Farm Work W2 Certification.*** Used to determine income of Residents at properties with a Farmworker Commitment whose income cannot be verified adequately by contacting their present employer[s]. This form is completed by the Household and witnessed by site staff. *(Required for Residents at Farm Worker properties who, due to the nature of their employment, cannot verify their income adequately through their present employer[s].)*
- ***Homeless Certification.*** Used to certify the status of Households claiming Homeless status in a property with a Homeless or Transitional Special-Needs Commitment. The top part of the form is completed by the head of the Household and the bottom part is completed by an appropriate service provider.

Lease Rider form for Tax Credit Properties

Used to inform prospective Residents of Tax Credit program requirements and to notify Residents that annual recertification is required. It **must be attached** to all Resident leases. **Always use the most current** Lease Rider posted on the Compliance website.

IRS Forms 8609, Schedule A and 8586

The Owner must provide the Commission copies of all Form 8609 and Schedule A's for each building **for the first year in which credit is claimed.** The forms must be filled out completely and executed (signed by the Owner and the Commission) at both the top and the bottom of the form. 8609s must be filed with the IRS and the Commission in the first year. After the first year submission, Owners may file electronically and do not need to send copies to the Commission in subsequent years.

Owners must also provide copies of any and all notices, correspondence or other documentation received by the IRS concerning the property. This documentation must be received within 15 days of the Owner's receipt of the notice or correspondence.

Annual Recertifications for 100% Low-Income Tax

For 100% low-income tax credit properties, Section 42 no longer requires that third-party recertifications of Residents be completed on an annual basis for the duration of their tenancies. However, the Washington State Housing Finance Commission has implemented a "first year third-party recertification" policy. **Properties are required to third-party recertify Residents on the one year anniversary of their initial qualification. Once**

Credit Properties

the Residents have passed their first year recertification, self-certifications are permitted.

The effective date of a Resident's recertification is always the anniversary date of their lease commencement date. Recertifications should be started 120 days prior to the effective date of the certification.

Example: *Sam Thesham signed a six-month lease and moved into the Golden Arms Apartments effective February 1, 2008. Sam is still in the same unit one year later. The property management agent completed the recertification effective March 1, 2009. The unit is not in compliance because the recertification date should have been February 1, 2009.*

Note that the self-certification process is allowed at all 100% low-income projects, whether they are prior to or beyond Year 15 in the life of the project.

If your property previously qualified for the IRS Recertification Waiver, you do not have to do a third-party verification process at households' first re-certification – you may begin self-certifications starting with the first recertification.

In subsequent years, Residents will not undergo third-party recertifications. Rather, each Household will complete the Commission's *Self-Certification of Annual Income* form. On this form, Residents will anticipate their gross income for the coming twelve months, list all Household members, and certify as to Student status of Household members.

Use of Self-Certification of Annual Income Form

Use of the *Self-Certification* form does not imply that the Student Rule is relaxed at tax credit properties after the first recertification. The Commission continues to monitor **every** tax credit project for compliance with the Fulltime Student rule **for the duration** of the Regulatory Agreement. Owners must continue to use the *Student Certification* and *Verification* forms as needed for **every** qualified Household for **every** year of the tenancy.

Owner's Annual Certification

Owners will be expected to certify on the *Owner's Annual Certification* that all previous calendar year initial move-in certifications, as well as third-party recertifications done in the past year, were completed properly and that all Households were income-qualified at initial move-in. Further, Owners will be expected to certify that no adult members were added to any Household in the first six months of its tenancy. For any adult Household additions during the first six months of occupancy, the Owner will certify that the entire Household was re-income qualified as a new move-in.

HUD/RD

Note: Properties receiving funding from HUD or Rural Development are required to be in compliance with any more restrictive recertification rules as required by HUD/RD.

Annual Recertifications for Mixed Income Properties

For tax credit properties with market rate units, Section 42 requires that third-party recertifications of Residents be completed on an annual basis for the duration of their tenancies.

Failure of these properties to annually third-party recertify their Residents will be cause for reporting to the IRS.

Record Retention

The Owner must retain original records for all Households that occupied units in a building during the first credit year. Records must be kept for at least six years beyond the *last year of the Compliance Period* of the building; this means the records must be kept for at least 21 years.

For all other years, the Owner must retain the records for at least six years after the due date (with extensions) for filing the federal income tax return for that year. Federal rules require the record retention for each year within the Compliance Period (i.e., the first 15 years following placed in service); the Commission requires this record retention to extend for each year in the Property Compliance Period (i.e., following any additional low-income use period and the applicable three-year period thereafter).

The Commission recommends that Owners keep a copy of all records in a secure off-site location. Records may be retained electronically, but they must be reproducible per IRS regulations.

Authority:

IRS Revenue Procedure 97-22

Noncompliance

Noncompliance with IRS Program Requirements

If the Commission does not receive the certifications described in previous sections, or does not receive or is not permitted to inspect Resident income certifications, supporting documentation, and rent records, or discovers by inspection, review, or in some other manner, that the property is not in compliance with the provisions of Section 42, it will notify the Owner and provide a correction period during which time the noncompliance must be corrected. Any change in either the applicable fraction or eligible basis that results in a decrease in the qualified basis of the property is noncompliance that must be reported to the IRS.

The Commission will generally provide up to 30 days to correct documentation or reporting errors. However, the correction period is not to exceed 90 days from the date of the notice to the Owner. Any additional correction time granted by the Commission is granted solely at the Commission's discretion.

The Commission files Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS at the end of the correction period, whether or not the noncompliance is corrected. It is to the Owner's advantage to fix all noncompliance as quickly as possible to ensure that a corrected Form 8823 is sent to the IRS.

The Commission explains on Form 8823 the nature of the noncompliance and indicates whether the Owner has corrected or not corrected the noncompliance.

Noncompliance with State Requirements

The Commission takes noncompliance with State requirements very seriously. Potential areas of noncompliance with Commission requirements include but are not limited to:

- Failure to maintain Additional Low-Income Set-Asides
- Failure to properly restrict rents on such units
- Failure to pay annual compliance fees
- Failure to maintain Special-Needs Commitments
- Failure to restrict upfront rental charges
- Failure to advertise and provide notice of affordable housing vacancies to the extent such commitments were made

Note that failure to comply with Commission state requirements can jeopardize an Owner's ability to make future credit allocation requests.

Serious and/or ongoing federal or state noncompliance may compel the Commission to pursue other remedies as allowed under the terms of the Regulatory Agreement, such as requiring the Owner to use a Commission-approved property management company, imposition of rent garnishment or other legal action.

Commencement of Correction Period

From the date Asset Management & Compliance Division staff issue a correction or deficiency letter (via postal mail or email) to the Owner/Property Manager, the Commission will generally provide up to 30 days to correct noncompliance.

The issuance of the correction or deficiency letter is the Commission's official notification to the Owner that noncompliance has been found and that it could lead to an issuance of Form 8823 to the IRS or to issuance of a State Noncompliance notice. The date noted on the correction or deficiency letter starts the clock on the correction period.

The total correction period is not to exceed 90 days from the date of the notice to the Owner/Property Manager. At its sole discretion, the Commission may provide additional time for the correction of outstanding noncompliance.

At the end of the correction period, the Commission will issue Form 8823 or Notice of State Noncompliance in an uncorrected state if the Owner has not fully corrected the noncompliance by that date.

Common Reasons for Noncompliance

1. Failure to properly income-qualify a Resident at the time of initial move-in.
2. Failure to charge correct rent.
3. Failure to keep units suitable for occupancy at all times.
4. Failure to properly implement changes in utility allowances.
5. Violations of Uniform Physical Conditions Standards.
6. Failure to satisfy Special-Needs Commitments or additional affordable housing set-asides.
7. Failure to recertify Residents within 12 months or annually certify student status for every Resident.

Recertifications at 100% Low Income Properties

If the Commission discovers that Residents at a 100% low-income property are not being properly initially qualified, the Commission may require that the Owner re-instate third-party recertifications for all Residents, every year, until the Owner can prove that all Residents are income-qualified. The Commission also has the right to require re-instatement of third-party recertifications for any property that fails to abide by any and all program requirements, including but not limited to:

- Preventing adult members from being added to Residents within the first six months of the initial lease without re-qualifying the entire household
- Completing the first year third-party recertification for all Residents
- Following the Next Available Unit Rule
- Abiding by other Commission requirements

Properties Approved for Post-Year 15 Monitoring Procedures or Recertification Waivers

Properties approved for Post-Year 15 Monitoring Procedures or a Recertification Waiver are not required to complete a first year third-party recertification for their Residents. Per guidelines in **Chapter 11** or **Chapter 12** of this Manual, such properties are only required to fully third-party verify Resident income and assets at *initial move-in*.

Properties approved for Post-Year 15 Monitoring Procedures or a Recertification Waiver must be certain that every new Resident is properly income-qualified. If an improper initial certification is discovered, the income of **all** units in the building must be re-certified and revocation of the Procedures or Waiver may be required. For more information about revocation of Post-Year 15 Monitoring Procedures or the Recertification Waiver, please see **Chapter 11** or **Chapter 12** of this Manual.

Delays in Making a Unit Suitable for Occupancy

The IRS expects that vacant units are always in a state of rent-readiness and are available to the public for leasing. Having said that, the Commission understands that Owners need some time to turn a unit in between tenancies. As such, the Commission considers it reasonable for a vacated unit to take up to 30 days to be made rent-ready for the next tenant.

Owners may avoid 8823s for units unsuitable for occupancy for more than 30 and less than 90 days if the Owner can clearly demonstrate that the unit required a higher degree of turn work than normal, and that they continually worked to make the unit rent-ready. To satisfy the criteria for avoiding an 8823 issuance, the Owner must do all of the following:

1. Respond promptly to the Commission's request for additional documentation of the problem. Failure to respond to Commission requests for information by the deadlines provided by the Commission are considered part of the noncompliance event.

2. Provide explanation and a timeline indicating consistent rehabilitation was ongoing if routine maintenance work (e.g., fixing tile, installing a refrigerator, painting a unit, replacing a closet door) takes longer than 30 days. The owner must clearly establish why routine work would take longer than 30 days to complete. Failure to establish a credible reason for the delay of routine work is considered part of the noncompliance event.

3. Prove the unit is suitable for occupancy within 90 days – this means providing copies of completed work orders and/or paid invoices to clearly demonstrate the work was done to make the unit suitable for occupancy. Failure to provide proof of the work done and proof that it is complete are considered part of the noncompliance event.

The Commission considers any unit which is unsuitable for occupancy for **more than 90 days** to be material noncompliance **and automatically reportable to the IRS. Form 8823 will always be issued for these units, regardless of reason.**

If the unit has been made rent-ready by the time the Commission reviews the file, then the Commission will issue Form 8823 as corrected. If the unit is not rent-ready at the time of review, the Commission may be able to give additional time for the Owner to make the unit rent-ready before issuing the 8823. If the unit is still not rent-ready at the end of the correction period, the Commission will issue an uncorrected 8823.

Regardless of the correction status of the 8823 being issued, the Owner may forward to the Commission any additional documentation they deem appropriate to accompany Form 8823 to the IRS.

Overcharging Rent

If a Resident's gross rent (utilities + fees + rent) exceeds the federal (i.e., 50% or 60%) tax credit maximum rent limit for any month during the reporting year, the Commission is obligated to issue Form 8823 to the IRS for Owner noncompliance. This is still true even if the Owner has promptly notified the Commission of the problem and corrected the issue.

The IRS takes overcharging of rent very seriously. In fact, once a unit is determined to be out of compliance with the rent limits, the unit ceases to be

a low-income unit for the remainder of the year. This means that the potential financial repercussions for the Owner could be significant.

The unit is not back in compliance until the first day of the next year, even if the Owner has already lowered the resident's rent and refunded them any overpayments made.

If the Owner has overcharged rent on a unit meeting a State income set-aside the Commission will issue a letter of State Non-Compliance and will require the Owner to reimburse the resident all overpaid monies. Failure to timely adjust the rent and reimburse the resident could hinder the Owner's future applications for credit or lead to further action on the part of the Commission.

Residents Found to be Over-income at Time of Move-in

If the Owner finds a Resident to be **over the income limit at move-in on an initial lease-up certification**, the Owner should correct the noncompliance and immediately email the monitoring Portfolio Analyst to inform them what was found, and how and when it was corrected. This applies to an initial move-in over-income situation caused by either Resident error/fraud or Owner/Manager error.

For the above situation, the Commission is required to issue Form 8823 to the IRS. Assuming the Owner has properly corrected the noncompliance, the Commission will issue the Form 8823 as corrected and with an explanation that the Owner identified, fixed and reported the noncompliance. Additionally, this incident would be noted on Question #24 of the ***Owner's Annual Certification*** form before the Owner submits the form in January.

If the over-income situation **did not** occur at initial lease-up, and it is discovered and fixed at any time prior to receipt of the Commission's Annual Report notification in December, the Owner must immediately email the monitoring Portfolio Analyst to inform them what was found, and how and when it was corrected. Additionally, this incident would be noted on Question #24 of the ***Owner's Annual Certification***.

If the Owner finds, fixes and reports the noncompliance, the Commission does not have to notify the IRS. If the Owner does not identify the noncompliance, fix it, and notify the Portfolio Analyst prior to the Commission sending an Annual Report notification, the noncompliance must be reported to the IRS. It does not matter if the noncompliance was due to management error or the resident failing to disclose all income sources.

Resident Fraud

Owners should demonstrate due diligence to prevent Resident fraud when determining eligibility. Deliberate misrepresentation on the part of a Resident can result in the Owner renting a unit to an ineligible tenant. If an Owner has demonstrable proof that a Resident has deliberately misrepresented one or more eligibility factors, the Owner should consult applicable landlord-tenant law to determine if the Resident can be compelled to move.

To prevent any recapture issues, Owners are also encouraged to immediately report Resident fraud directly to the IRS by completing the IRS Form 211, which can be downloaded from the IRS' website.

Authority:

Federal compliance monitoring requirements - **IRS Regulation 1.42-5**. State compliance requirements are set out in the property's recorded Regulatory Agreement (Extended Use Agreement) as well as the Commission's Tax Credit and Compliance policies, including guidance provided by the *Tax Credit Compliance Manual* and *Tax Credit Compliance Frequently Asked Questions*.

Tax-Exempt Bond-Financed Properties with Tax Credits

Summary

A residential rental property financed with tax-exempt bonds may also receive tax credits. The property must then maintain compliance with both the tax-exempt bond rules and the tax credit program. While certain rules overlap, such as the property meeting either the 40/60 or 20/50 test, the rules do not exactly match, and the Owner is responsible for being aware of and complying with both sets of requirements. Where the Commission is the issuer of the bonds, the Compliance Officer will perform a single compliance review, which will verify compliance with both programs. Where the Commission is not the issuer of the bonds, the Commission will perform the tax credit compliance review only. Usually, there will be two separate Regulatory Agreements filed against the property, one for the bond requirements and one for the tax credit requirements.

This section describes the compliance requirements for affordable units receiving tax credits which are located in properties financed with tax-exempt bonds, and identifies some conflicts between the two programs. This section does not identify bond compliance requirements; a separate compliance manual for tax-exempt bond properties is viewable and downloadable from our website, at: ***www.wshfc.org/managers/ComplianceManuals.htm***.

Properties financed with tax-exempt bonds may obtain an allocation of tax credits without going through the competitive tax credit allocation process. Owners must still submit an application to the Commission's Tax Credit Division; must meet certain threshold requirements, and must execute a Regulatory Agreement incorporating commitments made regarding tax credit units.

Income Restrictions

Tax-exempt bond financed residential properties must meet the same 40/60 or 20/50 income requirement as is required for tax credit properties. However, the bond financing does not require rent restrictions — it only requires that the affordable Households be income-certified. However, rents must be restricted for all units on which tax credits are claimed. The rules for determining income are the same for both programs. The primary difference is that compliance with tax-exempt bond requirements is determined property-wide, while federal tax credit requirements are determined building-by-building. However, recent legislation allows Owners to abide by the less

restrictive building rule for units also financed with tax credits. Owners must comply with both sets of requirements, which may result in maintaining more affordable units than originally planned in order to maintain compliance with both programs.

Many bond-financed properties are mixed-income, and all the discussion in the Mixed-Income Properties section in **Chapter 2** of this Manual applies to mixed-income bond properties.

A few important tax credit program rules are now implemented correspondingly for jointly-financed properties. The Next Available Unit Rule is applied on a building-by-building basis for bond compliance, just as it is for tax credit compliance. In other words, if the income of a Household in a bond- and tax credit-financed property increases above the allowable income limit, the Household will continue to be considered "qualified" as long as the next available unit in the same **building** is rented to an income-qualified Household.

Additionally, the Student Rule is now applied in the same way for both the tax credit and bond programs. The bond program (and bond compliance at a bond- and tax credit-financed property) now follows the Student Rule as it is outlined for the tax credit program. This means that properties with bond units may utilize the more lenient tax credit Student rules and exceptions. Based on the way this rule was changed in Section 142 of the Code, the Commission believes this rule also applies to tax-exempt bond properties that have no tax credit financing.

The interplay of bond compliance rules and tax credit compliance rules, means that compliance for these properties can be complex. It is strongly recommended that a management plan, including detailed strategies for lease-up, filling vacancies, and addressing over-income units on recertification, be developed with advice from qualified tax credit advisors.

For additional information, review the **Differences Between Tax Credits and Bonds** chart, included as **Appendix L** in this Manual.

Property Transfers

Summary

Pursuant to the Commission's rules (WAC 262-01-130), *Policies*, and Regulatory Agreements, an Owner may not sell a property or transfer its interest in a tax credit property without prior notice to the Commission and prior written consent by the Commission. This applies to changes in the general partner of a partnership owning a property, the managing member if a limited liability company is the Owner, and the investor member/limited partner member of the ownership entity. The Commission will require information on the prospective transfer to ensure it will promote satisfaction of all applicable regulatory and contractual obligations, and further the Commission's priorities for LIHTC projects as set forth in WAC 262-01-130. This includes ensuring that the new Owner or partner is validly assuming the obligations under the Regulatory Agreement, is aware of all the existing commitments regarding the low-income use of the property, and is fit to serve as a participant in the project and program. A fee is assessed for processing the transfer request. To initiate a transfer consent, contact the Portfolio Analyst assigned to your property. The request will be processed in accordance with the Commission's *Policies* on transfers.

Since a transfer may affect the Owner's tax credit, the Commission is required to report transfers to the IRS.

Bond Posting No Longer Required

The IRS no longer requires a seller to post a bond on transfers of ownership as long as there is a reasonable expectation that the property will remain in compliance throughout the Project Compliance Period. Owners who do not post a bond extend the IRS recapture period on transfers to three years beyond the time when an Owner notifies the IRS of a recapture event.

General Partner, Managing Member and Partner changes at any level require Commission approval and will require similar documentation as a complete Ownership transfer. In most cases, the old and/or remaining "For Profit" GP or MM *must post a bond for their own ownership interest*, regardless of how small an interest it is, within 60 days of the transfer of ownership interest.

The following information is being provided to assist you in understanding the Commission's role and requirements for property transfers or assignments.

The Owner should consult their legal counsel and/or tax advisor about the effect of a Property Transfer or Assignment.

Maintaining Credit Set-Asides

In the initial credit award process, the Commission sets aside stated percentages of its total credit authority for various groups of applicants, such as qualified nonprofits, other nonprofits, Rural Development Owners or for-profit Owners. The balance of the annual credit authority is allocated from a general pool. **If credit was initially awarded from a credit set-aside category, subsequent transfers must be made only to another organization fitting the category.**

For Nonprofit Entities

If the property received tax credits from the Qualified Nonprofit Set-Aside category, the transferee (new Owner) *must* provide documentation demonstrating they are a **bona fide 501(c)(3) qualified nonprofit** and that one of their principle purposes is to provide low-income housing.

Types of Transfers or Assignments Requiring Commission Consent

See Commission *Policies* (available on our website under **Multifamily** navigation tab) for detailed explanation of types of transfers and assignments requiring Commission consent.

Transfers to Owners with No Previous Tax Credit Experience

The complexity of the Low Income Housing Tax Credit program requires that property owners and management companies have experience with the program in order to properly run tax credit properties.

All proposed owners and property management companies unknown to the Commission will be required to complete a ***LIHTC Capacity Certification*** form which describes how the owner/management company is qualified to run a tax credit property.

The Commission reserves the right to withhold approval for any transfer where the owner's or management company's *LIHTC Capacity Certification* indicates a clear lack of tax credit experience. For such transfers to be approved, the Commission will require that, at minimum, the new Owner execute a contract with a Commission-approved property management company prior to the Commission's written approval of the transfer.

Conditions and Consent

The Commission will not consent to a proposed Property Transfer or Assignment if it is determined that:

1. The Transferee and/or any Related Party is in arrears on the payment of any fees due to the Commission or in default under a Regulatory Agreement or Extended Use Agreement for any Property;

2. The Transferee and/or any Related Party has engaged in or allowed instances of material Noncompliance with the provisions of a Regulatory Agreement, Extended Use Agreement, the Tax Credit Program, or Section 42 of the Code;

3. The Transferee and Transferee's property management company lack demonstrated experience owning/managing a tax credit property, and the Transferee has not provided a copy of a contract executed between them and a Commission-approved property management company;

4. The Transferee/Transferor have failed to satisfy all other reasonable requirements communicated to them by the Commission.

Fees

Commission Processing Fees to review and approve transfers are as follows:

- For complete Ownership changes and/or sale of a property to a new individual, partnership or limited liability company: Fee is $3,162.00 due with transfer approval request. **

- For complete Ownership changes at Year 15 where original Nonprofit Sponsor is taking sole ownership of the property: Fee is $2,500.00 due with transfer approval request. **

- For changes to the General Partner(s) in a Limited Partnership; changes to the Members or Managing Members in a Limited Liability Company **or changes to the Partners in a Partnership**: Fee is $1,500 due with transfer approval request. **

Note that the transfer review will not commence until the Commission receives a check for the transfer fee.
** Fees are subject to change. Contact the Commission at transfers@wshfc.org to confirm the exact fee.

Timeframe and Completeness

For the Commission to consider and act on the Owner's request, the Owner must satisfy each of the following requirements **at least 45 days before** the proposed effective date of the Property Transfer or Assignment:

1. Pay to the Commission the applicable Transfer Fee for each Property Transfer or Assignment

2. Fully and accurately complete and return **all** of the forms, documents, and other information required in these Transfer Instructions or in writing by the Commission staff.

The Commission will review the Owner's completed Transfer Packet. The Commission may determine that additional information is necessary in order to consider the Owner's request or that the Commission's consent must be conditioned upon certain events, facts, or requirements. Commission staff will follow up with the Owner to ensure all requirements are met. Once all requirements are met, the Commission will execute a Transfer Agreement (sample Agreement available on our website) which must be signed by the Commission's Executive Director and by the proposed buyer. This Agreement is then recorded against the property after both parties have signed.

The Commission makes no guarantee and provides no assurance that it can execute the Transfer Agreement by the Owner's closing date if the required fee and correct documentation are not received by the Commission at least 45 days prior to the closing date.

Any transfer requests received on or after November 15th of any year will not be completed until after January 1st of the following year.

HOW TO SUBMIT REQUIRED DOCUMENTS

The remaining sections of this Chapter describe the documents that must be submitted for review to the Commission, depending on the type of transaction taking place. All documents are to be completed and submitted via an online portal accessible through a Commission-provided web link:

For full property transfers and Year 15 Exits:
https://form.jotform.com/WSHFC_IT/property-transfer-app

For GP, Managing Member and Limited Partner changes:
https://form.jotform.com/WSHFC_IT/management-change-app

Contact Information

All correspondence concerning the transfer process, timeline, fees or how to enter data/attach files in the JotForm submission portal should be directed to our transfer staff at transfers@wshfc.org.

If you have concerns or questions about specific forms, need to discuss capacity issues, want to substitute one form for another, or any other compliance-related questions, please contact the Portfolio Analyst who monitors the property. You can find them at: http://www.wshfc.org/managers/Other/ProjectAssignments.pdf

Required Document for All Transfers

In the initial transfer submittal, Owner should describe:

1. The name of the Property;
2. The names of the current Owner(s), the proposed Transferor and Transferee, and all other relevant parties;
3. A complete description of the proposed Property Transfer or Assignment including the purpose of transfer, the proposed effective date; and
4. Any special circumstances related to the proposed Property Transfer or Assignment.
5. For changes to the General Partner, Managing Member or Partners, a description of the new roles and responsibilities.

Specific Documentation Required for Sale of Property

1. A check for the $3,162 transfer fee.
2. Written description explaining the nature of the transfer, as noted above.
3. Schematic showing Ownership before and after proposed transfer.
4. Complete ***Owner Request for Commission Approval, Summary of Transfer (Sale of Property)*** form attached on Compliance website.
5. A copy of the preliminary title report **showing the correct names of the proposed insured and property street address.**
6. IRS letter or ***IRS Form SS-4*** assigning taxpayer identification number.
7. ***Financial Solvency and LIHTC History Form***.

8. ***Legal Counsel and Professional Representative Form***.

9. Copy of the proposed management contract and resume of the management company including a list of all properties currently managed (a signed copy of management contract will be due at closing).

10. Final copy of the Purchase and Sale Agreement.

11. Proposed Ownership entity documentation as described below.

For Limited Partnerships

- Partnership Agreement
- Certificate of Limited Partnership with Secretary of State filing stamp from jurisdiction of formation
- Partnership Resolution pertaining to purchase, assumption of Regulatory Agreement, and signature authority
- Names of partners with their percentage of interest
- Entity documents for the general partner as required hereby depending on the entity type. (For example, if the general partner is a corporation, provide articles and bylaws of corporation.)
- Certificate of Existence/Authorization from Washington Secretary of State (must be current; issued within 30 days)

For Corporations

- Articles of Incorporation (with Secretary of State filing stamp from jurisdiction of formation)
- Bylaws
- Corporate Resolution pertaining to purchase, assumption of Regulatory Agreement, and signature authority
- Certificate of Existence/Authorization from Washington Secretary of State (must be current; issued within 30 days).

For Limited Liability Company

- Operating Agreement (or Limited Liability Agreement)
- Certificate of Formation with Secretary of State filing stamp from jurisdiction of formation
- Certificate of Existence/Authorization from Washington Secretary of State (must be current; issued within 30 days)
- Names of members with percentage of interest
- Resolution pertaining to purchase, assumption of Regulatory Agreement, and signature authority

For Out-of-state Purchasers

For partnerships, corporations, and limited liability companies located outside the state of Washington the following additional documentation is required.

- A current Certificate of Existence/Authorization from the foreign state of formation is required (if issued in the state of formation)
- If the new Owner (individual(s), limited or general partnerships, corporations, or limited liability company) is a non-resident or not licensed to conduct business in Washington State, the Owner must have an agent who will act as property manager and said agent must be licensed to conduct business in Washington.

The following additional documentation is required for out-of-state purchasers, not licensed to conduct business in Washington who will be using management agents:

- A Certificate of Existence/Authorization (must be current; issued within 30days) for agent;
- A certification (in the form of a letter) from new Owner that they will always maintain an agent (or management company) which is licensed to conduct business in the state of Washington or become qualified to do business in the state of Washington themselves.

Specific Documentation Required for Sale of Property (Assumption by Original Nonprofit Sponsor)

1. A check for the $2,500 transfer fee.
2. Written explanation of the nature of the transfer.
3. Schematic showing Ownership before and after proposed transfer.
4. Complete ***Owner Request for Commission Approval, Summary of Transfer (Sale of Property)*** form.
5. ***Financial Solvency and LIHTC History Form***.
6. ***Legal Counsel and Professional Representative Form***.
7. Confirmation letter indicating no change in management company.
8. A letter or statement indicating status of Project reserves (if applicable) and the consideration for the transfer (assumption of debt, most of which are nonrecourse, plus estimated exit tax liability, if any).
9. New owner Certificate of Existence if applicable.
10. Resolution pertaining to change/assumption of responsibilities and signature authority.
11. If applicable, new owner's policy showing the name of the proposed insured and property street address.
12. Provide any other documentation as requested by Portfolio Analyst.

For changes to a partner or member, the initial transfer submittal should include the following items (for limited partner or upper tier member changes, items 1-4 and 6 only):

Specific Documentation Required for Changes to General Partner or Managing Member

1. Written description explaining the transfer as noted above.
2. Schematic showing Ownership before and after proposed transfer.
3. Complete ***Owner Request for Commission Approval, Summary of GP/Managing Member Change*** form found on Compliance website.
4. LP approval of new General Partner.
5. A check for the $1,500 transfer fee.
6. ***Financial Solvency and LIHTC History Form*** for any new partner(s) or partners whose prior form is outdated.

(For Changes to <u>Limited Partner or Upper Tier Member</u> please provide items 1, 2,3,4, 6 only)

7. IRS Form SS4 (or IRS letter with same information)
8. Copy of proposed management contract and resume of the management company including a list of all properties currently managed.
9. Certificate of Existence/Authorization from Washington Secretary of State (must be current within 30 days) for incoming partners.
10. Resolution pertaining to change/assumption of responsibilities and signature authority.
11. For any out of state General Partner, Managing Member or Partners, a certification (in the form of a letter) from the Owner that agent is licensed to conduct business in Washington State and that it will always maintain an agent (or management company) which is licensed to conduct business in the state.

Any other documentation required by Commission staff must also be provided.

Qualified Contract Process

Summary

Tax Credit properties allocated credit in 1990 and beyond will be eligible for an "option year" in 2004 and beyond. This option year can occur, at the Owner's election, any time after year 14 in a 30-year Regulatory Agreement (extended use agreement), unless the Owner voluntarily deferred that period until a later date in the agreement.

Owners must notify the Commission of their desire to sell the property using the process outlined in this chapter. Once complete and proper notice has been received, the Commission has one year to find a buyer for the project at a pre-determined price, not to exceed the "Qualified Contract Price" (QCP). The qualified purchaser can be a nonprofit or for-profit entity that agrees to maintain the affordable housing units and fulfill all requirements of the extended use agreement.

A list of properties with option years can be found on our website. See ***Tax Credit Property Option Years List***.

Owners who elect to exercise their option year must complete the following information, pay applicable fee and deposit and provide all required due diligence documentation listed therein no later than March 1st in any year in which the project is eligible for this process. The Owner may only request a Qualified Contract from the Commission one time. These forms are located on our website:

- ***Qualified Contract Notification Letter***
- ***Calculation of Qualified Contract Price Worksheets*** *(Sample) (Blank)*

The Tax Credit property must be in compliance with all Regulatory Agreement requirements. The Qualified Contract may be suspended or terminated due to any: Material Noncompliance, or any mortgage defaults, liens or encumbrances on the property or IRS audit or investigation that may adversely affect sale of the property.

The Commission will review the Owner's packet of due diligence materials, submit the package to a designated third party consultant for review and agree on an appropriate Qualified Contract Price (QCP). This will require staff and the Owner to work closely together to ensure that all required information has been submitted and a QCP has been set. The one-year period begins once this step is complete. The Commission will complete this initial review within 90 days after receipt of all required documentation.

Qualified Contract Packet Materials

In order for the Commission to properly market the property, the Owner will be responsible for providing certain information. At a minimum, the Owner will need to provide the following:

1. A fully completed "Calculation of Qualified Contract" Price, including Worksheets A – E. This form must be completed, or reviewed and approved, by the accountant for the Project.
2. A thorough narrative description of the Project, including all amenities - suitable for familiarizing prospective purchasers with the Project.
3. A description of all income, rental and other restrictions, if any, applicable to the operation of the Project.
4. A detailed set of photographs of the Project, including the interior and exterior of representative apartment units and buildings, and the property's grounds *(including digital photographs that may be easily displayed on the Commission's website).*
5. A copy of the most recent 12 months of operating statements for the property which will fairly apprise a potential purchaser of the property's operating expenses, debt service, gross receipts, net cash flow and debt service coverage ratio.
6. A current and complete rent-roll for the entire property.
7. If any portions of the land or improvements are leased, copies of the leases.
8. Pay required administrative fee described later in this chapter.

Fees

In order to cover costs the Commission will assess the Owner a fee and deposit as outlined below:

1. $3,500 non-refundable administration fee for processing qualified contract requests.
2. $30,000 deposit for anticipated third party costs. This deposit may be used by the Commission to pay for such third party costs as:
   - Third party review of package by an accounting firm to confirm the qualified contract price requested
   - A physical needs assessment of the property
   - An appraisal of the property
   - A market study of the property

- A Phase I environmental study and if necessary Phase II environmental study

If third-party costs exceed the original Owner's deposit the Commission may make a request for additional deposits. The qualified contract process will be suspended during any time an additional deposit has been requested until such funds have been received. If requested funds are not received within 15 days of notice to the Owner the processing of the qualified contract request will be terminated. Any remaining deposits will be returned to the Owner at the end of the one-year period.

Additional Owner Requirements

In addition to the above, the Owner must agree to the following requirements:

1. List the property for sale with a broker who works with affordable multifamily housing properties such as Marcus & Millichap, Hendricks & Partners, CB Richard Ellis, Cushman & Wakefield and others.
2. Agree to allow the Commission to post summary data about the property on its website.
3. Reasonably cooperate with the Commission and its agents to present a qualified contract for purchase of the property. This may include providing copies of additional rent rolls, project tax returns, income certifications, repair and maintenance records, operating expenses and debt service information, and other due diligence documents.
4. Provide access to the property for inspection by the Commission, its agents and prospective purchasers.

Owner Certifications and Commitment

At the time of application the Owner must certify to the following:

1. They have conducted their own investigation and due diligence in determining calculations of the Qualified Contract Price.
2. They are solely responsible for documents and information provided to the Commission and to prospective purchasers.
3. All information submitted is accurate and complete.
4. The Commission has made no independent investigation of the Owner's submissions and cannot attest to their accuracy or completeness.

5. The Owner agrees to indemnify, defend and hold the Commission harmless with respect to the use of information submitted.

Finally, if the Commission finds a prospective purchaser willing to present an offer to purchase the property for an amount at the Qualified Contract Price, the Owner must agree to enter into a commercially reasonable form of earnest money agreement or other contract of sale for the property and provide a reasonable time for necessary due diligence and closing of the purchase.

Marketing by the Commission

Upon receipt of the Owner's request to exercise their option year (*Notification Letter and Qualified Contract Price Worksheets),* Commission staff will employ the following Marketing Plan:

1. Post the property information on the Commission website with links under the "What's New" section of our main Commission page and also post on the Compliance & Preservation Division page.
2. Put together an informational flyer and work with the broker to forward their offering brochure; these materials will be emailed to a pre-established mailing list. This list will include current Owners of tax credit properties; contacts at large management companies; the Affordable Housing Management Association (AHMA) and Council for Affordable and Rural Housing (CARH) contacts; other public funding agencies in the state; local, state and nation-wide nonprofit and for profit Owners interested in preserving the housing; and tax credit investor contacts.
3. Present information on the property(s) to preservation groups at stakeholder meetings we attend (add to the agenda).
4. Act as a conduit for all requests of prospective purchasers by quickly responding to requests for additional information from the Owner and forwarding that information immediately upon receipt.

Three-Year Period

If the Commission fails to present a Qualified Contract before the expiration of the one-year period (or such longer period as the Owner may agree to in writing), the project will remain subject to the requirements set for in Section 42(h)(6)(E)(ii); that is, for a three-year period commencing on the termination of the compliance period, the Owner may not (i) evict or terminate a tenancy (other than for good cause) of an existing tenant of any low-income unit, or (ii) increase the gross rent with respect to any low-income unit except as permitted under Section 42 of the Code, as well as the requirements of the regulatory agreement.

For more information on this process please contact the Compliance & Preservation Division. Qualified Contract forms and property option years can be found at ***www.wshfc.org/preservation/list.htm***.

Attachments: ***(See Website)***
http://www.wshfc.org/managers/ManualTaxCreditIndex.htm

A. Tax Credit Properties Option Year List (1990 - 1995 Allocations) (Excel) (PDF)

B. Qualified Contract Notification Letter (PDF)

C. Calculation of Qualified Contract Price Worksheet (Blank) (WORD)

D. Calculation of Qualified Contract Price Worksheet (Sample) (WORD)

Qualified Contract Notification Letter

December 13, 2006

Tim Sovold
Manager – Compliance & Preservation Division
Washington State Finance Housing Commission
1000 Second Avenue, Suite 2700
Seattle, WA 98104-1046

Re: ABC Project
PO Box 1000
Parkland, WA, 99005
Project OID: 90-44EE

Dear Mr. Sovold:

On behalf of [Project Owner], we hereby request that the Commission present a "qualified contract" for the purchase of [Project Name]. This request is made pursuant to Section 42(h)(6)(E)(i)(II) of the Internal Revenue Code. We understand the Commission will have one year from its receipt of this letter and all of the accompanying information described below, to present a "qualified contract" for the purchase of the Project. *We hereby request to extend this period to __months.*

We have enclosed with this request the following documents and information required by the Commission:

1. A fully completed "Calculation of Qualified Contract" Price, including Worksheets A – E. This form was completed, or reviewed and approved, by the accountant's for the Project, [Accountant's Name].

2. A thorough narrative description of the Project, including all amenities, suitable for familiarizing prospective purchasers with the Project.

3. A description of all income, rental and other restrictions, if any, applicable to the operation of the Project.

4. A detailed set of photographs of the Project, including the interior and exterior of representative apartment units and buildings, and the Project

grounds. [We have included digital photographs so that they may be easily displayed on the Commission's website.]

5. A copy of the most recent 12 months of operating statements for the Project which will fairly apprise a potential purchaser of the Project's operating expenses, debt service, gross receipts, net cash flow and debt service coverage ratio.

6. A current rent-roll for the entire Project.

7. If any portion of the land or improvements are leased, copies of the leases.

We understand that the above information may be shared with prospective purchasers, real estate brokers and agents of the Commission, and *summary data* may be posted on the Commission's website.

We will reasonably cooperate with the Commission and its agents with respect to the Commission's efforts to present a qualified contract for the purchase of the Project. In this regard, we understand that prior to the presentation of a qualified contract, we may need to share project "due diligence" with the Commission and with prospective purchasers, including but not limited to, additional rent rolls, project tax returns, income certifications and other Section 42 compliance records, records with respect to repair and maintenance of the Project, operating expenses and debt service. Provided, before information is shared with a prospective purchaser, we may require that it enter into a commercially reasonable form of nondisclosure agreement. We will also share with the Commission, at its request, the documents and other information that were used to prepare the enclosed Calculation of Qualified Contract Price, including Worksheets A – E. We also agree to allow the Commission, its agents, and prospective purchasers, upon reasonable prior written notice, to visit and inspect the Project, including representative apartment units.

We acknowledge that –

- We have conducted our own investigation and due diligence with respect to the Calculation of the Qualified Contract Price and the Qualified Contract procedure set forth in Section 42(h)(6)(F) of the Internal Revenue Code;

- We are solely responsible for documents and information provided to the Commission with this notification letter, including the Calculation of Qualified

Contract Price form and the exhibits thereto, and any other documents or project information that we may provide to the Commission and/or share with prospective purchasers at a later time (collectively, the "Project Sales Information");

- To our knowledge, the Project Sales Information is truthful, accurate and complete and contains no misstatements or misleading information.

- Neither the Commission nor any of its employees or agents have made any independent investigation or review of the accuracy, truthfulness or completeness of the Project Sales Information; and

- By submission of this notification letter, we agree to indemnify, defend, and hold the Commission harmless with respect to the Commission's use of the Project Sales Information; and

We agree that the Commission and its employees and agents shall have no liability to us with respect to the Calculation of the Qualified Contract Price or any other act, omission, or determination by the Commission with respect to marketing the project or carrying out its responsibilities under Section 42(h)(6)(F) of the Code, so long as the Commission is acting in good faith.

We also understand that if the Commission finds a prospective purchaser willing to present an offer to purchase the Project for an amount equal to or greater than the "qualified contract" price, we agree to enter into a commercially reasonable form of earnest money agreement or other contract of sale for the project which will allow prospective purchaser a reasonable period of time to undertake additional, customary due diligence prior to closing the purchase.

Very truly yours,

[Project Owner]

Attachments

Instructions for
Calculation of Qualified Contract Price

Before the Commission will commence marketing your project, you must complete the Calculation of Qualified Contract Price form attached to these instructions (the "Calculation Form"). This calculation will establish the minimum price at which the Commission will market your project and present an offer for its purchase.

To complete the Calculation Form, you must complete Exhibits A through D and, if the project has market rate units, Exhibit E. The results of Exhibits A through E are transferred to the Calculation Form to determine the Qualified Contract Price for the project.

The Calculation Form is derived from a statutory formula set forth in Section 42(h)(6)(F) of the Internal Revenue Code. The statutory formula divides the purchase price between the low-income portion of the project and the market rate portion of the project, if any. Qualified Contract Price for the low-income portion of the project is equal to the sum of project indebtedness (Worksheet A), investor equity (Worksheet B), and other capital contributions (Worksheet C) **reduced** by the total cash that has been distributed, or is available for distribution, from the project (Worksheet D). If the project has any market rate units, the Qualified Contract Price is increased by the fair market value of those units (Worksheet E).

Please remember that the twelve-month period for finding a buyer will not commence until the Calculation, and Exhibits A through E, are completed and returned to the Commission with the notification letter and other required materials. The Calculation must be prepared, approved or reviewed by the accountant for the project owner or similarly qualified professional.

If you have any questions with respect to the preparation of the Calculation and Exhibits, you are encouraged to contact Tim Sovold at _____.

Calculation of Qualified Contract Price
Pursuant to Section 42(h)(6)(F) of the Internal Code
As of _____, 2004

A. Calculation of Low-Income Portion of Payment:

(i)	Outstanding Indebtedness secured by, or with respect to the Buildings (from *Worksheet A*)	$ _____	
(ii)	Adjusted Investor Equity (from *Worksheet B)*	$ _____	
(iii)	Other Capital Contributions not reflected in (i) or (ii) (from *Worksheet C*)	$ _____	
(iv)	Total of (i), (ii) and (iii)	$ _____	
(v)	Cash Distributions from or available from, the Project (from *Worksheet D*)	$ _____	
(vi)	Line (iv) reduced by Line (v)	$ _____	
(vii)	Applicable fraction (as set forth in the Tax Credit Regulatory Agreement)	_____ %	
(viii)	Low-Income Portion of Qualified Contract Price (Line (vi) multiplied by Line (vii))		$ _____

B. Fair Market Value of Non Low-Income Portion of Building(s) (from *Worksheet E*) $ _____

Qualified Contract Price
(Sum of Line A(viii) and Line B) $ _____

WORKSHEET A
Outstanding Indebtedness
With Respect to Low-Income Building(s)
Code Section 42(h)(6)(F)(i)(I)

Instructions

The Qualified Contract Price includes the unpaid balance of all secured and unsecured indebtedness with respect to the low-income buildings. Worksheet A requires you to set forth certain information with respect to each mortgage loan and other project indebtedness: The name of the lender, the unpaid principal balance, the accrued interest, the maturity date, and other relevant information.

In the section marked "Other Information" (subsection (v) with respect to each loan), please set forth any information with respect to the loan that may be relevant to the Commission's efforts to market the project. Examples of relevant information include whether the loan has a "due-on-sale" clause or if any portion of the loan is payable from net cash flow (i.e., is "soft" debt). Please also attach to the worksheet an amortization schedule for each loan, if available.

In addition to mortgage indebtedness, you should also list any unsecured, long-term debt the proceeds of which were used directly in the construction, rehabilitation, or operations of the project.

The unpaid principal balance and accrued interest for each loan set forth on this worksheet should be totaled and that total should be transferred to Section A(i) of the Calculation Form.

Worksheet

1. First Mortgage Loan:

(i) Lender: _____
(ii) Principal Balance $ _____
(iii) Accrued Interest $ _____
(iv) Maturity Date: _____
(v) Other Information: _____
_____
[attach amortization schedule, if available]
Subtotal $ _____

2. Second Mortgage Loan:

(i) Lender: _____
(ii) Principal Balance $ _____
(iii) Accrued Interest $ _____
(iv) Maturity Date: _____
(v) Other Information: _____
_____
[attach amortization schedule, if available]
Subtotal $ _____

3. Third Mortgage Loan:

(i) Lender: _____

(ii) Principal Balance $ _____

(iii) Accrued Interest $ _____

(iv) Maturity Date: _____

(v) Other Information: _____

_____

[attach amortization schedule, if available]

Subtotal $ _____

4. Fourth Mortgage Loan:

(i) Lender: _____

(ii) Principal Balance $ _____

(iii) Accrued Interest $ _____

(iv) Maturity Date: _____

(v) Other Information: _____

_____

[attach amortization schedule, if available]

Subtotal $ _____

5. Other Indebtedness with Respect to Low-Income Building(s):

(i) Lender: _____

(ii) Principal Balance $ _____

(iii) Accrued Interest $ _____

(iv) Maturity Date: _____

(v) Other Information: _____

_____

[attach amortization schedule, if available]

Subtotal $ _____

Total Indebtedness with respect to Low-Income Portion of the Building(s) (Sum of 1-5 subtotals above) $ _____

WORKSHEET B
Calculation of Adjusted Investor Equity
In the Low-Income Building(s)
Code Section 42(h)(6)(F)(i)(II)

Instructions

The Qualified Contract Price includes the sum of the "Adjusted Investor Equity" with respect to the project. "Adjusted Investor Equity" means, with respect to each calendar year, the aggregate amount of cash that taxpayers invested with respect to the low-income buildings, increased by the applicable cost-of-living adjustment, if any.

Not all capital contributions with respect to the project qualify as "Adjusted Investor Equity." Specifically, cash invested in the project should be included in this Worksheet B only if **each of the following are true**:

(i) The cash is contributed as a capital contribution and not as a loan or advance;

(ii) the amount is reflected in the adjusted basis of the project (until there is further guidance from the Internal Revenue Service, the Commission will interpret this to mean cash contributions used to directly fund adjusted basis and cash contributions used to pay off a construction or bridge loan, the proceeds of which directly funded adjusted basis); and

(iii) there was an obligation to invest the amount as of the beginning of the credit period (until there is further guidance from the Internal Revenue Service, the Commission will interpret this to include cash actually invested before the beginning of the credit period and cash invested after the beginning of the credit period for which there was an obligation to invest at the beginning of the credit period).

With respect to Worksheet B, subsection (i) for each calendar year requires you to set forth the identity of the investor. Typically, this will be the tax credit investor (i.e., the investor limited partner); however, it may include a general partner if the cash investment by a general partner otherwise satisfies the requirements set forth above.

Subsection (ii) requires you to set forth the amount of qualifying cash equity that was invested in the project for that calendar year. This amount should include only cash that was actually contributed to the project that year; it should not include amounts for which there was a mere obligation to invest.

Subsection (iii) sets forth the cost-of-living adjustment for each calendar year. Investment amounts qualifying as investor equity are entitled to a cost-of-living adjustment. The Commission has calculated the applicable cost-of-living adjustment for each year based on the Consumer Price Index – All Urban Consumers available through the U.S. Department of Labor, Bureau of Labor Statistics. Pursuant to Sections 1(f) and 42(h)(6)(G)(ii) of the Code, the CPI adjustment is calculated for each twelve-month period ending August 31st. Accordingly, in September of each year the Commission will recalculate and revise the "Cost of Living Adjustments" set forth in this worksheet. If you have questions with respect to the Commission's

calculations of the cost-of-living adjustments, you may request an explanation from the Commission.

For each calendar year, the amount of "Adjusted Investor Equity" is the sum of the qualifying investment amount and the cost-of-living adjustment. After calculating the investment amount and cost-of-living adjustment, if any, for each year, these amounts must be totaled and set forth in column 15 of the worksheet. This total is then transferred to Section A(ii) of the Calculation Form.

Worksheet

1. 1990 Adjusted Investor Equity

(i) Investor: _____
(ii) Investment Amount $ _____
(iii) Cost-of-living Adjustment (34.3%) $ _____
Subtotal (ii) plus (iii) $ _____

2. 1991 Adjusted Investor Equity

(i) Investor: _____
(ii) Investment Amount $ _____
(iii) Cost-of-living Adjustment (30.5%) $ _____
Subtotal (ii) plus (iii) $ _____

3. 1992 Adjusted Investor Equity

(i) Investor: _____
(ii) Investment Amount $ _____
(iii) Cost-of-living Adjustment (27.4%) $ _____
Subtotal (ii) plus (iii) $ _____

4. 1993 Adjusted Investor Equity

(i) Investor: _____
(ii) Investment Amount $ _____
(iii) Cost-of-living Adjustment (24.6%) $ _____
Subtotal (ii) plus (iii) $ _____

5. 1994 Adjusted Investor Equity

(i) Investor: _____
(ii) Investment Amount $ _____
(iii) Cost-of-living Adjustment (21.7%) $ _____
Subtotal (ii) plus (iii) $ _____

6. 1995 Adjusted Investor Equity

(i) Investor: _____
(ii) Investment Amount $ _____
(iii) Cost-of-living Adjustment (19.1%) $ _____
Subtotal (ii) plus (iii) $ _____

7. 1996 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (16.2%) $ _____

Subtotal (ii) plus (iii) $ _____

8. 1997 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (14.0%) $ _____

Subtotal (ii) plus (iii) $ _____

9. 1998 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (12.4%) $ _____

Subtotal (ii) plus (iii) $ _____

10. 1999 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (10.1%) $ _____

Subtotal (ii) plus (iii) $ _____

11. 2000 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (6.7%) $ _____

Subtotal (ii) plus (iii) $ _____

12. 2001 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (4.0%) $ _____

Subtotal (ii) plus (iii) $ _____

13. 2002 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (2.0%) $ _____

Subtotal (ii) plus (iii) $ _____

14. 2003 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (0%) $ _____

Subtotal (ii) plus (iii) $ _____

Total Adjusted Investor Equity (Sum of 1-14 subtotals above): **$** _____

WORKSHEET C
Other Capital Contributions
Code Section 42(h)(6)(F)(i)(III)

Instructions

The Qualified Contract Price includes the amount of other capital contributions made with respect to the project. For this purpose, "other capital contributions" are not limited to cash (at least until there is contrary guidance from the Internal Revenue Service) and, therefore, include "in-kind" contributions such as land. However, if you include any non-cash contributions in this worksheet, please describe in detail the type of contribution, the value you have assigned to the contribution, and your justification for assigning that value.

Do not include in this Worksheet C any amounts included in Worksheets A or B. Further, all amounts included in this worksheet must constitute contributed capital and not be a debt or advance.

After setting forth the required information with respect to each contribution, please total the contribution amounts and then transfer the total to Section A(iii) of the Calculation Form.

Worksheet

1. Investment Amount **$**_____

(i) Name of Investor: _____
(ii) Date of Investment: _____
(iii) Use of Contributions/ Proceeds: _____
_____
_____
(iv) Other Information: _____
_____
_____

2. Investment Amount **$**_____

(i) Name of Investor: _____
(ii) Date of Investment: _____
(iii) Use of Contributions/ Proceeds: _____
_____
_____
(iv) Other Information: _____
_____
_____

3. [Add as needed.]

Total of Other Contributions (1 - _____) **$**_____

WORKSHEET D
Cash Distributions
From, or available from the Project
Code Section 42 (h)(6)(F)(ii)

Instructions

The Qualified Contract Price is reduced by the total of all cash distributions from, or available from, the project. To assist you in this calculation, we have divided Worksheet D into three sections.

In Section A, set forth all cash distributions with respect to the project for calendar years 1990 through 2003. Generally, this will include all cash payments and distributions from net operating income (i.e., "below the line" distributions and payments, after the payment of operating expenses, debt service, and reserve). Distributions set forth in Section A of the worksheet will include, but not be limited to, (i) amounts paid to partners or affiliates as fees (including investor fees, partnership management fees, incentive management fees and guaranty fees) and (ii) amounts distributed to partners as a return of capital or otherwise. Until guidance is provided by the Internal Revenue Service, the Commission will not reduce the Qualified Contract Price by payments of deferred Developer Fee to the extent the amount of fee was within the Commission's Policies and guidelines. We require, however, that you list all payments and distributions from net cash flow. If you believe any portion of a payment or distribution should be excluded from the calculation (such as deferred Developer Fee), please identify such payments or distributions and provide an explanation of why it should be excluded.

Section A of the worksheet provides for up to five (5) types of distributions of net operating income for each year (items (i)-(v)). If there were more in any calendar year, you will need to attach an addendum to the worksheet setting forth the recipient, characterization and amount of such distribution.

The Qualified Contract Price is reduced not only by cash distributions made with respect to the project but also all cash that is available for distribution. In Section B you are required to set forth amounts held in reserve and other project accounts and the amounts thereof that are available for distribution. Until such time as guidance is provided by the Internal Revenue Service, the Commission will interpret "available for distribution" to mean all cash held in project accounts the distribution of which is not prohibited by mortgage restrictions, regulatory agreements or similar third-party contractual prohibitions. An amount currently held in a project account that will become unrestricted and available for distribution on or before the expiration of the one-year qualified contract period should be listed as available for distribution in Section B.

Finally, Section C requires you to set forth and describe and non-cash distributions that have been made with respect to the project. Absent unusual circumstances, the amount of "non-cash distributions" will not be applied to reduce the Qualified Contract Price (until contrary guidance from the Internal Revenue Service).

To complete Worksheet D, please total the qualifying cash distributed for all calendar years under Section A and the cash available (or that will be available) for distribution in Section B. The total of Sections A and B should be transferred to Section A(v) of the Calculation Form.

Worksheet

A. Cash Distributed

1. 1990 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

2. 1991 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

3. 1992 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

4. 1993 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

5. 1994 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

6. 1995 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

7. 1996 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

8. 1997 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

9. 1998 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

10. 1999 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

11. 2000 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

12. 2001 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$_____**

13. 2002 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$**_____

14. 2003 Distributions

(i) Recipient and characterization: _____

_____

Amount $_____

(ii) Recipient and characterization: _____

_____

Amount $_____

(iii) Recipient and characterization: _____

_____

Amount $_____

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions **$**_____

Total 1990-2003 Distributions (Sum of Lines 1(i) – 14(i)) **$**_____

B. Cash Available for Distribution:

1. Amounts Held in Replacement Reserve Account(s) $ _____
   a. Amount available for Distribution $_____

2. Amount(s) Held in Operating Reserve Account(s) $ _____
   a. Amount available for Distribution $_____

3. Amounts Held in Other Reserve Accounts (identify each account, the terms thereof, and amount held therein) $ _____
   a. Amount available for Distribution $_____

4. Amounts Held in Partnership Accounts Other than Reserves $ _____
   a. Amount available for Distribution $_____

Total Amount Available for Distribution
(Sum of Lines 1a – 4a) **$**_____

Total Cash Distributed and Available for Distribution
(Sum of Sections A and B) **$**_____

C. List of All Non-Cash Distributions (identify asset distributed, recipient value, and characterization of distribution)

1. Asset Distributed: _____
(i) Recipient: _____
(ii) Date of Distribution: _____
(iii) Estimated Value of Asset When Distributed: $ _____
(iv) Reason For and/or Characterization of Distribution: _____
_____
_____

2. Asset Distributed: _____
(i) Recipient: _____
(ii) Date of Distribution: _____
(iii) Estimated Value of Asset When Distributed: $ _____
(iv) Reason For and/or Characterization of Distribution: _____
_____
_____

3. Asset Distributed: _____
(i) Recipient: _____
(ii) Date of Distribution: _____
(iii) Estimated Value of Asset When Distributed: $ _____
(iv) Reason For and/or Characterization of Distribution: _____
_____
_____

WORKSHEET E

Fair Market Value on Non-Low-Income Portion of Building(s)

The fair market value of the non-low income portion of the project buildings is: $ _____.

Set forth or attach to this worksheet the appraisal, study, methodology proof or other support for the fair market value of the non-low-income portion of the building(s). The fair market value set forth above should be transferred to Section B of the Calculation Form.

Calculation of Qualified Contract Price
Sample Project Calculation

Affordable Housing Commons, a Section 42 low-income project located in Seattle, Washington received an allocation of 1990 tax credits from the Commission. The Project was placed in service the same year.

The Project is owned by a limited partnership, AHC, limited partnership (the "Partnership") in which General Partner, LLC is the General Partner and Affordable Housing Fund, LP is the Investor Limited Partner. The Developer is General Partner Affiliate, Inc., an affiliate of the general partner.

Investor Limited Partner contributed tax credit equity of $5,500,000 in the following installments: $550,000 in 1990; $2,035,000 in 1991; $2,382,000 in 1992; and $533,000 in 1993. [See Worksheet B.] All of this equity was used directly for eligible basis items or to pay off construction loan financing. General Partner contributed $10,000 cash in 1990 which was used for pre-development expenses not includable in the eligible basis of the Project.

The permanent financing for the Project consisted of the following:

(1) A permanent conventional mortgage loan from State Bank of Washington in the amount on $3,550,000 (the "First Mortgage Loan"). As of June 1, 2004 the unpaid principal balance of the First Mortgage is $2,800,000 and all interest is paid current [See Worksheet A].

(2) A "soft" mortgage loan from Agency Lender in the amount of $200,000 (the "Second Mortgage Loan"). This loan accrues simple interest at the rate of 1% per annum and all principal and accrued interest is due and payable in 40 years. As of June 1, 2004, the unpaid principal balance of the Second Mortgage Loan is $200,000, with accrued interest of $28,000 [See Worksheet A].

(3) A deferred Developer Fee, in the amount of $736,000. The deferred Developer Fee was paid in full as a first priority from distributions of net cash flow over 1990-1996.

Net cash flow from the Project, after payment of operating expenses, debt service on the first mortgage loan and reserve, is distributed in the following priority:

(i) payment of the deferred Development Fee until paid;

(ii) payment of an non-cumulative Investor Services Fee to the Investor Limited Partner of $7,000 annually;

(iii) payment of a non-cumulative Partnership Management Fee to General Partner in the amount of $35,000;

(iv) payment of a non-cumulative Incentive Management Fee to General Partner based on a percentage of project gross income; and

(v) any remaining net cash flow is split equally between General Partner and Investor Limited Partner.

In addition to the payment of the deferred Developer Fee, from 1990 through 2003, the Partnership made distributions of net cash flow as set forth in Worksheet D.

The Partnership maintains three accounts: (1) a general operating account which, after payment of operating expenses, has a nominal annual balance; (2) a replacement reserve account, required pursuant to the terms of the First Mortgage Loan, with a balance on June 1, 2004 of $66,000, of which fifty percent (50%) is released from the restrictions of the First Mortgage Loan on January 1, 2005; and (3) an operating reserve account maintained by the Partnership (and not required by the terms of any mortgage or third-party contract) with a current balance of $25,000. [See Worksheet D.]

A calculation of the Qualified Contract Price for the Project, effective June 1, 2004, is attached.

Instructions for
Calculation of Qualified Contract Price

Before the Commission will commence marketing your project, you must complete the Calculation of Qualified Contract Price form attached to these instructions (the "Calculation Form"). This calculation will establish the minimum price at which the Commission will market your project and present an offer for its purchase.

To complete the Calculation Form, you must complete Exhibits A through D and, if the project has market rate units, Exhibit E. The results of Exhibits A through E are transferred to the Calculation Form to determine the Qualified Contract Price for the project.

The Calculation Form is derived from a statutory formula set forth in Section 42(h)(6)(F) of the Internal Revenue Code. The statutory formula divides the purchase price between the low-income portion of the project and the market rate portion of the project, if any. Qualified Contract Price for the low-income portion of the project is equal to the sum of project indebtedness (Worksheet A), investor equity (Worksheet B), and other capital contributions (Worksheet C) **reduced** by the total cash that has been distributed, or is available for distribution, from the project (Worksheet D). If the project has any market rate units, the Qualified Contract Price is increased by the fair market value of those units (Worksheet E).

Please remember that the twelve-month period for finding a buyer will not commence until the Calculation, and Exhibits A through E, are completed and returned to the Commission with the notification letter and other required materials. The Calculation must be prepared, approved or reviewed by the accountant for the project owner or similarly qualified professional.

If you have any questions with respect to the preparation of the Calculation and Exhibits, you are encouraged to contact Tim Sovold at 205-464-7139.

Calculation of Qualified Contract Price
Pursuant to Section 42(h)(6)(F) of the Internal Code
As of June 1, 2004

A. Calculation of Low-Income Portion of Payment:

(i)	Outstanding Indebtedness secured by, or with respect to the Buildings (from *Worksheet A*)	$ 3,028,000	
(ii)	Adjusted Investor Equity (from *Worksheet B)*	$ 7,093,111	
(iii)	Other Capital Contributions not reflected in (i) or (ii) (from *Worksheet C*)	$ 10,000	
(iv)	Total of (i), (ii) and (iii)	$ 10,131,111	
(v)	Cash Distributions from or available from, the Project (from *Worksheet D*)	$ 762,000	
(vi)	Line (iv) reduced by Line (v)	$ 9,369,111	
(vii)	Applicable fraction (as set forth in the Tax Credit Regulatory Agreement)	100 %	
(viii)	Low-Income Portion of Qualified Contract Price (Line (vi) multiplied by Line (vii))		$ 9,369,111

B. Fair Market Value of Non Low-Income Portion of Building(s) (from *Worksheet E*) $ N/A

Qualified Contract Price
(Sum of Line A(viii) and Line B) $ 9,369,111

WORKSHEET A
Outstanding Indebtedness
With Respect to Low-Income Building(s)
Code Section 42(h)(6)(F)(i)(I)

Instructions

The Qualified Contract Price includes the unpaid balance of all secured and unsecured indebtedness with respect to the low-income buildings. Worksheet A requires you to set forth certain information with respect to each mortgage loan and other project indebtedness: The name of the lender, the unpaid principal balance, the accrued interest, the maturity date, and other relevant information.

In the section marked "Other Information" (subsection (v) with respect to each loan), please set forth any information with respect to the loan that may be relevant to the Commission's efforts to market the project. Examples of relevant information include whether the loan has a "due-on-sale" clause or if any portion of the loan is payable from net cash flow (i.e., is "soft" debt). Please also attach to the worksheet an amortization schedule for each loan, if available.

In addition to mortgage indebtedness, you should also list any unsecured, long-term debt the proceeds of which were used directly in the construction, rehabilitation, or operations of the project.

The unpaid principal balance and accrued interest for each loan set forth on this worksheet should be totaled and that total should be transferred to Section A(i) of the Calculation Form.

Worksheet

1. First Mortgage Loan:

(i)	Lender: State Bank of Washington	
(ii)	Principal Balance	$ 2,800,000
(iii)	Accrued Interest	$ -0-
(iv)	Maturity Date:	
(v)	Other Information: Lender consent required for direct transfer of project or GP interest.	
	Subtotal	$ 2,800,000

2. Second Mortgage Loan:

(i)	Lender: Agency Lender	
(ii)	Principal Balance	$ 200,000
(iii)	Accrued Interest	$ 28,000
(iv)	Maturity Date: 01/01/40	
(v)	Other Information: Soft loan 1% simple interest With principal and accrued interest due in forty years.	
	Subtotal	$ 228,000

3. Third Mortgage Loan:

(i) Lender: _____

(ii) Principal Balance $ _____

(iii) Accrued Interest $ _____

(iv) Maturity Date: _____

(v) Other Information: _____

_____

[attach amortization schedule, if available]

Subtotal $ _____

4. Fourth Mortgage Loan:

(i) Lender: _____

(ii) Principal Balance $ _____

(iii) Accrued Interest $ _____

(iv) Maturity Date: _____

(v) Other Information: _____

_____

[attach amortization schedule, if available]

Subtotal $ _____

5. Other Indebtedness with Respect to Low-Income Building(s):

(i) Lender: _____

(ii) Principal Balance $ _____

(iii) Accrued Interest $ _____

(iv) Maturity Date: _____

(v) Other Information: _____

_____

[attach amortization schedule, if available]

Subtotal $ _____

Total Indebtedness with respect to Low-Income Portion of the Building(s) (Sum of 1-5 subtotals above) $ 3,028,000

WORKSHEET B
Calculation of Adjusted Investor Equity
In the Low-Income Building(s)
Code Section 42(h)(6)(F)(i)(II)

Instructions

The Qualified Contract Price includes the sum of the "Adjusted Investor Equity" with respect to the project. "Adjusted Investor Equity" means, with respect to each calendar year, the aggregate amount of cash that taxpayers invested with respect to the low-income buildings, increased by the applicable cost-of-living adjustment, if any.

Not all capital contributions with respect to the project qualify as "Adjusted Investor Equity." Specifically, cash invested in the project should be included in this Worksheet B only if **each of the following are true**:

(i) The cash is contributed as a capital contribution and not as a loan or advance;

(ii) the amount is reflected in the adjusted basis of the project (until there is further guidance from the Internal Revenue Service, the Commission will interpret this to mean cash contributions used to directly fund adjusted basis and cash contributions used to pay off a construction or bridge loan, the proceeds of which directly funded adjusted basis); and

(iii) there was an obligation to invest the amount as of the beginning of the credit period (until there is further guidance from the Internal Revenue Service, the Commission will interpret this to include cash actually invested before the beginning of the credit period and cash invested after the beginning of the credit period for which there was an obligation to invest at the beginning of the credit period).

With respect to Worksheet B, subsection (i) for each calendar year requires you to set forth the identity of the investor. Typically, this will be the tax credit investor (i.e., the investor limited partner); however, it may include a general partner if the cash investment by a general partner otherwise satisfies the requirements set forth above.

Subsection (ii) requires you to set forth the amount of qualifying cash equity that was invested in the project for that calendar year. This amount should include only cash that was actually contributed to the project that year; it should not include amounts for which there was a mere obligation to invest.

Subsection (iii) sets forth the cost-of-living adjustment for each calendar year. Investment amounts qualifying as investor equity are entitled to a cost-of-living adjustment. The Commission has calculated the applicable cost-of-living adjustment for each year based on the Consumer Price Index – All Urban Consumers available through the U.S. Department of Labor, Bureau of Labor Statistics. Pursuant to Sections 1(f) and 42(h)(6)(G)(ii) of the Code, the CPI adjustment is calculated for each twelve-month period ending August 31st. Accordingly, in September of each year the Commission will recalculate and revise the "Cost of Living Adjustments" set forth in this worksheet. If you have questions with respect to the Commission's

calculations of the cost-of-living adjustments, you may request an explanation from the Commission.

For each calendar year, the amount of "Adjusted Investor Equity" is the sum of the qualifying investment amount and the cost-of-living adjustment. After calculating the investment amount and cost-of-living adjustment, if any, for each year, these amounts must be totaled and set forth in column 15 of the worksheet. This total is then transferred to Section A(ii) of the Calculation Form.

Worksheet

1.	**1990 Adjusted Investor Equity**			
	(i) Investor: Affordable Housing Fund, LP			
	(ii) Investment Amount		$ 550,000	
	(iii) Cost-of-living Adjustment (34.3%)		$ 188,650	
	Subtotal (ii) plus (iii)			$ 738,650
2.	**1991 Adjusted Investor Equity**			
	(i) Investor: Affordable Housing Fund, LP			
	(ii) Investment Amount		$ 2,035,000	
	(iii) Cost-of-living Adjustment (30.5%)		$ 620,675	
	Subtotal (ii) plus (iii)			$ 2,655,675
3.	**1992 Adjusted Investor Equity**			
	(i) Investor: Affordable Housing Fund, LP			
	(ii) Investment Amount		$ 2,382,000	
	(iii) Cost-of-living Adjustment (27.4%)		$ 652,668	
	Subtotal (ii) plus (iii)			$ 3,034,668
4.	**1993 Adjusted Investor Equity**			
	(i) Investor: Affordable Housing Fund, LP			
	(ii) Investment Amount		$ 533,000	
	(iii) Cost-of-living Adjustment (24.6%)		$ 131,118	
	Subtotal (ii) plus (iii)			$ 664,118
5.	**1994 Adjusted Investor Equity**			
	(i) Investor: _____			
	(ii) Investment Amount	$ _____		
	(iii) Cost-of-living Adjustment (21.7%)	$ _____		
	Subtotal (ii) plus (iii)			$ _____
6.	**1995 Adjusted Investor Equity**			
	(i) Investor: _____			
	(ii) Investment Amount	$ _____		
	(iii) Cost-of-living Adjustment (19.1%)	$ _____		
	Subtotal (ii) plus (iii)			$ _____

7. 1996 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (16.2%) $ _____

Subtotal (ii) plus (iii) $ _____

8. 1997 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (14.0%) $ _____

Subtotal (ii) plus (iii) $ _____

9. 1998 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (12.4%) $ _____

Subtotal (ii) plus (iii) $ _____

10. 1999 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (10.1%) $ _____

Subtotal (ii) plus (iii) $ _____

11. 2000 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (6.7%) $ _____

Subtotal (ii) plus (iii) $ _____

12. 2001 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (4.0%) $ _____

Subtotal (ii) plus (iii) $ _____

13. 2002 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (2.0%) $ _____

Subtotal (ii) plus (iii) $ _____

14. 2003 Adjusted Investor Equity

(i) Investor: _____

(ii) Investment Amount $ _____

(iii) Cost-of-living Adjustment (0%) $ _____

Subtotal (ii) plus (iii) $ _____

Total Adjusted Investor Equity (Sum of 1-14 subtotals above): **$ 7,093,111**

WORKSHEET C
Other Capital Contributions
Code Section 42(h)(6)(F)(i)(III)

Instructions

The Qualified Contract Price includes the amount of other capital contributions made with respect to the project. For this purpose, "other capital contributions" are not limited to cash (at least until there is contrary guidance from the Internal Revenue Service) and, therefore, include "in-kind" contributions such as land. However, if you include any non-cash contributions in this worksheet, please describe in detail the type of contribution, the value you have assigned to the contribution, and your justification for assigning that value.

Do not include in this Worksheet C any amounts included in Worksheets A or B. Further, all amounts included in this worksheet must constitute contributed capital and not be a debt or advance.

After setting forth the required information with respect to each contribution, please total the contribution amounts and then transfer the total to Section A(iii) of the Calculation Form.

Worksheet

1. Investment Amount **$ 10,000**

(i) Name of Investor: General Partner LLC
(ii) Date of Investment: 01/01/90
(iii) Use of Contributions/ Proceeds: payment of predevelopment expenses NOT included in eligible basis
(iv) Other Information: _____

2. Investment Amount **$**_____

(i) Name of Investor: _____
(ii) Date of Investment: _____
(iii) Use of Contributions/ Proceeds: _____
(iv) Other Information: _____

3. [Add as needed.]

Total of Other Contributions (1 - _____) **$ 10,000**

WORKSHEET D
Cash Distributions
From, or available from the Project
Code Section 42 (h)(6)(F)(ii)

Instructions

The Qualified Contract Price is reduced by the total of all cash distributions from, or available from, the project. To assist you in this calculation, we have divided Worksheet D into three sections.

In Section A, set forth all cash distributions with respect to the project for calendar years 1990 through 2003. Generally, this will include all cash payments and distributions from net operating income (i.e., "below the line" distributions and payments, after the payment of operating expenses, debt service, and reserve). Distributions set forth in Section A of the worksheet will include, but not be limited to, (i) amounts paid to partners or affiliates as fees (including investor fees, partnership management fees, incentive management fees and guaranty fees) and (ii) amounts distributed to partners as a return of capital or otherwise. Until guidance is provided by the Internal Revenue Service, the Commission will not reduce the Qualified Contract Price by payments of deferred Developer Fee to the extent the amount of fee was within the Commission's Policies and guidelines. We require, however, that you list all payments and distributions from net cash flow. If you believe any portion of a payment or distribution should be excluded from the calculation (such as deferred Developer Fee), please identify such payments or distributions and provide an explanation of why it should be excluded.

Section A of the worksheet provides for up to five (5) types of distributions of net operating income for each year (items (i)-(v)). If there were more in any calendar year, you will need to attach an addendum to the worksheet setting forth the recipient, characterization and amount of such distribution.

The Qualified Contract Price is reduced not only by cash distributions made with respect to the project but also all cash that is available for distribution. In Section B you are required to set forth amounts held in reserve and other project accounts and the amounts thereof that are available for distribution. Until such time as guidance is provided by the Internal Revenue Service, the Commission will interpret "available for distribution" to mean all cash held in project accounts the distribution of which is not prohibited by mortgage restrictions, regulatory agreements or similar third-party contractual prohibitions. An amount currently held in a project account that will become unrestricted and available for distribution on or before the expiration of the one-year qualified contract period should be listed as available for distribution in Section B.

Finally, Section C requires you to set forth and describe and non-cash distributions that have been made with respect to the project. Absent unusual circumstances, the amount of "non-cash distributions" will not be applied to reduce the Qualified Contract Price (until contrary guidance from the Internal Revenue Service).

To complete Worksheet D, please total the qualifying cash distributed for all calendar years under Section A and the cash available (or that will be available) for distribution in Section B. The total of Sections A and B should be transferred to Section A(v) of the Calculation Form.

Worksheet

A. Cash Distributed

1. 1990 Distributions

(i) Recipient and characterization: _____

_____

Amount $ -0-

(ii) Recipient and characterization: Developer - $202,000 Deferred Developer Fee - Fee within WSHFC limits

Amount $ -0-

(iii) Recipient and characterization: _____

_____

Amount $ -0-

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions $ -0-

2. 1991 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee

Amount $ 7,000

(ii) Recipient and characterization: Developer - $60,000 Deferred Developer Fee – Fee within WSHFC limits

Amount $ -0-

(iii) Recipient and characterization: General Partner, LLC – Partnership Management Fee

Amount $ 35,000

(iv) Recipient and characterization: _____

_____

Amount $_____

(v) Recipient and characterization: _____

_____

Amount $_____

Total Distributions $ 42,000

3. 1992 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: Developer - $57,000 Deferred Developer Fee – Fee within WSHFC limits
Amount $ -0-

(iii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iv) Recipient and characterization: _____
_____
Amount $_____

(v) Recipient and characterization: _____
_____
Amount $_____

Total Distributions $ 42,000

4. 1993 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: Developer - $60,000 Deferred Developer Fee – Fee within WSHFC limits
Amount $ -0-

(iii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iv) Recipient and characterization: _____
_____
Amount $_____

(v) Recipient and characterization: _____
_____
Amount $_____

Total Distributions $ 42,000

5. 1994 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: Developer - $251,000 Deferred Developer Fee – Fee within WSHFC limits
Amount $ -0-

(iii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iv) Recipient and characterization: _____
_____
Amount $_____

(v) Recipient and characterization: _____
_____
Amount $_____

Total Distributions $ 42,000

6. 1995 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: Developer - $68,000 Deferred Developer Fee – Fee within WSHFC limits
Amount $ -0-

(iii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iv) Recipient and characterization: _____
_____
Amount $_____

(v) Recipient and characterization: _____
_____
Amount $_____

Total Distributions $ 42,000

7. 1996 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: Developer - $38,000 Deferred Developer Fee – Fee within WSHFC limits
Amount $ -0-

(iii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iv) Recipient and characterization: _____
Amount $_____

(v) Recipient and characterization: _____
Amount $_____

Total Distributions $ 42,000

8. 1997 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iii) Recipient and characterization: _____
Amount $_____

(iv) Recipient and characterization: _____
Amount $_____

(v) Recipient and characterization: _____
Amount $_____

Total Distributions $ 42,000

9. 1998 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iii) Recipient and characterization: _____
Amount $_____

(iv) Recipient and characterization: _____
Amount $_____

(v) Recipient and characterization: _____
Amount $_____

Total Distributions $ 42,000

10. 1999 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iii) Recipient and characterization: _____
Amount $_____

(iv) Recipient and characterization: _____
Amount $_____

(v) Recipient and characterization: _____
Amount $_____

Total Distributions $ 42,000

11. 2000 Distributions

(i)	Recipient and characterization: Affordable Housing Fund – Investor Services Fee	
	Amount	$ 7,000
(ii)	Recipient and characterization: General Partner, LLC – Partnership Management Fee	
	Amount	$ 35,000
(iii)	Recipient and characterization: General Partner, LLC – Incentive Management Fee	
	Amount	$ 10,000
(iv)	Recipient and characterization: _____	
	Amount	$ _____
(v)	Recipient and characterization: _____	
	Amount	$ _____
	Total Distributions	$ 52,000

12. 2001 Distributions

(i)	Recipient and characterization: Affordable Housing Fund – Investor Services Fee	
	Amount	$ 7,000
(ii)	Recipient and characterization: General Partner, LLC – Partnership Management Fee	
	Amount	$ 35,000
(iii)	Recipient and characterization: General Partner, LLC – Incentive Management Fee	
	Amount	$ 37,000
(iv)	Recipient and characterization: Affordable Housing Fund & General Partner–50/50 Residual distribution split	
	Amount	$ 11,000
(v)	Recipient and characterization: _____	
	Amount	$ _____
	Total Distributions	$ 90,000

13. 2002 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iii) Recipient and characterization: General Partner, LLC – Incentive Management Fee
Amount $ 38,000

(iv) Recipient and characterization: Affordable Housing Fund & General Partner–50/50 Residual distribution split
Amount $ 11,000

(v) Recipient and characterization: _____
Amount $ _____

Total Distributions $ 91,000

14. 2003 Distributions

(i) Recipient and characterization: Affordable Housing Fund – Investor Services Fee
Amount $ 7,000

(ii) Recipient and characterization: General Partner, LLC – Partnership Management Fee
Amount $ 35,000

(iii) Recipient and characterization: General Partner, LLC – Incentive Management Fee
Amount $ 39,000

(iv) Recipient and characterization: Affordable Housing Fund & General Partner–50/50 Residual distribution split
Amount $ 12,000

Total Distributions $ 93,000

Total 1990-2003 Distributions (Sum of Lines 1(i) – 14(i)) **$ 704,000**

B. Cash Available for Distribution:

1.	Amounts Held in Replacement Reserve Account(s)	$ 66,000	
	a. Amount available for Distribution		$ 33,000
2.	Amount(s) Held in Operating Reserve Account(s)	$ -0-	
	a. Amount available for Distribution		$ -0-
3.	Amounts Held in Other Reserve Accounts (identify each account, the terms thereof, and amount held therein)	$ 25,000	
	a. Amount available for Distribution		$ 25,000
4.	Amounts Held in Partnership Accounts Other than Reserves	$ -0-	
	a. Amount available for Distribution		$ -0-
	Total Amount Available for Distribution (Sum of Lines 1a – 4a)		$ 58,000

C. Total Cash Distributed and Available for Distribution (Sum of Sections A and B) $ 762,000

D. List of All Non-Cash Distributions (identify asset distributed, recipient value, and characterization of distribution)

1. Asset Distributed: -0-
(i) Recipient: _____
(ii) Date of Distribution: _____
(iii) Estimated Value of Asset When Distributed: $ _____
(iv) Reason For and/or Characterization of Distribution: _____

2. Asset Distributed: _____
(i) Recipient: _____
(ii) Date of Distribution: _____
(iii) Estimated Value of Asset When Distributed: $ _____
(iv) Reason For and/or Characterization of Distribution: _____

3. Asset Distributed: _____
(i) Recipient: _____
(ii) Date of Distribution: _____
(iii) Estimated Value of Asset When Distributed: $ _____
(iv) Reason For and/or Characterization of Distribution: _____

WORKSHEET E

Fair Market Value on Non-Low-Income Portion of Building(s)

The fair market value of the non-low income portion of the project buildings is: $ ____N/A____.

Set forth or attach to this worksheet the appraisal, study, methodology proof or other support for the fair market value of the non-low-income portion of the building(s). The fair market value set forth above should be transferred to Section B of the Calculation Form.

Post-Year 15 Monitoring Procedures

Introduction

The Commission has established monitoring procedures for approved qualified tax credit properties operating after Year 15 of their Extended Use Agreement. These procedures, designed to both preserve the long-term affordability of properties and lessen reporting burdens for Owners, are called Post-Year 15 Monitoring Procedures.

Tax Credit properties allocated credit in 1990 and after were required to record a commitment to affordable housing for a minimum of thirty years. The Commission refers to this agreement as the Regulatory Agreement or the Extended Use Agreement (EUA). The first fifteen years of the EUA is called the "Compliance Period." During the Compliance Period, the Commission is obligated to report events of noncompliance to the Internal Revenue Service.

The IRS calls the ensuing period after the Compliance Period the "Extended Use Period." The Commission also established an "Additional Low-Income Use Period" in the EUA as a further commitment by the Owner. During these periods, the Commission must continue to monitor properties for low-income housing commitments made in the EUA, but is no longer required to report instances of noncompliance to the Internal Revenue Service.

In light of the IRS' allowance for lessened reporting after Year 15, the Commission has adopted the following procedures for approved properties to ensure compliance with the EUA while allowing for the streamlining of reporting requirements during this period.

NOTE: If your project is mixed-income (i.e., it has Market Rate units in addition to affordable units), it will not be approved to use the Commission's ***Self-Certification*** form for recertifying households. An approved mixed-income project will still be obligated to third-party verify all household income and assets at all household recertifications.

An approved mixed-income project will be eligible for all other Post-Year 15 Procedures noted in this chapter.

Qualifying for the Waiver

Properties must satisfy a qualifying threshold to be eligible for Post-Year 15 Monitoring Procedures in years 16 through 40. To qualify, a property must be free of Material Noncompliance issues in years 13-15 of the compliance period (the "Qualifying Period"). Properties must have three consecutive years of annual reports and on-site inspections free of Material Noncompliance as determined by Commission staff.

Properties that meet the required threshold will continue to qualify for Post-Year 15 Monitoring Procedures unless they have a year with Material Noncompliance, at which time a new three-year Qualifying Period will begin.

A transfer of Ownership or switching to a new Property Management company will also trigger a new three-year Qualifying Period.

During any Qualifying Period, properties are subject to normal monitoring procedures as outlined elsewhere in this **Tax Credit Compliance Procedures Manual**.

Owners who wish to participate in the Post-Year 15 Monitoring Procedures must be in good standing during the three-year Qualifying Period and must continue in good standing. They must submit a written request for a Post-Year 15 waiver to the Asset Management & Compliance Division Director. After review, Owners will receive a written waiver letter for each property that qualifies for the procedures.

Annual Reports

Owners will continue to use the existing annual reporting forms. Owners will report all data for new households on the Table 1 report in WBARS, and complete all Owner certification information on the *Owner's Annual Certification* document. Commission staff will request a sampling of **new move-in** resident packages (minimum of 10% every 3 years) after reviewing Table 1 and the *Owner's Annual Certification*.

Initial Resident Qualifications

Owners must continue to third-party verify and income-qualify all households upon initial occupancy of any affordable unit. Owners must also continue to limit Up-Front Charges & Fees (see Chapter 3 of this Manual for more information about restricting Up-Front Charges).

Re-Certifications

Third-party verified re-certifications are not required for existing households after Year 15 on 100% affordable properties that qualify for and continue to meet Post-Year 15 Monitoring Procedures.

The Commission works closely with several other public funding agencies that require annual recertifications. Most of these agencies do not require third-party verification of income for a recertification. To satisfy the IRS and other funder requirements, the Commission has adopted a *Self-Certification of Annual Income Form.*

After initial qualification, households must self-certify their income and Student status annually on their anniversary date on this form.

The *Student Certification* is still required even after Year 15 of the Regulatory Agreement if the household is comprised of all fulltime Students, even if the household meets a Student exemption. If an Owner is considering a resyndication of their tax credit property, it is vital that there are no fulltime student households in the property, as this could jeopardize credits under the new allocation.

If a Resident's gross household income exceeds 140% at the first recertification, or if the household income has increased by a significant degree (e.g., +10K or more), the Commission will request third-party verification regarding the household's income to determine the cause of the increase and whether or not the household truly qualified upon initial move-in.

Household Transfers

(unit-to-unit, building-to-building)

For 100% affordable properties, households may change units, even into a different building, without the requirement of a new household income qualification. Owners should process all household transfers in WBARS using the Transfer button on the Table 1 page.

Common Area Units

Employees of a property will not necessarily need to be fulltime employees at the property to occupy a Common Area Unit as long as the Owner can justify the need for the manager/maintenance person/security for that property, and the employee's principle occupation is to manage the subject property.

The owner must notify the Commission in writing if they wish to move the Common Area Unit to another Building in the property, even after Year 15.

On-Site Visits

- WSHFC will maintain the standard of inspecting units every three years. Units may be inspected more frequently if needed.
- Generally, the percentage of units inspected will be reduced from 20% to a minimum of 10% of total units, with a minimum of five units inspected each visit.
- Resident certification packages for units inspected will not generally be needed after the on-site inspection, since the Commission will request new move-in packages after reviewing Table 1 and the *Owner's Annual Certification.*

Compliance Fees

For properties that meet qualifying threshold requirements, fees will be reduced $10 per unit, per year, as long as the property remains in compliance. Rural Development properties will be reduced $100 per property.

Special Needs Commitments

Owners may be allowed to change Transitional units to Homeless units with Commission staff approval. Owners may submit written requests for changes to other Special Needs Commitments in cases where they can demonstrate significant demographic changes in the area surrounding the property and demonstrate that these changes have caused significant vacancy and turnover issues and are creating a financial hardship that is affecting the viability of the property.

Additional Low-Income Set-Asides

For properties with extreme hardship cases, Owners may submit requests for waivers or changes that will improve financial feasibility issues of the property. Owners will need to justify requests with financial data, reserves analysis, capital needs assessment, market change analysis, and effect of proposed changes to local populations. Extreme hardship cases could include, but are not limited to, the pending foreclosure of a property that is unable to service existing debt and maintain the property.

Record Retention

Beginning in year 16, Owners must maintain copies of initial move-in certification packet records for all Households that occupied units in a building for five years from the date of move-in. Original records must be maintained for three years after move-in. Electronic or photocopies of records may be maintained for the remaining two years.

The Commission is not responsible for keeping/providing household eligibility records if the Owner disposes of their copies but then is required to furnish them to the IRS for the purposes of a tax audit. Ultimately, an Owner's decision on how long to keep a property's resident eligibility records should be made in collaboration with their appointed tax counsel.

Noncompliance

For chronic problems, temporary suspension and/or debarment procedures may be implemented. Properties that have Material Noncompliance will no longer be eligible for Post-Year 15 Monitoring Procedures and will be required to complete a new three-year Qualifying Period after all noncompliance issues are corrected.

Please note that recurring or uncorrected Material Noncompliance will delay or prohibit the Owner's ability to acquire credit in future deals. It is to the Owner's benefit to ensure that all noncompliance occurring during the Extended Use Period be resolved promptly.

Post-Year 15 Training

The Division has created a Post-Year 15 webcast that is available for viewing on the **Tax Credit Compliance Procedures Manual** webpage on the Commission's website. Otherwise, Division staff will provide one-on-one support to any Owner who desires additional assistance to understand these procedures and how they would impact his/her property.

Fulltime Student Households

No changes; see ***Chapter 2, Federal Requirements***.

Utility Allowances

No changes; see ***Chapter 2, Federal Requirements***.

Additional Low-Income Housing Use Period

No changes; see ***Chapter 3, Washington State Requirements***.

Definitions

***Post-Year 15 Monitoring Procedures*:**

A set of procedures outlined in **Chapter 11** of the **Tax Credit Compliance Procedures Manual** which amends certain reporting and monitoring requirements of the Owner for properties, after Year 15 in the Extended Use Period, that meet certain requirements in the "Qualifying Period" and continue to have no event of "Material Noncompliance."

***Qualifying Period*:**

Year 13-15 of the Extended Use Period for a property or any three-year correction period after Year 15. During these years, properties must have no event of "Material Noncompliance" to qualify for Post-Year 15 Monitoring Procedures.

***Material Noncompliance*:**

a) A single event of noncompliance that is not corrected by the Owner during the correction period, with any approved extensions, or,

b) A pattern of noncompliance, whether or not corrected, which is determined to be material by the Commission staff.

Note: Capitalized terms are also defined in the Commission's Tax Credit Policies, Owner Regulatory Agreements and in ***Appendix A, Glossary*** of this Manual.

Commission Recertification Waiver Procedure

Introduction

Prior to the Housing & Recovery Act of 2008 (HERA), the IRS allowed owners to apply for an annual recertification waiver procedure granted under §42(g)(8)(B), of the Code. HERA eliminated the need to annually recertify. However, the Commission still requires one third-party recertification of every new household until Year 15, after which annual self -recertifications may be done. Properties that were previously approved by the IRS for the Recertification Waiver, continue to qualify and do not need to complete annual third-party recertifications. Property owners who are still interested in a waiver of the third year third-party recertification, may still apply for this waiver – after year 3 and prior to year 11. The Commission will follow the same IRS established procedures outlined in this chapter. However, all approvals will be completed by Commission staff instead of the IRS.

Qualifying for the Waiver

A. The Owner and/or any Related Party shall remain current with respect to the payment of all fees due and payable under any agreement with the Commission. The Owner shall provide reasonable evidence, satisfactory to the Commission, that the Owner and/or any Related Party has paid all fees due and payable under any agreement with the Commission.

B. For each building applying for the Waiver, the building must (1) have been Placed-In-Service, (2) contain 100% Qualified Low-Income Housing Units as of the immediately preceding year end, and (3) have been in service for a minimum of three years prior to the application. Due to the cost of this certification, we recommend no applications for projects after year 11.

C. Buildings receiving funding from agencies that require annual certifications including, but not limited to, Rural Development and Project Based Section 8 (HUD) may not be eligible for the waiver. Buildings that received tax-exempt bonds from the Commission may be eligible for the waiver but, if approved, such buildings must still annually recertify all bond-required set-aside units.

D. No building with uncorrected non-compliance issues is eligible for the Waiver. Buildings with a pattern of noncompliance issues or material corrections may not be eligible for the Waiver.

E. The Annual Compliance Monitoring Fee, as may be amended from time to time, continues to apply to each Low-Income Housing Unit in the Project.

F. The Owner must identify a proposed third-party auditor as described below.

Request Process

If a Building Owner meets the "Qualifying for the Waiver" conditions stated above, the Owner should submit to the Commission (1) the *Owner Request to Proceed for Recertification Waiver* letter and (2) detailed information regarding the qualifications and experience of the Owner's chosen Auditor.

To be approved by the Commission, the Auditor must demonstrate the following minimum qualifications:

- At least 5 years doing tax credit compliance monitoring work
- Has worked with at least 75 properties
- Has nationally recognized LIHTC accreditation
- Can perform work in accordance with scope of work
- Can certify that there is no conflict of interest with Owner or Owner representatives, project developer, management company or syndicator

A sample *Owner Request to Proceed for Recertification Waiver* letter is attached.

A. After receiving the *Owner Request to Proceed for Recertification Waiver* letter and the auditor proposal, the Commission will review the building to ensure that all qualifying conditions are met.

B. If the Waiver is approved by the Commission, the Commission will provide the Owner with the *Authorization to Proceed for Recertification Waiver* letter. A sample *Authorization to Proceed* letter is attached.

C. Audits. Auditors must review the initial certification and supporting documentation for each Low-Income Resident residing in the property at the end of the most recent credit year. If the property has vacant units at the end of the most recent credit year, the Auditor will review the initial certifications and supporting documentation for the households who last occupied the unit prior to vacancy.

- Auditors must inspect 100% of each building's files and meet <u>each</u> of the following requirements:

1. The audit must establish that (1) all of the Housing Units in each building of a single Property were Qualified Low-Income Housing Units as of the close of the end of the most recent credit year.
2. Auditors must submit an *Auditor Statement of 100% Compliance* to the Commission upon completion of the audit. A sample *Auditor Statement* is attached.

D. Upon completion of the audit, the Owner must submit the *Auditor Statement* to the Commission.

E. Upon approval of the *Auditor Statement*, the Commission will send written notification of Waiver approval to the Owner. The Waiver is not effective until the Owner receives written approval from the Commission.

Annual Self-Recertification Form

The Commission works closely with several other public funding agencies that require annual recertifications. Most of these agencies do not require third-party verification of income for a recertification. To satisfy the IRS and other funder requirements, the Commission has adopted a ***Self-Certification of Annual Income Form***. After initial qualification, households must self-certify their income and student status annually on this form.

Owners with bond regulatory agreements that require recertification of bond units must continue to **fully** recertify those units and demonstrate compliance with federal bond regulatory requirements.

Annual Reports

Owners must continue to complete all Owner certification information on the CCPC. Since the owner will be collecting income information through self-certifications from the residents (see above), income information should still be included on the Table 1 report.

Household Transfers

For 100% tax credit affordable properties, households may change units, even into a different building, without the requirement of a new household income qualification. Owners should indicate all household transfers on the Table 1 report in WBARS.

Owners with tax credit and bond regulatory agreements must continue to re-certify households that transfer from one unit to another unit in a <u>different building</u>, if that unit is part of the federal bond set-aside units and must continue to demonstrate compliance with the Available Unit rule.

Assumptions and Reservations

The Commission reserves the right to modify its policy with respect to the Waiver as circumstance and/or experience warrant, subject to proper notice and public comment.

Furthermore, the Commission reserves the right to deny, modify, suspend, or revoke the Waiver with respect to particular Project(s) upon:

A. any project transfer subject to Section 17 of the Regulatory Agreement (Extended Use Agreement), provided that

   1. the Commission shall not unreasonably modify, suspend or withdraw its consent where the Transferee satisfies the requirements outlined in Section 17 of the Regulatory Agreement (Extended Use Agreement).

B. any change in the property management agent for the property. In the event of a change in property management,

   1. the property management company must satisfy the requirements under the applicable Program Guidelines or Policies of the Tax Credit Program, and
   2. with respect to new property management agents, the Owner shall include a review of other Projects in Washington managed by such agent. Additionally,

      i. the Commission, at its discretion, may require a two-year period of demonstrated compliance with the Commission's policies and procedures if the new management agent does not have a history of property management activity in Washington State; and

      ii. the management company or Owner shall be responsible for costs associated with extraordinary review of a managing agent's compliance activities.

C. any institution of proceedings for temporary suspension or Debarment of the Owner and/or any Related Party by the Commission.

Until approval of said Waiver is granted, Owners must continue to comply with Commission recertification requirements.

Noncompliance

The current non-compliance procedure will continue to be utilized as outlined in **Chapter 7** of this Manual. Repeated, material or uncorrected non-compliance issues may result in Waiver revocation. If revocation occurs, annual certifications will be reinstated for all households in a building.

Definitions

Note: Capitalized terms are also defined in the Commission's Tax Credit Policies, Owner Regulatory Agreements and in **Appendix A, Glossary** of this Manual.

Attachments: ***(See Website)***
http://www.wshfc.org/managers/ManualTaxCreditIndex.htm

A. Owner Request to Proceed for Recertification Waiver (DOC)

B. Authorization to Proceed for Waiver of Annual Income Recertification (DOC)

C. Auditor Statement of 100% Compliance (DOC)

D. Self – Certification of Annual Income (PDF)

E. Self – Certification of Annual Income Instructions (PDF)

Owner Request for Commission Approval
Summary of Transfer (Sale of Property)

Property Name: _____ **OAR/OID #:** _____

Current Ownership/Management

Name and form (LP, LLC or Corporation or General Partnership) of current ownership entity: _____

Current GP or Managing Member: _____

Current Signatory for ownership entity: _____

Current Management Company: _____

Proposed Ownership

Name and form (LP, LLC, etc.) of ownership entity: _____

Managing GP or Managing Member: _____

Other GP or Managing Member: _____

Signatory for proposed ownership entity: _____

Signatory Address: _____

_____

Signatory Phone & E-Mail: _____

_____

Management Company: _____

Management Company Address: _____

Management Contact Name: _____

Management Phone & E-Mail: _____

_____

Describe the transfer and explain the purpose of this transfer.

Property Name: _____ **OAR/OID #:** _____

Current Ownership Entity Certification

I, _____, being the _____ of _____, a _____ ("Current Owner"), and being authorized to sign on behalf of Current Owner, do hereby certify that:

(i) the above information for current ownership and management of the property and the described purpose of this transfer is accurate and complete;

(ii) the Property is currently in compliance with all requirements of the recorded regulatory agreement; all fees are current; Property is not in default with any covenants;

(iii) all other information and documentation supplied by Current Owner to the Washington State Housing Finance Commission (the "Commission") in connection with Current Owner's request for approval of the changes described above is accurate and complete except as set forth in an express writing to the Commission.

_____	_____	_____
Printed Name/Title	Signature	Date

Property Name: _____ **OAR/OID #:** _____

Proposed Ownership Entity Certification

I, _____, being the _____ of _____, a _____ ("Proposed Owner"), and being authorized to sign on behalf of Proposed Owner, do hereby certify that:

(i) the above information for proposed ownership and management of the property and described purpose of this transfer is accurate and complete;

(ii) the ownership and management entities proposed above are authorized by the Secretary of State to conduct business in Washington State;

(iii) attached hereto as "Exhibit A" is a copy of the certificate of good standing for Proposed Owner issued by the Secretary of State of the State of _____, on _____, 20___, and no event has occurred since the date of such certificate of good standing that has affected the good standing of Proposed Owner under the laws of the State of _____;

(iv) attached hereto as "Exhibit B" is a complete and current copy of the **[Operating Agreement/Partnership Agreement/Articles and Bylaws]** of Proposed Owner and all amendments thereto; along with the **Form of Opinion** letter from Transferee's counsel;

(v) attached hereto as "Exhibit C" is a true, correct and complete copy of the **[Resolution/Consent]** duly adopted on _____, 20__ authorizing the transfer described above and granting signature authority as described therein and such **[Resolution/Consent]** is in effect on the date hereof and has been in effect without amendment, waiver, rescission or modification since the date hereof; and

(vi) all other information and documentation supplied by Proposed Owner to the Washington State Housing Finance Commission (the "Commission") in connection with Proposed Owner's request for approval of the changes described above is accurate and complete except as set forth in an express writing to the Commission.

_____	_____	_____
Printed Name/Title	Signature	Date

Owner Request for Commission Approval
Summary of GP/Managing Member Change

Property Name: _____ **OAR/OID #:** _____

Current Ownership/Management

Name and form (LP, LLC or Corporation or General Partnership) of current ownership entity: _____

Current GP or Managing Member: _____

Current Signatory for ownership entity: _____

Current Management Company: _____

Proposed Ownership/Management

Name and form (LP, LLC, etc.) of ownership entity: _____

Managing GP or Managing Member: _____

Other GP or Managing Member: _____

Signatory for proposed ownership entity: _____

Signatory Address: _____

_____

Signatory Phone & E-Mail: _____

_____

Management Company: _____

Management Company Address: _____

Management Contact Name: _____

Management Phone & E-Mail: _____

_____

Describe the change and explain the purpose of this change.

What will the specific role and daily duties be for the new Managing General Partner or Managing Member?

Property Name: _____ **OAR/OID #:** _____

Current Ownership Entity Certification

I, _____, being the _____ of _____, a _____ ("Current Owner"), and being authorized to sign on behalf of Current Owner, do hereby certify that:

(i) the above information for ownership and management of the property described above (the "Property") is accurate and complete;

(ii) the Current Owner has obtained all necessary approvals for the change in managing general partner/managing member.

(iii) the Property is currently in compliance with all requirements of the recorded regulatory agreement;

(iii) the ownership and management entities proposed above are authorized by the Secretary of State to conduct business in Washington State;

(iv) attached hereto as "Exhibit A" is a copy of the certificate of good standing for Current Owner issued by the Secretary of State of the State of _____, on _____, 20___, and no event has occurred since the date of such certificate of good standing that has affected the good standing of Current Owner under the laws of the State of _____;

(v) attached hereto as "Exhibit B" is a true, correct and complete copy of the **[Resolution/Consent]** duly adopted on _____, 20__ authorizing the change/assumption of responsibilities described above and granting signature authority as described therein and such **[Resolution/Consent]** is in effect on the date hereof and has been in effect with out amendment, waiver, rescission or modification since the date hereof; and

(vi) all other information and documentation supplied to the Washington State Housing Finance Commission (the "Commission") in connection with Current Owner's request for approval of the changes described above is accurate and complete except as set forth in an express writing to the Commission.

_____	_____	_____
Printed Name/Title	Signature	Date

Property Name: _____ **OAR/OID #:** _____

Proposed [Managing General Partner/Managing Member] Certification

I, _____, being the _____ of _____, a _____ ("Proposed General Partner/Managing Member"), and being authorized to sign on behalf of Proposed Owner, do hereby certify that:

(i) the above information for Proposed General Partner/Managing Member and management of the property and described purpose of this transfer is accurate and complete;

(ii) Proposed General Partner/Managing Member is authorized by the Secretary of State to conduct business in Washington State;

(iii) attached hereto as "Exhibit A" is a copy of the certificate of good standing for Proposed General Partner/Managing Member issued by the Secretary of State of the State of _____, on _____, 20___, and no event has occurred since the date of such certificate of good standing that has affected the good standing of Proposed Owner under the laws of the State of _____;

(iv) attached hereto as "Exhibit B" is a true, correct and complete copy of the **[Resolution/Consent]** duly adopted on _____, 20__ authorizing the transfer described above and granting signature authority as described therein and such **[Resolution/Consent]** is in effect on the date hereof and has been in effect without amendment, waiver, rescission or modification since the date hereof; and

(vi) all other information and documentation supplied by Proposed General Partner/Managing Member to the Washington State Housing Finance Commission (the "Commission") in connection with Proposed General Partner/Managing Member request for approval of the changes described above is accurate and complete except as set forth in an express writing to the Commission.

_____	_____	_____
Printed Name/Title	Signature	Date

Form **SS-4**
(Rev. December 2017)
Department of the Treasury
Internal Revenue Service

Application for Employer Identification Number

(For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.)
▶ **Go to *www.irs.gov/FormSS4* for instructions and the latest information.**
▶ **See separate instructions for each line.** ▶ **Keep a copy for your records.**

OMB No. 1545-0003

EIN

Type or print clearly.

1 Legal name of entity (or individual) for whom the EIN is being requested

2 Trade name of business (if different from name on line 1)

3 Executor, administrator, trustee, "care of" name

4a Mailing address (room, apt., suite no. and street, or P.O. box)

5a Street address (if different) (Do not enter a P.O. box.)

4b City, state, and ZIP code (if foreign, see instructions)

5b City, state, and ZIP code (if foreign, see instructions)

6 County and state where principal business is located

7a Name of responsible party

7b SSN, ITIN, or EIN

8a Is this application for a limited liability company (LLC) (or a foreign equivalent)? . . . . . ☐ Yes ☐ No

8b If 8a is "Yes," enter the number of LLC members . . . . . ▶

8c If 8a is "Yes," was the LLC organized in the United States? . . . . . ☐ Yes ☐ No

9a **Type of entity** (check only one box). **Caution.** If 8a is "Yes," see the instructions for the correct box to check.

- ☐ Sole proprietor (SSN) _____
- ☐ Partnership
- ☐ Corporation (enter form number to be filed) ▶ _____
- ☐ Personal service corporation
- ☐ Church or church-controlled organization
- ☐ Other nonprofit organization (specify) ▶ _____
- ☐ Other (specify) ▶
- ☐ Estate (SSN of decedent) _____
- ☐ Plan administrator (TIN) _____
- ☐ Trust (TIN of grantor) _____
- ☐ Military/National Guard
- ☐ State/local government
- ☐ Farmers' cooperative
- ☐ Federal government
- ☐ REMIC
- ☐ Indian tribal governments/enterprises

Group Exemption Number (GEN) if any ▶

9b If a corporation, name the state or foreign country (if applicable) where incorporated — State — Foreign country

10 **Reason for applying** (check only one box)

- ☐ Started new business (specify type) ▶ _____
- ☐ Hired employees (Check the box and see line 13.)
- ☐ Compliance with IRS withholding regulations
- ☐ Other (specify) ▶
- ☐ Banking purpose (specify purpose) ▶ _____
- ☐ Changed type of organization (specify new type) ▶ _____
- ☐ Purchased going business
- ☐ Created a trust (specify type) ▶ _____
- ☐ Created a pension plan (specify type) ▶ _____

11 Date business started or acquired (month, day, year). See instructions.

12 Closing month of accounting year

13 Highest number of employees expected in the next 12 months (enter -0- if none). If no employees expected, skip line 14.

Agricultural	Household	Other

14 If you expect your employment tax liability to be $1,000 or less in a full calendar year **and** want to file Form 944 annually instead of Forms 941 quarterly, check here. (Your employment tax liability generally will be $1,000 or less if you expect to pay $4,000 or less in total wages.) If you do not check this box, you must file Form 941 for every quarter. ☐

15 First date wages or annuities were paid (month, day, year). **Note:** If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year) . . . . . ▶

16 Check **one** box that best describes the principal activity of your business.

☐ Construction ☐ Rental & leasing ☐ Transportation & warehousing ☐ Health care & social assistance ☐ Accommodation & food service ☐ Wholesale-agent/broker ☐ Wholesale-other ☐ Retail
☐ Real estate ☐ Manufacturing ☐ Finance & insurance ☐ Other (specify) ▶

17 Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided.

18 Has the applicant entity shown on line 1 ever applied for and received an EIN? ☐ Yes ☐ No
If "Yes," write previous EIN here ▶

Third Party Designee

Complete this section **only** if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.

Designee's name — Designee's telephone number (include area code)

Address and ZIP code — Designee's fax number (include area code)

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.

Name and title (type or print clearly) ▶ — Applicant's telephone number (include area code)

Signature ▶ Date ▶ — Applicant's fax number (include area code)

Do I Need an EIN?

File Form SS-4 if the applicant entity does not already have an EIN but is required to show an EIN on any return, statement, or other document.[1] See also the separate instructions for each line on Form SS-4.

IF the applicant...	AND...	THEN...
Started a new business	Does not currently have (nor expect to have) employees	Complete lines 1, 2, 4a–8a, 8b–c (if applicable), 9a, 9b (if applicable), and 10–14 and 16–18.
Hired (or will hire) employees, including household employees	Does not already have an EIN	Complete lines 1, 2, 4a–6, 7a–b (if applicable), 8a, 8b–c (if applicable), 9a, 9b (if applicable), 10–18.
Opened a bank account	Needs an EIN for banking purposes only	Complete lines 1–5b, 7a–b (if applicable), 8a, 8b–c (if applicable), 9a, 9b (if applicable), 10, and 18.
Changed type of organization	Either the legal character of the organization or its ownership changed (for example, you incorporate a sole proprietorship or form a partnership)[2]	Complete lines 1–18 (as applicable).
Purchased a going business[3]	Does not already have an EIN	Complete lines 1–18 (as applicable).
Created a trust	The trust is other than a grantor trust or an IRA trust[4]	Complete lines 1–18 (as applicable).
Created a pension plan as a plan administrator[5]	Needs an EIN for reporting purposes	Complete lines 1, 3, 4a–5b, 9a, 10, and 18.
Is a foreign person needing an EIN to comply with IRS withholding regulations	Needs an EIN to complete a Form W-8 (other than Form W-8ECI), avoid withholding on portfolio assets, or claim tax treaty benefits[6]	Complete lines 1–5b, 7a–b (SSN or ITIN optional), 8a, 8b–c (if applicable), 9a, 9b (if applicable), 10, and 18.
Is administering an estate	Needs an EIN to report estate income on Form 1041	Complete lines 1–6, 9a, 10–12, 13–17 (if applicable), and 18.
Is a withholding agent for taxes on non-wage income paid to an alien (i.e., individual, corporation, or partnership, etc.)	Is an agent, broker, fiduciary, manager, tenant, or spouse who is required to file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons	Complete lines 1, 2, 3 (if applicable), 4a–5b, 7a–b (if applicable), 8a, 8b–c (if applicable), 9a, 9b (if applicable), 10, and 18.
Is a state or local agency	Serves as a tax reporting agent for public assistance recipients under Rev. Proc. 80-4, 1980-1 C.B. 581[7]	Complete lines 1, 2, 4a–5b, 9a, 10, and 18.
Is a single-member LLC (or similar single-member entity)	Needs an EIN to file Form 8832, Classification Election, for filing employment tax returns and excise tax returns, or for state reporting purposes[8], or is a foreign-owned U.S. disregarded entity and needs an EIN to file Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business (Under Sections 6038A and 6038C of the Internal Revenue Code)	Complete lines 1–18 (as applicable).
Is an S corporation	Needs an EIN to file Form 2553, Election by a Small Business Corporation[9]	Complete lines 1–18 (as applicable).

[1] For example, a sole proprietorship or self-employed farmer who establishes a qualified retirement plan, or is required to file excise, employment, alcohol, tobacco, or firearms returns, must have an EIN. A partnership, corporation, REMIC (real estate mortgage investment conduit), nonprofit organization (church, club, etc.), or farmers' cooperative must use an EIN for any tax-related purpose even if the entity does not have employees.

[2] However, do not apply for a new EIN if the existing entity only (a) changed its business name, (b) elected on Form 8832 to change the way it is taxed (or is covered by the default rules), or (c) terminated its partnership status because at least 50% of the total interests in partnership capital and profits were sold or exchanged within a 12-month period. The EIN of the terminated partnership should continue to be used. See Regulations section 301.6109-1(d)(2)(iii).

[3] Do not use the EIN of the prior business unless you became the "owner" of a corporation by acquiring its stock.

[4] However, grantor trusts that do not file using Optional Method 1 and IRA trusts that are required to file Form 990-T, Exempt Organization Business Income Tax Return, must have an EIN. For more information on grantor trusts, see the Instructions for Form 1041.

[5] A plan administrator is the person or group of persons specified as the administrator by the instrument under which the plan is operated.

[6] Entities applying to be a Qualified Intermediary (QI) need a QI-EIN even if they already have an EIN. See Rev. Proc. 2000-12.

[7] See also *Household employer* on page 4 of the instructions. **Note:** State or local agencies may need an EIN for other reasons, for example, hired employees.

[8] See *Disregarded entities* on page 4 of the instructions for details on completing Form SS-4 for an LLC.

[9] An existing corporation that is electing or revoking S corporation status should use its previously-assigned EIN.

CERTIFICATION
REGARDING FINANCIAL SOLVENCY AND LITIGATION STATUS

Property Name: _____ **OID # :** _____

This certification must be completed by each of the following:
the Applicant, each Developer (if a different legal entity than the Applicant), each General Partner, each Managing Member[1], each Company Member[1], each Company Manager[1] and each party to a Joint Venture, if applicable.

I, the Undersigned, being first duly sworn, hereby represent and certify under penalties of perjury that the information contained in this statement, including any attachments hereto, is true, correct, and complete. I further certify that I have the requisite authority to execute this certification.

I am executing this certification as the:

☐ Applicant ☐ Developer ☐ General Partner
☐ Managing Member ☐ Company Member ☐ Company Manager
☐ Party to a Joint Venture ☐ Transferee

_____
Name

_____
Type of entity (e.g., Limited Partnership, Limited Liability Company, corporation, individual)

_____
State of incorporation or formation

_____
If executed as a General Partner, Managing Member, Company Member, Company Manager or party to a Joint Venture, identify the Partnership, Limited Liability Company or Joint Venture

The above entity (check all that apply):

☐ has not filed a voluntary petition under federal or state bankruptcy laws.

☐ has not had a petition in bankruptcy filed against them that remained un-dismissed for ninety (90) days.

☐ has not made an assignment of all or a part of their assets for the benefit of a creditor.

[1] If the Applicant is a Limited Liability Company that has one or more Managing Members, provide the information requested for each Company Manager (including each Managing Member). If the Applicant is a Limited Liability Company that has no Managing Members, provide the information requested for each Company Member and any Company Manager.

- ☐ has not had a receiver or trustee appointed to administer all or a part of their assets.
- ☐ has not had all or a part of their assets seized by a judgment creditor.
- ☐ has not been a defendant in a foreclosure action or transferred an interest in real property by virtue of a deed in lieu of foreclosure.
- ☐ has no knowledge of any pending or threatened lawsuit(s) or claim(s) which have been raised against them.
- ☐ has not been considered to be in default in meeting federal, state or local requirements with regard to a low-income housing tax credit project in Washington or any other jurisdiction by a lender or financier, investor or federal, state or local governmental agency.
- ☐ has not been investigated, audited or examined by the Internal Revenue Service, Rural Housing Services (i.e., Farmers Home Administration) or U.S. Department of Housing and Urban Development.

For any of the above that you have not checked, attach an explanation describing the circumstances, resolution and current status.

I further agree that I will notify the Washington State Housing Finance Commission of any changes in the situation or circumstances of the entity identified above which alters any of the certifications contained herein.

DATED this _____ day of _____ , _____ .

_____

Name of entity or individual submitting this certification

By (sign): _____

Its: _____

Name (print): _____

Title:

SUBSCRIBED AND SWORN before me this _____ day of _____ , _____ .

_____

NOTARY PUBLIC in and for the State of _____ ,

residing at _____ .

My commission expires _____ .

LEGAL COUNSEL & PROFESSIONAL REPRESENTATIVES INFORMATION[1]

Legal Counsel: _____

Contact Person and Title: _____

Address: _____

_____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

E-mail: _____

Responsibilities: _____

_____

Tax Advisor: _____

Contact Person and Title: _____

Address: _____

_____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

E-mail: _____

Responsibilities: _____

_____

Accountant: _____

Contact Person and Title: _____

Address: _____

_____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

E-mail: _____

Responsibilities: _____

Is the accountant an Independent Certified Public Accountant? ☐ Yes ☐ No

Syndicator: _____

Contact Person and Title: _____

Address: _____

_____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

E-mail: _____

Responsibilities: _____

If the Project has more than one professional representative in a category, attach information on each.

CLOSING CONTACT INFORMATION

Property Name: _____ **OID #:** _____

Please provide information for the closing/escrow agent.

Escrow Company Name: _____
Contact: _____
Escrow #: _____
Phone #: _____
E-Mail: _____
Address: _____
_____

If the closing will be handled by an attorney:

Name: _____
Firm Name: _____
Phone #: _____
E-Mail: _____
Address: _____
_____

Real Estate Agent/Realtor:

Name: _____
Company Name: _____
Phone #: _____
E-Mail: _____
Address: _____
_____

The definitions in this Glossary may be amended by the Commission to comply with federal or state law. If there is a conflict between an Internal Revenue Code and a Tax Credit Program definition, restriction, or requirement, the more restrictive one will apply, as determined by the Commission.

Affiliate	Any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls a PAE, is controlled by a PAE, or is under common control with a PAE.
Additional Low-Income Housing Commitments	The specified percentage of Housing Units that are both Rent-Restricted and occupied by Residents whose Income is at or below the selected percentage of the Area Median Gross Income, which is at or below the level of the Minimum Low-Income Housing Set-Aside. The percentages referred to are the applicable Commitments made in the Application to receive Allocation Criteria Points.
Additional Low-Income Housing Use Period	The period of Years (commencing after the close of the Compliance Period) that you made a Commitment in the Application to maintain the Low-Income Housing Units and all of the applicable Commitments made to receive Allocation Criteria Points and to comply with all the terms and conditions of the Regulatory Agreement, as well as the requirements of Section 42 of the Code and the Tax Credit Program. The period of Years refers to the applicable Commitment made in the Application to receive Allocation Criteria Points. **The Regulatory Agreement will remain in full force and effect as an encumbrance on the Project during the Additional Low-Income Housing Period. The Applicant waives any right to terminate the Regulatory Agreement during the Additional Low-Income Housing Use Period as otherwise available pursuant to Section 42(h)(6)(E)(i)(II) of the Code.**
Affirmative Marketing Plan	A plan for marketing available Housing Units in a Project to ensure compliance with the Tax Credit Program and federal, state, and local fair housing laws governing the prohibition of discriminatory housing practices.
Allocation	The maximum amount of Credit available to a Project as a result of an Allocation of Credit by the Commission, which shall be apportioned to each Qualified Building at the time such Building is Placed-In-Service. Allocation includes (a) Credit allocated (as that term is used in Section 42 of the Code) by the Commission and subject to Section 42(h)(1) of the

Code (i.e., Credit allocated pursuant to the competitive Allocation process), and (b) Credit attributable to that portion of Eligible Basis financed with tax-exempt bonds [i.e., Credit which, by virtue of Section 42(h)(4) of the Code, is not allocated pursuant to the competitive Allocation process].

Allocation Criteria

The allocation criteria and points system is that used by the Commission staff to assess the degree to which proposed Projects promote the Commission's housing priorities.

Allocation Criteria Points

The points assigned to a Project based on the Tax Credit Director's decision that you have demonstrated that a Project has met the qualifications for the Allocation Criteria you selected in the Application.

Annual Certification

A statement by the Owner of a Project (Certificate of Continuing Project Compliance) that, for the preceding Certification Period, the Project met the requirements of the Tax credit Program and Section 42 of the Code.

Annual Compliance Monitoring Fee

The annual fee imposed by the Commission on the Owner of a Project for Project Monitoring of its compliance with the Credit Reservation Contract and/or Regulatory Agreement, the Tax Credit Program and Section 42 of the Code.

Applicable Fraction

The lesser of the Unit Fraction or the Floor Space Fraction for a Building or the Project, as the context requires; provided that in the case of any Building described in Section 42(i)(3)(E) of the Code [this section of the Code relates to certain Owner-occupied Buildings], the Applicable Fraction shall not exceed 80% of the Unit Fraction for the Building.

Applicable Percentage

The percentage set by the Secretary for the earlier of:

(1) The month in which a Building is Placed-In-Service; or

(2) The month for which an Election of Applicable Percentage Month is made.

The Applicable Percentage is used when determining how much Credit is available to a Qualified Building. The percentages are issued monthly by the Secretary and are used to determine the 30% Present Value Credit and the 70% Present Value Credit.

Area Median Gross Income

The median gross Income adjusted for actual household size, for the county of counties where each Building in a Project is located, as determined under Section 8. (Or if that program terminates, under the program in effect immediately before termination.)

Building Identification Number (BIN)	The identifying number assigned to a Building by the Commission.
Bond Project	This has the meaning set forth in the definition of the Qualified Tax-Exempt Bond-Financed Project below.
Building	Residential Rental Property that contains Residential Housing Units located on the Land and included in the Application. For purposes of the Tax Credit Program, each Building is identified by its BIN and its street address assigned by the U.S. Postal Service. In case of any inconsistency, the BIN shall control. If more than one Building is located on the Land, each Building must be identified in the manner required by Section 42(g) of the Code to be treated as part of a Project. Failure to meet these requirements will result in each Building on the Land being treated as its own independent Project. This means you will have to submit a separate Application and Application Fee for each Building by the deadlines set by the Commission for any Application round.
Certification Period	The 12 month period preceding the date that the Owner is required to give the Annual Certification in accordance with the reporting requirements of the Regulatory Agreement and Section 42(m) of the Code.
Code	The Internal Revenue Code of 1986, as amended, together with corresponding and applicable temporary, proposed, and final Treasury Regulations, and Revenue Rulings and pronouncements issued or amended regarding it by the U.S. Department of the Treasury or IRS to the extent applicable to the Project. Whenever the Policies or any Tax Credit Program document refers to a section of the Code, you may have to refer to any provisions where Code amendments might change the reference.
Commission	The Washington State Housing Finance Commission and any successor or assignee.
Commitment	A representation or agreement by you in the Application that is binding upon the Owner of a Project throughout the Project Compliance Period unless otherwise noted in the Policies, the Application, or agreements in connection with the Tax Credit Program.
Common Area	Any "functionally related and subordinate facilities" of a tax credit project. Tax credits are only available for qualified low-income units and these "functionally related and subordinate facilities." These are facilities

	that are reasonably required for the project and include common areas such as swimming pools, other recreational facilities, community buildings and parking areas. Common areas can only be counted for tax credits if they are available for all residents on a nondiscriminatory basis at no additional charge.
Common Area Unit	A Unit in a Project that is occupied by Resident managers or maintenance personnel, or used for a Project's business offices or security personnel, as far as this use is reasonably required for the Project. A Common Area Unit is not a Housing Unit and is not included in the Total Housing Units for the Project. A Common Area Unit is not included in the calculations for the Unit Fraction, Floor Space Fraction, or Applicable Fraction, and is not Rent-Restricted. If a Common Area Unit is no longer used for the above purposes during the Project Compliance Period, the Unit will be treated as a Housing Unit subject to the limitations on Low-Income Housing Units as far as this treatment is necessary to maintain the Applicable Fraction for the Project. In addition, such Unit will be treated as a Unit subject to the Additional Low-Income Housing Set-Aside and any Special-Needs Housing Set-Aside to the extent such treatment is necessary to maintain the designated percentage of Housing Units applicable to the Project.
Compliance Period	For a Building means a period of 15 Years, beginning with the first Year that the Building is Placed-In-Service or, if the Owner makes an election under Section 42(f)(l)(B) of the Code, the next Year. In the case of an existing Building receiving acquisition Credit, the Compliance Period for such Building shall not begin before the Compliance Period for the rehabilitation expenditures for such Building (which are treated as a separate Building), pursuant to Section 42(f)(5) of the Code.
Continual or Frequent Services	Services such as frequent nursing, medical or psychiatric services that are presumed to not be Optional Services. A Building where Continual or Frequent Services are provided is ineligible for Credit, such as a hospital, nursing home, sanitarium, life care facility or intermediate care facility for persons with Disabilities.
Correction Period	The period specified in the monitoring procedure during which an Owner must supply any missing certifications and bring the project into compliance with the provisions of Section 42 and Commission requirements.
Credit	The low-income housing tax credit available for federal income tax purposes under Section 42 of the Code for a Qualified Building.

Credit Period

For a Building means the period of 10 Years, beginning with the Year when the Building is Placed-In-Service for Credit purposes or, if the Owner makes an election under Section 42(f)(l)(B) of the Code, the next Year; but only if the Building is a "qualified low-income Building"[within the meaning of Section 42(c)(2) of the Code] by the end of the first Year of that period. For an Existing Building receiving acquisition Credit, the Credit Period shall not begin before the Credit Period for the rehabilitation expenses for such Building (which are treated as a separate Building), pursuant to Section 42(f)(5) of the Code.

Credit Recapture

The increase in federal income tax owed by a taxpayer because of the reduction (by the end of any Year in the Compliance Period) in the Qualified Basis of a Building from the amount of Qualified Basis by the end of the preceding Year. The Credit Recapture amount is calculated in accordance with Section 42(j) of the Code.

Credit Reservation

To the extent applicable, the reservation of a maximum amount of Credit out of the Annual Authority to a Project that will be available for Allocation and apportionment to each Qualified Building upon meeting the requirements of the Tax Credit Program and Section 42 of the Code.

Credit Reservation and/or Carryover Allocation Contract

To the extent applicable, an agreement between the Owner and the Commission and amendments thereto, if any, wherein subject to the terms, conditions, obligations and restrictions contained in it, the commission grants a Credit Reservation to a Project.

Credit Reservation Requirements

To the extent applicable, the terms, conditions, obligations and restrictions of the Tax Credit Program in the Credit Reservation Contract that the Owner must satisfy in order for a Project to receive an Allocation.

Credit Set-Asides

Specific percentages of the Annual Authority set aside for:

(1) Projects sponsored by Qualified Nonprofit Organizations;

(2) Projects sponsored by Nonprofit Organizations;

(3) Projects sponsored by for-profit entities or individuals;

(4) Rural housing Projects;

(5) RD Projects; and/or

(6) Other set-asides established by the Commission.

Other than the amount of Annual Authority that is required to be set aside for Qualified Nonprofit Organizations under Section 42(h)(5) of the Code, Credit Set-Asides have an expiration date set by the Commission after which the set-asides shall lapse.

Current ("current")

An item dated no earlier then 60 days prior to the date the item is submitted to the Commission, unless otherwise indicated.

Disabilities/ Disabled

A physical or mental impairment that substantially limits one or more of the major life activities of an individual, such s not being able to care for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, or learning.

Elderly

Persons who are Residents of an Elderly Housing Project.

Elderly Housing Project

A Project that conforms to the Fair Housing Act, as amended, and:

(1) A Project in which <u>all</u> Housing Units are intended for and solely occupied by Residents who are 62 or older;

(2) A Project in which all Housing Units are each intended and operated for occupancy by at least one Resident who is 55 or older, and where at least 80% of the Total Housing Units are in fact occupied by at least one Resident who is 55 or older; or

(3) A Project which is financed, constructed, and operated under the RD Section 515 program for the Elderly or HUD program (i.e., where each Resident is either 62 or older or is a person with handicaps or disabilities regardless of age, as such terms are defined in the RD program).

Eligible Basis

(1) If it is a New Building, the Eligible Basis is its Adjusted Basis at the end of the first Year of the Credit Period.

(2) If it is an Existing Building, the Eligible Basis is its Adjusted Basis at the end of the first Year of the Credit Period *if* the following requirements are met:

- (i) It was acquired by purchase within the meaning of Section 179(d)(2) of the Code;
- (ii) There is a period of at least 10 years between the date of its acquisition by the Owner and:
  - (a) the date the Building was last Placed-In-Service; or
  - (b) the date of the most recent Nonqualified Substantial Improvement of the Building;

  whichever is later.
- (iii) the Building was not previously Placed-In-Service by the Owner or any person who was a Related Party of

the Owner when the Building was previously Placed-In-Service; and

(iv) Credit is allowed for that Building as a result of:
(a) a Substantial Improvement; or
(b) it if is a Federally Assisted Building where the mortgage may be prepaid, the requirement of Section 42(f)(5)(B) of the Code are met.

(3) In all other cases, the Eligible Basis of an Existing Building is zero. However, for certain Federally Assisted Building or Buildings acquired from insured depository institutions in default, the Owner may apply for a waiver of the restrictions on the Placed-In-Service date described above, in accordance with Section 42(d)(6) of the Code.

Existing Building

A Building that has previously been Placed-In-Service.

Extended Low-Income Housing Use Period

For a Building means the period beginning with the first day in the Compliance Period when that Building is part of a "qualified low-income housing Project, "[Within the meaning of Section 42 of the Code] and ending exactly 30 years after, unless ended earlier under the provisions of the Regulatory Agreement (Extended Use Agreement).

Extended Use Period

For purposes of this paragraph, the term "extended use period" means the period –

i. Beginning on the 1st day in the compliance period on which such building is part of a qualified low-income housing project, and
ii. Ending on the later of –

I The date specified by such agency in such agreement, or
II The date which is 15 years after the close of the compliance period.

Farmworker

A household whose Income is derived from farm work in an amount not less than $3,000 per year and which, at the time of initial occupancy at the Project, has an Income at or below 50% of the Area Median Gross Income.

Farm Work

Services in connection with cultivating the soil, raising or harvesting, or in catching, netting, handling, planting, drying, packing, grading, storing, or in preserving in its unmanufactured state any agriculture or aquaculture commodity: or delivering to storage, market, or a carrier for transportation to market or to processing any agricultural or aquacultural

commodity; or working in a processing plant and directly handling agricultural or aquacultural product.

Federal Assistance

Any Federal Funding used directly or indirectly for a Project during the Compliance Period.

Federally Assisted Building

Any Building that is substantially assisted, financed, or operated under:

(1) Section 8;
(2) Section 221(d)(3) or Section 236 of the National Housing Act; or
(3) Section 515 of the Housing Act of 1949.

Federal Subsidized

A Building or Project or the operation of it that is financed directly or indirectly with a below-market federal loan or with a Loan whose interest is exempt from federal income tax under Section 103 of the Code.

Floor Space Fraction

The fraction of a Project devoted to low-income housing. The numerator of this fraction is the total square footage of floor space in all Low-Income Housing Units in the Project, and the denominator is the total square footage of floor space in all Housing Units in the Project, whether or not occupied. Where the context requires, the Floor Space Fraction is determined Building by Building.

For Projects that provide Housing Units for a Special-Needs Housing Set-Aside, Floor Space Fraction also includes the fraction of a Project devoted to the Special-Needs Housing Set-Aside you selected. The numerator of this fraction is the total square footage of floor space in all Special-Needs Housing Set-Aside Housing Units in the Project, and the denominator is the total square footage of floor space in all Housing Units in the Project, whether or not occupied.

For Use by the General Public

A Housing Unit that is rented in a manner consistent with housing policy governing nondiscrimination, as evidenced by the rules or regulations of HUD. Any Housing Unit that is not available For Use by the General Public (other than a Common Area Unit) is **ineligible** for Credit. Furthermore, the Owner or any person or organization involved in any discriminatory housing practices may be liable under federal, state, or local law.

Functionally Related and Subordinate Facilities

Facilities that are reasonable required for the Project. These include, for example, heating and cooling equipment, trash disposal equipment or common areas, which includes Resident-use facilities such as swimming pools, other recreational facilities and parking areas, provided however, that those facilities are available for all Residents on a nondiscriminatory basis and are not Commercial Facilities.

Gross Income

The gross amount (before taxes or deductions) or wages, salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation of all of the adults of the household.

Gross Rent

The rent for a Low-Income Housing Unit, including Utility Allowances but excluding:

(1) Any payments under Section 8 or any comparable rental assistance program;
(2) Any fees for supportive services [within the meaning of Section 42(g)(2)(B)(iii) of the Code] paid to the Owner, on the basis of the low-income status of the Resident of the Housing Unit, by a governmental assistance program or a tax-exempt organization, if that program or organization gives assistance for rent and the amount given for rent is not separate from the amount given for supportive services; and
(3) Rental payments to the Owner as far as an equivalent amount is paid to the RD under Section 515 of the Housing Act of 1949.

Gross Rent includes minimal amounts paid toward purchase of a Housing Unit as described in Section 42(g)(6) of the Code. Gross Rent also includes amounts imposed on Residents for Required Services even if federal or state law requires that the services must be offered to Residents by an Owner. The amount of maximum Gross Rent is figured annually based on the Area Median Gross Income determined by HUD. The maximum Gross Rent for any year must be decreased if the Area Median Gross Income for the locality of the Project decreases, but that amount will not be reduced below the amount of Gross Rent established pursuant to Revenue Procedure 94-57.

Household

The combined total of one or more Residents who occupy a Low-Income Housing Unit.

Housing for the Homeless

In the Commission's Tax Credit Program, there are two categories of Housing for the Homeless. The first category is defined in Section 42 of the Code and is called "Transitional Housing for the Homeless." The second category was defined by the Commission and is referred to here as "Homeless Housing."

Transitional Housing for the Homeless:

A minimum of 10% or 20% of the Total Housing Units in the Project must be reserved for Transitional Housing for the Homeless. Each Housing Unit in a Building used for Transitional

Housing for the Homeless must contain sleeping accommodations as well as kitchen and bathroom facilities. The Building must be used exclusively to ease the transition of homeless persons to independent living within 24 months. A Building must be 100% Transitional Housing if any Housing Unit in the Building is used for Transitional Housing.

A governmental body or Qualified Nonprofit Organization must manage and operate the building(s) that provide homeless individuals with temporary housing and Supportive Services designed to assist them in locating and retaining permanent housing.

Homeless Housing:

A minimum of 10%, 20,% or 75% of the Total Housing Units in the Project must be reserved for Housing for the Homeless. Unlike the first category, these units are not required to be located in a Building used exclusively for Homeless.

Each unit set-aside must serve Homeless Households as defined under the Stewart B. McKinney Homeless Assistance Act and must provide Supportive Services designed to promote self-sufficiency, meeting the needs of the target population. Support services must be provided throughout the regulatory term and are subject to annual compliance review.

Units in this category of Housing for the Homeless must meet the IRS requirement that tax credit units cannot be used/rented on a Transient basis.

Housing Unit

A Low-Income Housing Unit and/or Market Rate Housing Unit in a Building that is available for rent or rented by Residents. A Common Area Unit is not a Housing Unit. "Housing Unit" refers to all the Housing Units in a Project, unless the context clearly means all the Housing Units in a Building.

HUD

The U.S. Department of Housing and Urban Development.

Imputed Household Size

The number of people deemed living in a Housing unit determined by the number of bedrooms in the Housing Units, as follows:

Type of Housing Unit	Imputed Household Size
efficiency/studio (no separate bedroom)	1 person
one bedroom	1.5 persons
two bedrooms	3 persons
three bedrooms	4.5 persons
four bedrooms	6 persons
five bedrooms	7.5 persons
each additional bedroom	add 1.5 persons

Income

The income of one or more Residents as determined under Section 8 for lower income families.

ISR Form 8609

The Internal Revenue Service form entitled *"Low-Income Housing Credit Certification"* issued by the Commission with respect to a Qualified Building. The Form 8609 establishes the maximum Credit for the Building available for use by the Owner of the Project.

IRS Form 8586

The Internal Revenue Service form entitled *"Low-Income Housing Credit"* which is used by an Owner of a Building in a Project to claim Credit.

IRS Form 8823

The Internal Revenue Service form entitled *"Low-Income Housing Credit Agencies Report of Noncompliance."* This form is completed by the Commission and given to the IRS when a Building is found to be in Noncompliance.

Job Training Partnership Act

The federal job training and assistance program act for disadvantaged youth adopted as Public Law 97-300, 29 U.S.C. Section 1501 et. seq., as amended.

Large Household

A group of four or more income qualified Residents who are not necessarily related and who live together in a Low-Income Housing Unit containing three or more bedrooms.

Large Household Unit

A Low-Income Housing Unit containing three or more bedrooms which is occupied by four or more income qualified Residents who are not necessarily related.

Lease Rider

The disclosure statement required by the Commission which is to be attached by the Owner to each Resident lease and rental agreement for all Low-Income Housing Units and all Market Rate Housing Units in a Project. The Lease Rider describes in general the rights of the Residents of a Project.

Legal Opinion	An opinion of Counsel that expresses the Counsel's conclusions regarding issues related to the Project.
Limited Liability Company	A limited liability company validly formed under any state.
Limited Partner	A member or associate of a Limited Partnership who is not liable for the obligation of the Limited Partnership **unless** that Limited Partner is also a General Partner or, in addition to the exercise of rights and powers as a Limited Partner, the Limited Partner participates in the control of the Limited Partnership.
(a) Limited Partnership	A Partnership formed by two or more persons under state law and having one or more General Partners and one or more Limited Partners.
Low-Income Housing Set-Aside	The selected percentage of Housing Units that are both Rent-Restricted and occupied by Residents whose Income is <u>at or below</u> the Minimum Low-Income Housing Set-Aside (subject to exception for initially qualifying Residents whose Income increases, as set forth in Sections 42(g)(2)(D), 142(d)(3), and 142(d)(4) of the Code).
Low-Income Housing Tax Credit Program	The Commission's program for allocating credit and taking other action related to projects for which an Owner claims or plans to claim credit.
Low-Income ("affordable") Housing Unit	A Housing Unit that meets the definition of a Qualified Low-Income Housing Unit. In addition, all Housing Units in the Additional Low-Income Housing Set-Aside are Low-Income Housing Units. Common Area Units are not included.
Management Team	All persons and organizations involved in the operation and management of the Project, including the Owner, property manager, and on-site resident manager.
Market Rate Housing Unit	A Housing Unit that does not meet the definition of a Low-Income Housing Unit.
Material Participation/ Materially Participating	(1) Participation in the development of the Project on a regular, continuous, and substantial basis as defined in Section 469(h) of the Code; <u>and</u> (2) Participation in the operation of the Project throughout the Compliance Period on a regular, continuous, and substantial basis as defined in Section 469(h) of the Code.

Minimum Low-Income Housing Set-Aside

The minimum percent required under Section 42(g) of the Code of Housing Units in the Project to be both Rent-Restricted and occupied by Residents whose Income is at or below a certain percentage of Area Median Gross Income (subject to exception for initially qualifying Residents whose Income increases, as set forth in Sections 42(g)(2)(D), 142(d)(4) of the Code). For purposes of Section 42(g) of the Code, the Owner must select a Minimum Low-Income Housing Set-Aside of either:

(1) 20% or more of the Total Housing Units must be both Rent-Restricted and occupied by Residents whose Income is at or below 50% percent of the Area Median Gross Income; or
(2) 40% or more of the Total Housing Units must be both Rent-Restricted and occupied by Residents whose Income is at or below 60% of the Area Median Gross Income.
(3) The Income limits for the selected Minimum Low-Income Housing Set-Aside will apply to any Low-Income Housing Unit in the Project. You may, however, commit to making greater percentages of Housing Units both Rent-Restricted and occupied by Residents meeting the above Income limits or making Housing Units available to Residents with Income below the above limits.

Noncompliance

A failure to observe or perform any covenant, condition or term of any agreement between you or the Owner and the Commission, or failure to meet the requirements of Section 42 of the Code, the *Policies*, or the Tax Credit Program.

Nonprofit Organization

An organization organized and operated exclusively for Charitable Purposes which is tax-exempt under Section 501(a) of the Code. Examples of these are organizations described in Sections 501(c)(3) and 501 (c)(4) of the Code. A Nonprofit Organization also includes public housing and public development corporations, authorities and agencies that are tax-exempt. An organization that believes it is exempt under Section 501(a) should recognize that the presence of a single nonexempt purpose, if substantial, may destroy the organization's tax-exempt status, regardless of the number or importance of truly exempt purposes.

Furthermore, a Nonprofit Organization should be aware that participation in the Tax Credit Program may jeopardize its tax-exempt status. Nonprofit Organizations should consult with legal counsel regarding the risks and issues involved with its participations.

Official Intent Declaration (OID)

The preliminary inducement action, or the first official step in order for a developer to participate in the Commission's bond financing programs. It does not legally bind the Commission to issue bonds. The developer of

the Project cited in the OID can then apply any future bond proceeds against Project costs incurred in accordance with IRS rules referencing the date the OID was adopted. Once the OID is adopted, further agreements could be negotiated prior to the issuance of bonds. The OID does not bind the Commission to fund the Project. This is also referred to as an OAR (Official Action Resolution) number. The OID and OAR number is also used as a project-specific identifier for tracking/servicing purposes.

Optional Services

The furnishing of Services to Residents where payment for the Service is not required as a condition of occupancy. The costs paid by Residents who choose to receive Optional Services is not included in the Gross Rent. An example of an Optional Service is the cost of meals in a Building with a common dining facility if payment for the meals in the facility is not required as a condition of occupancy and a practical alternative exists for Residents to get meals other than from the dining facility.

Owner/ Ownership

The legal Owner of record of the Project and its successor(s) in interest in the Project. It also includes:

(1) You and any purchaser, grantee, Transferee, Owner, or lessee of any portion of the Project,
(2) The heirs, executors, administrators, devisees, successors, and assigns of any purchaser, grantee, Transferee, Owner, or lessee of any portion of the Project, and
(3) Any other person or entity having any right, title, or interest in the Project.

Owner does not include an individual who is merely a Resident of the Project. "Owner" also includes any predecessor in interest in the Project which submitted the Application to the Commission or entered into the Credit Reservation Contract, the Carryover Allocation Contract, and/or the Regulatory Agreement (Extended Use Agreement), if applicable, in regards to the Project.

Placed-In-Service (PIS)

(1) For a New Building or Existing Building used as Residential Rental Property, the date on which such Building is ready and available for its specifically assigned function as evidenced by a certificate of occupancy, OR

(2) For Rehabilitation Expenditures that are treated as a separate New Building, the twenty four (24) month period over which such Rehabilitation Expenditures are aggregated.

Policies (formerly the Commission's "Program Guidelines")

The written interpretive and policy statements issued by the Commission pursuant to RCW 34.05.230(1) and relating to the *Qualified Allocation Plan*, WAC 262-01-130, and the Tax Credit Program. The *Policies* include requirements that are more stringent that those under Section 42 of the Code.

Program Conditions

Requirements adopted by the Commission that must be followed in order to participate in the Tax Credit Program.

Project (or "property")

The Land and one or more Buildings, structures, or other improvements constructed or located upon the Land. If more than one Building is part of the Project, each Building must be financed under a common plan and identified as required under Section 42(g) of the Code.

Project Compliance Period

The period beginning with the Year a Building in a Project is Placed-In-Service and continuing until the **latest** of the following periods for each Building in the Project:

(1) The Compliance Period;

(2) The Extended Low-Income Housing Use Period;

(3) The Additional Low-Income Housing Use Period; or

(4) The Three-Year Period

Project Monitoring

The activities, investigations and undertakings of the Commissions, its designees, agents or assigns to make sure a Project conforms to the terms, conditions, obligations and restrictions of the Tax Credit Program, the Credit Reservation Contract, the Carryover Allocation Contract, the Regulatory Agreement (Extended Use Agreement) and Section 42 of the Code.

Project Transfer or Assignment

Any direct or indirect sale, contribution, assignment, lease, exchange, or transfer of, or other change in:

(1) An interest in the Land, the Project, or any Building;

(2) An Ownership interest in the entity that is the Applicant or the Owner (or a successor thereof); or

(3) The right, title, or interest of the Applicant or Owner (or any successor thereof) in the Application, the Credit Reservation Contract, the Carryover Allocation Contract, the Regulatory Agreement, or any other agreement in which the Commission and the Applicant or Owner (or any successor thereof) are parties.

All Project Transfers or Assignments require the prior written consent of the Commission and the payment of a Transfer Fee. The requirements and procedure for obtaining the Commission's prior written consent are set forth in the Commission's Tax Credit Policies.

Qualified Allocation Plan

A plan for allocating Credit adopted by the Commission in accordance with Section 42(m) of the Code.

Qualified Basis

An amount equal to the Applicable Fraction, determined as of the end of a Year, of the Eligible Basis of a Building that is determined in accordance with Section 42(c)(l) of the Code.

Qualified Building

A Building that meets the terms, conditions, obligations, and restrictions of the Tax Credit Program, the Credit Reservation Contract, Carryover Allocation Contract, and Section 42 of the Code for an Allocation.

Qualified Low-Income Housing Project

A Project of Residential Rental Property where an applicable percentage or more of the Total Housing Units, based on the lesser of the Unit Fraction or Floor Space Fraction, are both Rent-Restricted and occupied by Residents whose income is at or below the level selected as the Minimum Low-Income Housing Set-Aside. This is subject to the exception for initially qualifying Residents whose Income increases, as set forth in Sections 42(g)(2)(D) and 142(d)(3) and (4) of the Code.

Qualified Low-Income Housing Unit

Qualified Low-Income Housing Unit means a Housing Unit that is both Rent-Restricted and occupied by Residents whose Income is at or below the applicable percent of the level selected as the Minimum Low-Income Housing Set-Aside. However:

(1) A Housing Unit shall constitute a Qualified Low-Income Housing Unit only if it is suitable for occupancy, taking into account local health, safety, and Building codes, and is used other than on a Transient Basis (except in the case of Transitional Housing), all as determined under Section 42(i)(3) of the Code);

(2) A Housing Unit in any Building that has four or fewer Units shall not constitute a Qualified Low-Income Housing Unit if any Unit is occupied by an Owner or a related person (within the meaning of Section 42(i)(3)(C) of the Code), unless that Building is described in Section 42(i)(3)(E) of the Code; and

(3) A Housing Unit shall not be considered to be a Qualified Low-Income Housing Unit if all Residents in the Housing Unit are students (as defined in Section 151(c)(4) of the Code), none of whom file a joint income tax return unless such students are recipients of aid for dependent children benefits, enrolled in a job training program under the Job Training Partnership Act or

	similar federal, state, or local program, or unless such students are single parents and their children and such parents and children are not dependents (as defined in Section 152 of the Code) of another individual.
Qualified Low-Income Resident	Individuals who are members of lower-income households as determined under Section 8 of the U.S. Housing Act of 1937, as amended, except that the percentage of the Area Median Gross Income that qualifies as low-income shall not exceed the applicable Minimum Low-Income Housing Set-Aside election (i.e., 50% or 60%). This calculation shall be adjusted based upon an Imputed Household Size. Residents of a Housing Unit are considered low-income only if their adjusted gross Income, [computed in the manner prescribed by Treasury Regulation Section 1.167(k)-3(b)(3)] does not exceed the applicable Minimum Low-Income Housing Set-Aside election (i.e., 50% or 60%) of the Area Median Gross Income. However, a Resident of a Housing Unit cannot be considered a Qualified Low-Income Resident if all are students, as defined in Section 151(c)(4) of the Code, none of whom file a joint income tax return under Section 6013 of the Code unless those students receive aid for dependent children benefits or are enrolled in a job training program under the Job Training Partnership Act or a similar federal, state, or local program.
Qualified Project/Property	A Project that meets the terms, conditions, obligations and restrictions of the Tax Credit Program, the Credit Reservation Contract, Carryover Allocation Contract and Section 42 of the Code for an Allocation.
Qualified Tax-Exempt Bond-Financed Project (or Bond Project)	A Project in which a portion of the Eligible Basis of a Building is financed with certain tax-exempt bonds, as described in Section 42(h)(4)(A) and (B) of the Code.
RD/Rural Development	The U.S. Department of Agriculture Rural Development [formerly Farmers Home Administration (FmHA)] or Rural Housing Services.
Referral and Marketing Agreement	An agreement between an Owner and an organization that provides services to Large Households, persons with Disabilities, the Elderly or other targeted Special-Needs Groups.
Regulatory Agreement [or Regulatory Agreement (Extended Use	The extended use agreement and amendments thereto, if any, that is required to be executed by the Owner and recorded in first lien position, which imposes terms, conditions, obligations, restrictions, covenants, representations, and warranties that run with the Land and are binding and a burden upon the Land and Project and all portions of it, and upon:

Agreement)]

(1) Any purchase, grantee, transferee, Developer, Owner, or lessee (other than a Resident) of any portion of the Project;
(2) Any other person or entity having any right, title, or interest in any portion of the Project;
and
(3) The heirs, executors, administrators, legal representatives, devisees, successors, and assigns of any of the foregoing persons or entities.

The extended use agreement is intended as a "long-term commitment to low-income housing" as required by Section 42(h)(6) of the Code and the requirements of the Tax Credit Program.

Rent-Restricted

This means that the Gross Rent of a Low-Income Housing Unit does not exceed 30% of the applicable income limitation adjusted for the Imputed Household Size. The income limitation is determined by either:

(1) The Minimum Low-Income Housing Set-Aside, or

(2) The Additional Low-Income Housing Set-Aside,

As the case may be, for that Low-Income Housing Unit. This is Subject to the exception in Section 42(g)(2)(E) of the Code. This relates to certain Housing Units where federal rental assistance decreases as Resident Income increases.

Required Services

Services that are required as a condition of occupancy. The costs to Residents for those Services must be included in Gross Rent even if federal or state law requires that the Services must be offered to Residents by an Owner.

Resident

A person or Household (other than an Owner) residing in a Low-Income Housing Unit or Market Rate Housing Unit.

Residential Rental Property

Means a Building or Project, together with any Functionally Related and Subordinate Facilities, containing one or more similarly constructed Housing Units, that are rented for use on other than a Transient Basis and made available For Use By the General Public. Substantially all of each Project must contain those Housing Units and Functionally Related and Subordinate Facilities. Hotels, motels, dormitories, fraternity and sorority houses, nursing houses, sanitariums, rest homes, and mobile home parks and courts for use on a transient basis are not Residential Rental Property. Property may still be considered Residential Rental Property if part of the Building is used for purposes other than Residential rental purposes or if Residents make minimal payments

	toward buying Units in a building (as described in Section 42(g)(6) of the Code).
Revenue Ruling	An official interpretation of the tax laws by the IRS published in the Internal Revenue Bulletin.
Rules	The rules adopted by the Commission governing the Tax Credit Program as codified at Washington Administrative Code 262-01-130.
Scattered Site Project	A group of Buildings that would but for their not being near one another be treated as a Project provided, however, that all the Housing Units in all the Buildings are Rent-Restricted and that those Buildings are owned by the same Owner for federal income tax purposes and the Buildings are financed in accordance with a common plan.
Section 8	Section 8(c)(2)(A) of the U.S. Housing Act of 1937, as amended. Or, if that program ends, under the program in effect immediately before that program ends.
Services	Activities and programs provided to a Resident that are in addition to the furnishing of a Housing Unit.
Special-Needs Group	A group identified by the Commission that requires special targeting under the Tax Credit Program because of a lack of rental housing, including Large Households, the Elderly, persons with Disabilities, Transitional Housing, and Farm Workers.
Special-Needs Housing Commitments	The specified percentage of Housing Units that are set aside for occupancy by Residents who are in a Special-Needs Group.
Supportive Services	Any service under a planned program of services to enable Residents of a Project to remain independent and avoid being placed in a hospital, nursing home, or intermediate care facility. For a Building that provides Transitional Housing, this includes any services to assist Residents in locating and obtaining permanent housing.
Student	An individual who is a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, for 5 calendar months during a calendar year. "Full-time" is determined by the normal rules of the educational organization. It is permissible for one or more full-time students to be part of an otherwise qualified household or for part-time students to be part of a qualified household, but **if <u>all</u> the**

residents of a unit are full-time students, the unit will not be eligible for tax credits unless the students fall within specified exceptions. See Code Section 151(c)(4) for full explanation.

Tax Credit Compliance Workshop

The training seminar conducted by the Commission and/or its agents or representative that is held for Applicants and their representatives and that provides information on the requirements for owning, operating, and managing the Project in compliance with the Code and the Tax Credit Program.

Tax-Exempt Bond-Financed Project

A Project financed by obligations that generate federally tax-exempt interest under Section 103 of the Code if that obligation is taken into account under Section 146 of the Code. Principal payments on that financing must be applied within a reasonable period to redeem those obligations.

Three-Year Period

For a Building, this means:

(1) The three years following the date of acquisition of that Building by foreclosure of forfeiture under a deed of trust, mortgage, or real estate contract or by deed in lieu of foreclosure; or

(2) In those circumstances where the Owner has properly and timely submitted to the Commission a Purchase Request, the Three-Year Period commencing upon expiration of the one-year period following the Commission's receipt of the Purchase Request. Generally, the Commission has one year after receipt of a Purchase Request to present to the Owner a Qualified Contract for the purchase of the Owner's interest in a Building. If the Commission fails to do so, the Regulatory Agreement (and all of its restrictions and limitations on the use of the Building) will terminate at the end of the Three-Year Period following the one-year period.

Total Housing Units

All Housing Units in the Project including both Market Rate and Low-Income Housing Units. Common Area Units are not included. All percentages of Total Housing Units in the Project are based on the lesser of the Project's Floor Space Fraction (square footage of the Total Housing Units) or Unit Fraction (number of Total Housing Units) unless otherwise specifically noted.

Transfer Packet

The set of forms, documents and other information compiled by the Commission and sent to a party who is requesting the Commission's written consent to a proposed Project Transfer or Assignment. A Transfer packet includes, (1) instructions, (2) forms and a list of documents and information that must be completed and returned to the Commission,

including a form entitled "Agreement Regarding Transfer of Project Interest," and (3) a description of other requirements that must be satisfied in order to obtain the Commission's consent to a Project Transfer or Assignment. The Commission may establish other requirements for, or conditions to, a Project Transfer or Assignment that are not described in the Transfer Packet.

Transient/ Transient Basis

A Housing Unit that does not have a minimum initial lease term of six months or that does not meet the definition of Transitional Housing. A single-room occupancy unit shall not be treated as used on a Transient Basis merely because it is rented on a month-by-month basis.

Transitional Housing

A Housing Unit that contains sleeping accommodations and kitchen and bathroom facilities and is located in a Building:

(1) That is used exclusively to facilitate the transition of homeless individuals [within the meaning of Section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on November 5, 1990] to independent living within 24 months, and

(2) Where a governmental body or Qualified Nonprofit Organization provides those individuals with temporary housing and Supportive Services to assist them in finding and keeping permanent housing.

Treasury Regulations (or Regulations)

The temporary, proposed or final regulations, as amended, published by the U.S. Department of the Treasury under the Code.

Unit

See Qualified Low-Income Housing Unit.

Unit Fraction

The fraction of a Project devoted to low-income housing. The numerator of this fraction is the number of Low-Income Housing Units in the Project, and the denominator is the number of Housing Units in the Project, whether or not occupied. Where the context requires, the Unit Fraction is determined Building by Building.

For Projects that provide Housing Units for a Special-Needs Housing Set-Aside, Unit Fraction also includes the fraction of a Project devoted to the Special-Needs Housing Set-Aside you selected. The numerator of this fraction is the number of Special-Needs Housing Set-Aside Housing Units in the Project, and the denominator is the number of Housing Units in the Project.

Utility Allowance	As described more fully in Treasury Regulation 1.42-10, this means a dollar amount, representative of utility expense (other than telephone), that is Credited against the maximum Gross Rent that may be lawfully charged for a Low-Income Housing Unit under Section 42 of the Code. The amount of the Utility Allowance is determined by the Secretary and is applicable to those Low-Income Housing Units in which the Resident pays his or her own utilities unless otherwise described below. The Utility Allowance has the effect of reducing, by the dollar amount of the Utility Allowance, the amount of rent that is actually paid by the Resident of the Low-Income Housing Unit (i.e., the actual rent cannot be greater than the maximum Gross Rent less the Utility Allowance).
WAC	The Washington Administrative Code.
You ("you")	The Owner. This applies to any forms of the word in the Manual, such as "you", "your" or "yours."

WASHINGTON STATE HOUSING FINANCE COMMISSION
TAX CREDIT COMPLIANCE FREQUENTLY ASKED QUESTIONS

Latest Revision Date: January 2018

These FAQs are based on WSHFC staff interpretations or understanding of IRS rules and guidance for the LIHTC program. Ultimately, Owners are responsible for making sure their properties are in compliance with all applicable rules and regulations. Owners and managers should consult their tax credit legal counsel for further clarification or specific application to their properties.

CERTIFICATIONS & LEASING

Overcharging Rent

Q: What happens if I accidentally overcharge a resident on their rent?

A: If a resident's gross rent (utilities + fees + rent) exceeds the **federal** (i.e., 50% or 60%) tax credit maximum rent limit for any month during the reporting year, WSHFC is obligated to issue Form 8823 to the IRS for owner noncompliance. This is still true even if you have promptly notified WSHFC of the problem and corrected the issue.

The IRS takes overcharging of rent very seriously. In fact, once a unit is determined to be out of compliance with the rent limits, the unit ceases to be a low-income unit for the remainder of the year. This means that the potential financial repercussions for the owner could be significant. The unit isn't back in compliance until the first day of the next year, even if the owner has already lowered the resident's rent and refunded them any overpayments made.

If the owner has overcharged rent on a unit meeting a State income set-aside (under 50%), WSHFC will issue a letter of State non-compliance and will require the owner to reimburse the resident all overpaid monies. Failure to timely adjust the rent and reimburse the resident could hinder the owner's future applications for credit.

Acquisition/Rehab Properties Financed with Tax Credits and Bonds

Q: Does it matter when the Owner takes credits, i.e., at closing (for acquisition), at PIS, or the year after PIS?

A: The bond closing isn't important. The first year for both the acquisition and rehab credits is the year the rehab is placed in service or, if the Owner elects, the following year.

Q: If the Owner takes acquisition credits from bond closing, do the units need to be rent-restricted in addition to being income-restricted and non-transient?

A: Yes, if the Owner takes credits from the date of bond closing, the units must be rent-restricted from that date.

Q: If the Owner doesn't take acquisition credits until PIS, or the year after, then can the units be income-restricted for qualification only and not rent-restricted until credits are taken?

A: There is no guidance about whether units should be rent-restricted prior to the beginning of the tax credit compliance period. However, as a matter of policy, if households are qualified at acquisition, it makes sense to limit the rents at that time as well.

Q: Does the Owner initially have to sign six month leases with qualified households?

A: Since the Owner is eventually taking tax credits, six month leases must be signed with all qualified households at initial move-in. Only bond-financed properties *with no tax credits* may initially sign month-to-month leases with their qualified households. Existing households who remain after bond closing do not need to sign new leases. However, they must be tax credit-qualified and sign the Commission's Tax Credit Lease Rider.

Annual Recertification of Income

Q: I'm completing recertifications for residents at my property. Do I have to get third-party verification of everyone's income?

A: Not after the first lease anniversary. WSHFC requires Owners of 100% income-restricted properties to complete **one third-party annual recertification** on the first anniversary of the lease. Subsequent recertifications may be fulfilled using the ***Self-Certification of Annual Income*** form.

Q: Since third party-verified recertifications aren't required after the first recertification, why do I need to get residents to fill out the ***Self Certification of Annual Income*** form?

A: Each household must complete the WSHFC ***Self Certification*** form in order to continue certifying the Student Status of each household member, as well as providing minimal compliance information needed for WSHFC monitoring purposes. The ***Self Certification*** form is also used by several other Washington state public funders for purposes of fulfilling their recertification requirements.

Q: What happens if I find out at recertification that one of my residents was over-income at the time they moved in to my property?

A: If an Owner/Management Company discovers non-compliance they should contact the Portfolio Analyst for the property and let them know what they found and how they plan to correct the non-compliance. In most cases, non-compliance that is found and corrected prior to a state agency review does not need to be reported to the IRS as long as it is disclosed and corrected.

If any household is discovered to have been over-income at move-in during a WSHFC audit, WSHFC staff will determine the appropriate remedy, which could include reporting the non-compliance to the IRS and/or requiring 100% third-party recertifications to be re-established for a minimum period on all buildings in the project.

Q: Is back-up documentation required for self recertifications?

A: WSHFC does not require back-up documentation for self recertifications completed after the first anniversary. However, other funders may require documentation to substantiate estimated income. Please check with your other funders.

NOTE: Properties that are allowed to utilize the ***Self Certification*** for the first annual recertification (because they are qualified with an IRS issued Recertification Waiver and/or are approved for Post Year-15 Monitoring Procedures) should obtain verification of the start date for any new income source if the household gross income exceeds 140% at the first recertification, or if the household income has increased by a significant degree (e.g., +10K or more).

Q: What does 100% "low-income" mean? If my property is only partly restricted by WSHFC but all other units are restricted by another public funder, does that count?

A: Yes, if the Owner can document that all units are rent and income restricted at or below 60% AMGI, our policy applies.

Q: What if my property has market units, but I choose to also limit those units below 60% AMGI?

A: If the Owner is willing to amend the Regulatory Agreement, restricting all units below 60% AMGI, this policy will apply. However, amending the regulatory agreement would not result in additional tax credits. The Owner must pay for the recording of the amendment.

Q: We manage a 4% tax credit/bond-financed property. Our property is 100% low-income restricted below 60% AMI by our tax credit agreement, but 20% of our units are also bond restricted. Do we need to third-party recertify the bond units every year?

A: No. You can follow the rules outlined above for 100% income-restricted properties.

Certifying Households after Year 15

Q: Do we still need to recertify households after Year 15?

A: That depends on the type of property you manage:

1. If a property has been approved by the Commission for Post-Year 15 Monitoring Procedures (see **Chapter 11** of WSHFC's Tax Credit Compliance Manual) ***and*** the property is 100% low-income restricted (60% AMI or lower), then no annual third-party recertifications are required. Each household is still required to annually complete WSHFC's ***Self-Certification*** form.

2. If a property has ***any*** market units, annual third-party recertifications on all households must still be completed for the duration of the Regulatory Agreement.

Certification Effective Dates

Q: What is the Effective Date of the initial certification and when is the first recertification due?

A: The Effective Date of the initial certification is the same date as the commencement date of the lease. This is the date when a resident can move in to the unit. The income verifications must be dated within 120 days prior to the commencement of the lease.

Recertifications can be done up to 120 days ahead of the certification date and must be effective as of the anniversary date of the initial certification date. For example, if a household moves into a unit on April 23, 2015, their initial certification date is 4/23/15 and their recertification date is 4/23/16

For administrative ease, managers may choose to make recertification dates the first day of the month for residents with move in dates within that month. Example: Mary Smith moves into Greenwood Manor on 10/15/14. Her subsequent recert effective dates can be 10/15 **or** 10/1 each year. Mike Jones moves into Greenwood Manor on 6/2/14. His subsequent recert effective dates can be 6/2 or 6/1 each year. The key is to ensure that the recertification effective date occurs within 12 months of the previous recertification effective date.

Certifying 17 Year Old Residents

Q: We have a family applying for housing and one of the household members is 17 now, but will turn 18 within the next 12 months. Do I need to have the 17-year-old complete a ***Resident Eligibility Application*** **(REA)** and get verification of his/her income?

A: Yes. Since owners are required to determine anticipated income, any household member who will be an adult (18 year old or emancipated minor) within 12 months of the certification effective date needs to certify their income and assets. Have the 17 year old complete the REA (pages 2, 3, 4) and obtain income verifications to support what s/he puts on the questionnaire. Only count the anticipated income of the 17-year-old for the months **after** s/he will turn 18.

Q: What if I'm certifying a household with a 17 year-old and the parent/guardian doesn't want the 17 year old signing the REA because they're not an adult?

A: You can allow the head of household to certify on behalf of the 17 year-old (e.g., signing the REA on the 17 year-old's behalf), but the 17 year-old's income and assets must be counted toward the household's gross annual income – see **Chapter 5** in WSHFC's Tax Credit Compliance Manual - to determine household eligibility.

Live in Aides and Their Family Members

Q: An applicant has indicated on their REA that they want to include a live-in aide. The issue is that the live-in aide is married with two kids. Are the live-in aide's spouse and kids allowed to live in the unit with this applicant?

A: In order to treat the live-in aide as a Live-in Aide (LIA) as defined by HUD (meaning that the LIA's income is excluded from gross income and she has no rights to the unit), the LIA's family members cannot live in the qualified unit with her and the applicant. However, if the applicant is willing to consider the LIA a member of the household, then you can qualify the LIA and her family members. In this case, the person would not be classified as a Live-in Aide according to HUD's definition - all their income would be counted and they would all have rights to the unit and be parties to the lease.

Changes in Household Composition

Q: A husband and wife qualified at the time of move in. They get divorced and the wife moves out. The husband has a new roommate and their combined income now exceeds the household income limit but is still under the 140% level. Does this household still qualify?

A: Yes, because the household was initially qualified and the change in household composition does not constitute a new household since the husband is still residing in the unit.

Q: A household qualified at the time of move in. Four months after moving in, the household wants to add their 22 year old son. Does this household still qualify?

A: It depends. First, we recommend that all leases include a clause that no household changes can occur during the first six months, so that questions regarding the household's income-qualified status can be avoided (this applies to adults, not to the birth or adoption of a child). That being said, if you wish to allow the household addition, we recommend that you re-qualify the entire household at the time of the addition.

Q: Can you explain the "totem pole" rule? It is my understanding that there must always be at least one member of the original household that remains in a unit for the unit to remain qualified. Is this correct?

A: This has always been WSHFC's interpretation of the IRS' guidance on this issue. However, you can avoid some problems with this issue by re-qualifying the household when a new adult moves into the unit. Many properties have language in their leases stating that the household must be income-qualified when additions are made, and the additional person(s) must sign the lease.

If, when qualifying the new household, you find that together they exceed the income limits for that unit, you can still allow the additional resident to move in. However, if all the original household members ever move out, the new members are no longer qualified (see scenario below).

Scenario: *"A" moves in and is the initial (qualified) occupant. Eight months later, "B" moves in with "A." Manager re-qualifies "A" and "B" together as a new household and they are income-qualified.*

Q: Do "A" and "B" then become the new household, thus qualifying "B," even if "A" moves out years later, under the "once qualified, always qualified" rule?

A: Yes, if the *verified* combined income of "A" & "B" together (new household) is under the income limit at the point where "B" is added to the lease. If, however, the new household income is *over* the limit when "B" is added to the lease, the "totem pole" rule applies and the household remains qualified until "A" moves out – even if it is several years later. At that point, "B" must be income-qualified as a new household.

Q: If "A" had a minor child who has since turned 18, would he or she be considered a member of the original household (under this rule), even though they were not a resident or co-resident upon move-in?

A: If "A" has a child who has since turned 18 they would be considered part of the original household but once again you might want to include something in your rental criteria that covers this situation.

Changes in Set-Aside Percentages

Q: A property has elected two low-income set-aside levels (e.g., 80% of the units at 60% AMI and 20% of the units at 40% AMI). A resident moves in and is qualified under the 60% set-aside. However, during the year, the resident's income declines and at the time of re-certification his income now falls below 40% of median. Can the Owner re-classify the resident to the 40% set-aside?

A: Yes, as long as the appropriate rent (40%) is also charged. Keep in mind that the Owner is under no obligation to do an interim review to re-determine the resident's income, nor is the Owner obligated to re-classify the resident to a lower income set-aside at the time of recertification. The Owner may assign a lower income set-aside to a resident even if the property has met its minimum set-asides.

Q: Can a property reassign a qualified household to a ***higher*** income set-aside at recertification?

A: Yes, provided that the property's income set-aside commitments have been met AND the lease allows for such a change, AND proper written notice is given to the household of the increase.

Changing Status of Low-Income Units to Market Units

Q: I have ten Market-Rate Units in my property. If a previously qualified low-income household's income goes way up, when can I raise their rent to market?

A: The best time to change status for a household is at recertification. Be certain that you continue to satisfy requirements of the 140% Rule. As long as you continue to have enough low-income qualified units ***after*** raising the rent of a household to "market rent," the household's rent can be increased.

Conversely, if you choose to lower rent for a unit to count that household as "low-income" (switching the status of a unit from market-rate to low-income), be certain that the household is third-party income qualified before making the change. The right of the Owner to make changes of this nature should be spelled out clearly in the lease.

Leases — Co-signers

Q: Is it okay to have co-signers on tax credit leases? Do we count their income for purposes of qualifying the household?

A: Co-signers are acceptable as long as they don't sign the lease; they are used solely for financial back-up. Co-signers are not part of the household and have no rights to the unit; their income is not counted toward the household's gross annual income.

Leases — Term

Q: We are using a lease that has a month-to-month term, but requires the residents to stay a minimum of 12 months or else pay a penalty to get out of their leases earlier. Is this okay?

A: No. All initial leases must state clearly that their term is for a minimum of six full months or longer. After the initial six-month term, leases may convert to month-to-month, but residents cannot be charged additional penalty fees for moving out during a month-to-month tenancy. Residents who vacate a unit without written permission during a lease are obligated under state Landlord/Tenant law to pay the rent for the remaining term of the lease or until the unit is re-rented, but they may ***not*** be charged additional fees.

Q: Are SRO Units (Single Room Occupancy) required to have a six month lease?

A: No, SROs are allowed to have month-to-month agreements.

Q: We have Transitional Housing for Homeless units. Do they require six-month leases?

A: No, technically units that meet this federal designation may have month-to-month leases. This is different from the Commission's "Homeless" category where initial six-month leases are always

required. However, we recommend that Owners strive to have all residents sign initial six-month leases.

Section 8 Vouchers/Project-Based and RD Subsidies

Q: If a resident receives Section 8 or an RD subsidy, can they pay *more* than the applicable tax credit rent limit?

A: If the Owner receives a Section 8 Housing Assistance Payment (through a resident-based voucher or project-based Section 8) or an RD rent subsidy specific to the resident's unit, then the residents may pay over the tax credit Maximum Allowable Rent limit as long as they are receiving at least $1 of subsidy and at an RD subsidized property any rent overage is paid back to RD. Keep in mind that other public funders may restrict residents' rent payments to no more than the applicable rent limit.

Social Security Numbers

Q: Is there any way to income-qualify household members who do not have any verifiable Social Security numbers or alternate numbers?

A: Yes. Verifying income of household members without SSNs is difficult, but not impossible. An alternate method of verifying income is to provide picture identification to employers, allowing the employer to verify the individual who works for them and how much the individual earns. The Owner ultimately is responsible for proper documentation of income and must be able to demonstrate that all income has been verified. **NOTE**: Some management companies, funders, investors or syndicators may be more restrictive than the IRS in this matter. You must follow the *more restrictive* rules, if any, that apply to your property.

Q: What if I have a household where some or all household members do not have Social Security numbers or other approved citizenship documentation?

A: This household could still be eligible. The tax credit and bond programs do not require proof of citizenship or legal status. As long as the certification process confirms that a household is income-qualified, the household may reside in the property. The property may need to use alternative methods to confirm income sources for affected household members. Individuals with no social security number, no appropriate substitute number (see ***Rental Eligibility Application*** instructions), or, for privacy reasons do not wish to disclose their SSN, should fill out box #2 of the ***Identification Certification*** form.

Q: Can I ask applicants to provide proof of citizenship or immigration status?

A: Yes, but requests must be uniform (all applicants are asked the same questions) and nondiscriminatory.

Q: Is a Social Security Number the only acceptable documentation of identity?

A: No, several types of documentation are acceptable such as Work Visas, picture identification and Alien Registrations. Additional acceptable documents are listed on the last page of the ***Rental Eligibility Application.***

COMMON AREAS & COMMON AREA UNITS

Changing Location of Common Area Unit

Q: How do I change the location of my Common Area Unit?

A: The following are the requirements for changing the location of a Common Area Unit:

The Owner must submit a written request to the property's assigned Portfolio Analyst. The request should include:

1. The proposed changes in Common Area Units and the rationale for each proposed change.

2. The bedroom size and square footage of the current Common Area Unit and the size of the proposed Unit.

3. The location (building and unit number) of the current and proposed Common Area Unit.

For 100% Low-Income properties: with Commission approval, a Form 8823 will not be filed notifying the IRS of the change.

For Mixed Income properties (Market-Rate Units with Low-Income Units): IRS Form 8823 **must** be filed to inform the IRS of a possible change in qualified basis.

Differences

Q: What is the difference between a Common Area and a Common Area Unit?

A: ***Common Areas*** are areas that are reasonably required for the property and include such things as swimming pools, other recreational facilities, community buildings and parking areas. These areas must be made available to all residents at no extra cost. If the property has a community room and one of the residents wants to use it for a meeting or similar use, the Owner is not allowed to charge the resident for using the area. The Owner is allowed to assess a reasonable charge for cleaning.

Common Area Units are provided by the Owner for use by full time managers, maintenance, or security personnel. These units are not considered residential rental units since they are not for rent to the general public. The occupants of such units do not need to be income-qualified. The Owner must be able to clearly document the need for a Common Area Unit as necessary for operations of the project. The building(s) in which Common Area Units are allowed are shown on Exhibit B to the Regulatory Agreement.

Q: Can I charge rent for a Common Area Unit?

A: Yes.

Q: Can a staff member residing in the Common Area Unit pay for their own utilities?

A: Yes.

Q: If the unit is not needed to house an employee, can I rent the unit at Market Rate?

A: No. If the unit is not needed as a Common Area Unit, then it should be rented to an income-qualified household at the highest AMI level at the property and the rent should be restricted accordingly.

Q: Can a staff member continue to reside in the Common Area Unit if they are no longer employed at the property?

A: When a staff person ceases employment, they must either move out of the Common Area Unit or be income-qualified and pay the appropriate restricted rent. It is recommended this language be included in their lease or employment contract.

FEES & CHARGES

Assisted-Living Fees

Q: Can Owners charge fees for assistance with daily living, such as meals and medical professional assistance?
A: Yes, as long as these fees are **entirely optional**. Mandatory fees of any kind, including assisted living fees, must be clearly optional or the Owner risks loss of tax credits for those units affected. Your marketing materials and application forms must clearly explain these fees as optional. Written

materials should include rules for opting in or out of service packages and staff should be trained to explain options to residents.

Cable/Phones

Q: A resident does not own a television, but she was told by the property manager that she had to pay an additional $20.00 for cable. It was stated that this was mandatory since the majority of the residents voted in favor of having cable. Can the property manager do this?

A: Yes, but if the charge for cable is mandatory then it is treated as a utility and deducted from the Maximum Allowable Rent along with the other utilities. This also applies to mandatory telephone for security entrances as an additional fee.

Month-to-Month Fees

Q: May I charge month-to-month "fees" to residents who do not want to execute a new lease (after the initial required six-month term expires)?

A: The month-to-month lease "fee" is considered additional rent. As long as the rent + fee + utility allowance does not exceed the Maximum Allowable Rent limit, you may charge this "fee." We recommend simply having a different published rent for long-term leases vs. month-to-month leases and avoiding calling this a "fee."

Parking

Q: May a property charge for parking?

A: It depends. Parking is generally considered part of the property's Common Areas. If the Owner financed the parking areas with tax credits, they must be available to all residents on a non-discriminatory basis and the Owner *may not* charge a fee for their use. If an Owner has provided uncovered parking spaces for each unit and also has optional covered parking, or garages **that were not financed with credits**, it is then permissible to charge for the *optional* parking, if the covered parking is not included as a Common Area.

Pets

Q: Can I charge pet fees/deposits?

A: There is no restriction on pet fees. The WSHFC's Tax Credit Compliance Manual does state that a reasonable fee may be charged but this has not been defined. Properties may determine a reasonable pet fee/deposit to charge residents. That fee can be partially, or all, non-refundable upon move-out. Any fee scale that is charged must be consistent for all residents (same amount for same size dogs, cats, etc.). If the pet is considered a service, therapy, or assistance animal, a pet fee/deposit cannot be charged.

Q: Can I charge a month-to-month pet fee in addition to an up-front pet fee/deposit?

A: Yes, since having an animal is optional, such a fee would not be considered as part of the rent calculation. Again, however, you may not charge a monthly pet fee for service, therapy, or assistance animals.

Surety Bond

Q: I work for a property management company that wants to implement surety bonds at our property. Is this okay?

A: Yes, as long as the surety bond is only an option and is not required. As long as an applicant has the choice to either pay a security deposit OR purchase a surety bond, then there is no problem.

Washers & Dryers

Q: May we charge extra for washers and dryers?

A: We assume your question about charging for washers and dryers is about putting them in units at the resident's request and that there are other laundry facilities on site or close by (coin washers and dryers). There is no problem with charging for these washers and dryers as long as it is optional and not a requirement of leasing the unit. You may not tell a potential resident that he or she may not rent a particular unit because
they don't want to pay extra for the washer/dryer and management doesn't want to move the appliances.

Other Fees

- Security Deposits must be refundable.
- Break-lease fees are permitted if they are in lieu of paying rent for remaining term of the lease.
- Application/screening fees must not exceed "out of pocket expenses" to the Owner. No fee may be charged for recertifications.

INCOME AND RENT LIMITS:

Q: How are income/rent limits calculated for tax credit properties?

A: HUD annually creates 50% and 60% limits for the tax credit program. States like Washington which also have additional set-asides (30%, 35%, 40%, 45%) then calculate the limits for those set-asides based on the HUD 50% limit. Limits may go up or down from year to year based on the latest census data and other household income data HUD uses to calculate the limits.

As a result of federal legislation passed in 2008, tax credit properties which placed in service prior to 2008 are safeguarded from seeing their applicable limits go down. If limits in a particular county go down, pre-2008 properties can use higher "HERA" limits for their properties, rather than the current, lower limits.

Q: What if my tax credit property was funded with assistance from other public funders in Washington State?

A: If your property is monitored by additional public funders, your property will be required to apply the lowest income/rent limits to each household, depending on which funder is involved, and which set-asides are shared by which funders. At this time, all other public funder agencies use HUD's Section 8 income/rent limits for their properties. HOME units use HOME income/rent limits.

Example: Happy Valley Apartments is funded by WSHFC, State Housing Trust Fund, and King County. The property has three income set-asides – 30%, 40%, and 60%. The 30% and 40% set-asides are shared by all three funders. The 60% set-aside is required only by WSHFC. For 30 and 40% households, the owner must compare the Section 8 and tax credit limits sets and apply whichever amounts are lower. Since only WSHFC requires the 60% set-aside, the owner can apply tax credit limits to any 60% household.

Q: Is WBARS set up to pick the lowest applicable limits based on the set-asides and the funders involved in each project?

A: Yes.

Annual Income Limits for Nine or Ten Person Household

Q: Where can I go to find the income limits for a 9- and 10- person household?

A: Tax credit income/rent limits may be found on our website. The base for a household of four is 100% of median income levels. This base number is then adjusted up 8% for each additional household member. So the figure for 8 is 132% of median, 9 is 140% of median and 10 is 148% of median, etc.

INCOME CALCULATIONS AND VERIFICATION:

Rules for Rounding

Q: How/when should I round a household's income and/or assets during calculation?

A: Per HUD, round only the **final total** household gross income amount. Example: Mary Smith receives $944.60 per month in pension benefits, and $250.00 per month in gift income from her daughter. She also receives $150.33 in asset income per year. Calculate the annual amounts as follows:

944.60 x 12 = 11,335.20
250.00 x 12 = 3,000.00
150.33 x 1 = 150.33

Add all annual amounts together. In this case, the total gross annual household income is $14,485.53. Because the final total is greater than 50 cents, the final total should be rounded to $14,486.00.

Acceptable Income Verifications

Q: Can we use documentation provided by the applicant/resident to verify income?

A: Printed statements from state or federal agencies may be used to verify income as long as they are current within 120 days of the certification date and provide all of the necessary information. (Note: we will accept statements or printouts from Social Security beyond 120 days that show the set gross benefit for the current year.)

Q: Can we accept pay stubs in lieu of an ***Employment Verification*** form?

A: We will only accept pay stubs in lieu of an ***Employment Verification*** when three (3) documented attempts to obtain a verification over a 2 week period fail. Documentation of the attempts must be submitted with the pay stubs.

NOTE: see below for instructions on using The Work Number or other 3rd party verification companies.

Anticipated Social Security Income

Q: If an applicant anticipates Social Security Income on their application but benefits have not been awarded yet, do we still have to verify and count the income?

A: Please be aware that if someone states on their REA or Income Asset form that they are applying for SS/SSI benefits within the next 12 months, you MUST attempt to verify what those future benefits might be. See below:

1. When someone indicates that they have or will be applying for SS/SSI benefits, you need to ask them when they expect to receive it and how much they expect to receive and document this in the file. If they know they will be receiving SS/SSI benefits of any kind in the near future, then you must count that income.

2. If they are of retirement age and have applied or plan on applying within the next 12 months for Social Security (SSA) benefits you must have them go onto the Social Security website at http://www.ssa.gov/retire/estimator.html and use the Benefits Estimator to estimate their benefit income.

3. If they have applied for Social Security Disability (SSI) you need to ask them if they have received anything back from SSI. If so, request a copy to see the status on their claim. If they have not been denied, then you must assume that they will be getting the full SSI benefit as income for the next 12 months. If they have been denied, ask if they have filed an

appeal. If so, request anything that they have showing the status of the appeal. If there is no conclusive documentation that they may win the appeal, then you do not need to assume any SSI benefits. If they have an attorney working on the appeal for them you should request a statement from the attorney regarding the status of the appeal and likelihood that SSI will be obtained and at what amount – count this accordingly. If they indicated that they will be applying for SSI disability benefits you do not need to count any, as this process usually takes several months or longer before benefits are awarded.

4. If the household has immigrated or refugee and applied or plans on applying for SSI, you must assume that they will be getting the full SSI benefit as income for the next 12 months.

NOTE: An applicant who is widowed or divorced may be eligible to receive the higher of their own SS benefit amount or that of their deceased or ex-spouse. Therefore if an applicant is recently widowed or divorced their SS benefit amount may increase.

BAH Military Income

Q: Is Basic Allowance for Housing (BAH) for military excluded from income for purposes of income qualifying a household?

A: It is at properties in the following counties that placed in service after 7/30/2008: Kitsap, Mason, Jefferson, Pierce, King, Island and Snohomish. BAH must be included in income calculations at properties in these counties that placed in service before 7/30/2008 and at all properties in all other counties in Washington. You can find the Placed in service date for your property at *http://www.wshfc.org/managers/TaxCreditProjectsAndPlacedinServiceDates.pdf*

History of this exclusion:

- July 2008 – The exclusion of BAH in the seven counties listed above was introduced as part of federal legislation (Sec. 3005 of HERA). It applied to all LIHTC properties within the specified counties for certifications effective until January 1, 2012.
- Effective January 1, 2012, the exclusion of BAH from income was **only allowed at projects in the counties listed above which placed in service between 7/30/08 and 1/1/12**. A list of the affected properties was posted on our website.
- Effective December 31, 2012, as part of the American Tax Payer Relief Act of 2012, the exclusion of BAH for all properties in the selected counties was extended until January 1, 2014.
- Effective December 16, 2014, a one-year extension of the tax extenders bill was passed retroactively for 2014.
- Effective December 15, 2015, the PATH act made the exclusion permanent.

Changes to Minimum Wage

Q: If an applicant's wages might soon be affected by a minimum wage increase (either state or local), how do I verify the change?

A: If there is an imminent change to the minimum wage in the area where an applicant/resident is employed, a property manager should pay close attention to whether or not the employer has indicated an anticipated increase in the rate of pay on the *Employment Verification* form. If the employer says yes, then count the wage increase as of when the employer plans to implement it. If the employer indicates there will not be a change in the employee's rate of pay, then WSHFC does not require that one be added to the calculation. There are many variables in some of the minimum wage increase rules and WSHFC does not expect property management to automatically include a raise based on minimum wage publications for any particular area of the state.

If an employer indicates no anticipated change, but a property manager wishes to verify whether an imminent change to minimum wage will affect an applicant/resident's rate of pay, if the employer indicates they are not sure about a raise, or if the employer will not complete an *Employment Verification* form, the property manager should use the *Income Verification/*

Clarification by Telephone form to ask the employer if they are anticipating an increase in the employee's wages due to a change in the minimum wage or for any other reason within the next 12 months.

Child Support

Q: How do you handle single parents who have dependents living in a unit with them, but receive less than a court ordered child support amount, OR, are recently separated and have no court order for support?

A: Use our *Child Support Affidavit* form to document 1) the amount of support owed; 2) the amount actually received and projected to be received in the next 12-months; and 3) that reasonable attempts have been made to collect support. The form must also be notarized.

Owners may have more stringent requirements regarding child support. However, we encourage Owners not to deny housing simply because the parent has failed to complete or not had time to complete all possible collection efforts.

EIV System

Q: Can I submit verification from EIV to prove a tax credit property aoolicant/resident's income eligibility?

A: No.

Estrangement Certification and Income

Q: What is the WSHFC ***Estrangement Certification Form*** used for?

A: This form may be used for married individuals who are physically separated from their spouses and who receive no income or support from the spouse. This would include victims of domestic violence. To remain eligible the spouse cannot become part of the household for at least six months. In these situations it is not necessary to verify income of the absent spouse or to count the income of the spouse in total household income as they are not considered part of the household.

HEN Program Assistance Voucher

Q: Should assistance from the Washington State Housing and Essential Needs (HEN) Program be counted as income?

A: No. WSHFC confirmed that all funds go directly to the landlord or utility company; the recipient does not receive a cash benefit and the recipient does not have to report the assistance to the IRS.

HUD & RD Income Verification

Q: If a HUD-regulated or RD-regulated property uses HUD- or RD-approved forms to verify household and income/asset info, do they still need to complete Commission verification forms?

A: The only additional forms you need to complete are those associated with Commission Special-Needs Commitments for Homeless, Farmworker, or Disabled households, the ***Student Certification*** form, and the ***Tax Credit Lease Rider***. Proof of age would also be required on elderly properties.

Q: For a household whose income I verified using HUD/RD forms, can I just send WSHFC the 50058/59/RD-3560-8?

A: No. A HUD or RD resident certification packet must include all the following:

- HUD 50058 or 50059 or the RD 3560-8
- Income and Asset Questionnaire for all adults (HUD/RD form or WSHFC's REA)
- Third-party verifications of income (cannot come from EIV)

- Third-party verification of assets or the *Sworn Statement of Net Household Assets,* as appropriate
- WSHFC forms for any WSHFC Special Needs Commitments at the property
- WSHFC Student Certification form
- WSHFC Tax Credit Lease Rider

Post 9/11 GI Bill (also known as Post 9/11 VEAA)

Q: Is educational assistance that is part of the Post 9/11 GI Bill counted as income? What if part of the assistance is in the form of a housing allowance?

A: Per HUD guidance, Post 9/11 GI benefits for tuition and books **are not counted** as income, even if the household is receiving Section 8 assistance. The housing allowance should not be counted as income, based on IRS guidance that the benefits should be treated as a whole and not as separate components.

Rental Assistance

Q: Should Owners include rental/housing assistance when determining household income?

A: It depends. Rental subsidy from a city, county or state government source that is sent directly to the Owner is not considered income to the resident. For example, funds allocated to Owners from 2060 or 2163 funds that are used to supplement household rents should not be counted as income to that household. The Owner should verify that the government source also does not consider the supplement as income to the individual and would not be issuing 1099s to those individuals. Rental assistance from a non-government source, such as a church, charitable foundation, or individual, should be counted as income. Any assistance received directly by the resident is counted as income.

Self-Employment

Q: How do I tell if someone is self-employed?

A: If someone gets a 1099 or 1099-MISC instead of a W-2, then that person is considered self-employed. If the person is unsure how their income is categorized, contact the employer to see if they will complete a ***Verification of Employment*** form.

Q: How is income for UBER or LYFT drivers categorized?

A: UBER/LYFT drivers (or anything similar) are considered self-employed.

Q: How do I verify the income of someone who is self-employed?

A: The applicable household member must complete a ***Self-Employment Verification*** form and provide required supporting documentation. If they have been self-employed long enough to have filed a tax return, then this documentation should include a signed Return along with a Schedule C. If they have not been self-employed long enough for the income to show on a tax return, they should provide a Profit and Loss Statement along with any applicable back-up documentation. For example, UBER/LYFT drivers should provide a printout showing their monthly income.

Q: So if someone is newly self-employed and just gives me a Profit and Loss Statement, I can call them qualified, right?

A: Not necessarily. For the protection of your owner's credits, you should be very careful when verifying self-employment on a new business. You may wish to ask for a previous year's tax return and/or a statement from Employment Security to confirm that the applicant's previous wages are in line with their projections for the next 12 months (since you have no third-party verification of the projected income, just the applicant's statement) and that they are not already employed elsewhere or are already running another business that may impact your income calculations.

Student Income

Q: Do I count all of the income from a fulltime student over 18 when calculating the households' annual income?

A: If the student is employed but ***is not*** the head, co-head or spouse, and is a dependent of the Household, you count only the first $480 of their wages for the entire 12-month period. Also, count **all unearned income** (Social Security benefits, TANF, unemployment, etc.) for any students. Verification of fulltime student status is required.

For students who ***are*** the head, co-head or spouse, count all earned and unearned income.

Q: Is student financial assistance considered income for purposes of qualifying a household for a tax credit unit? If so, what parts do I count?

A: No, **unless** the tax credit unit or resident is receiving some form of Section 8 rental assistance (e.g., Project-Based Section 8, or Housing Choice Voucher).

If the student receives some form of Section 8 rental assistance, you must count as income any amount of assistance **that is in excess of** the amounts which cover tuition and any other required fees and charges. If the student is over the age of 23 and has children or the student is living with his/her parents who are receiving Section 8, **all** financial assistance is **excluded** from annual income determinations.

For additional information about how to count a student's financial assistance, see Chapter 5 of HUD's Occupancy Handbook 4350.3. Also see HUD's PIH Notice 2015-21, published in December 2015, which provides good examples of how to define "required fees and charges."

The Work Number for Everyone

Q: The Work Number no longer offers free verifications to LIHTC properties. Are we allowed to use pay stubs instead of obtaining a verification from this or other companies like it that charge a fee?

A: The bottom line with income verification is to show us that you attempted to obtain **third-party documentation**. Accordingly, when verifying wages for an employee whose employer utilizes The Work Number:

1. Send the Commission's ***Employment Verification*** form to applicant's employer.

2. If no response to ***Employment Verification*** form or the employer redirects you to The Work Number or other agency, contact the employer by phone to follow up using the Commission's ***Income Verification/Clarification by Telephone*** form. At the very minimum, try to get the applicant's job start date from the employer and confirm that employer only uses The Work Number.

3. Obtain enough pay stubs from applicant to show their wage activity for at least the past 3 months.

4. From the pay stubs, determine the resident's current pay rate and YTD information. If pay stubs do not give you enough info to determine the YTD wages or you do not have the job start date, you will need to obtain a printout from The Work Number other agency to calculate YTD wages. Once you have both current and YTD wages, use the higher amount to determine annual gross income for the applicant.

Q: Can I charge the cost of obtaining the third party verification back to the applicant/resident?

A: Yes, it is permissible to pass the cost of obtaining the verification back to the applicant/resident. If an Owner/Management Company does not wish to use The Work Number they must follow the steps outlined above.

Q: Do I have to get pay stubs if I have a verification from The Work Number or other agency?

A: It is always a good idea to get at least one pay stub to compare to the information provided on The Work Number or other agency verification printout. We have found that the verifications are not always complete or correct.

VA Aid & Attendance

Q: Do I have to include VA Aid & Attendance Benefits in household income?

A: According to HUD's RHIIP Listserv Posting #284, any money received by the family that is specifically for, or in reimbursement of, the cost of medical expenses for any family member is excluded from annual income. Because of this, the owner must verify any amount provided for A&A which is used for medical expenses and exclude the verified amount. Any portion of the benefit not being used for medical expenses must be included as income.

Zero Income

Q: How do I verify the circumstances of an adult household member with no income from any source?

A: The individual must complete the ***Certification of Zero Income*** form and provide written explanation of how they will pay their rent and living expenses.

Q: A prospective resident does not currently have a job and has no other income. However, he or she is looking for and expect to find a job soon. How do I calculate their income?

A: Generally, the Owner must use current circumstances to determine anticipated income. Thus, the property Owner would calculate the resident's projected annual income by annualizing the resident's current income. If the current income is zero, then the annualized income is zero. However, if **written third-party verification confirms** that changes are expected to occur during the next twelve months, then the property Owner should use that verification to determine the total anticipated income. Thus, if the prospective resident is now earning zero, but is under contract to start a job mid-year, and anticipates receiving $12,000 in income from that job during the year, then $12,000 should be included as income. If the prospective resident is receiving unemployment, calculate it for 52 weeks or until the planned start date of another job. However, we will accept alternative calculations if your investor/syndicator has stricter requirements.

ASSET CALCULATIONS AND VERIFICATION:

Debit Cards not Associated with Checking or Savings Accounts

Q: We sometimes see applicants who have their government benefits or other forms of income deposited directly onto a debit card that is just a cash card, it doesn't connect to a checking or savings account. How do we verify the amount of money on these cards?

A: A print out from an ATM or similar machine which shows the card number and the balance on the card is sufficient for verification. Count the balance on the card as an asset. If money is being deposited on the card on a **periodic** basis (e.g., Social Security benefits, regular family cash assistance), count the periodic payments as income, and verify them based on what type of income they are.

Different Imputed Interest Rates

Q: HUD recently announced it would adjust the passbook interest rate by which we determine the percentage of imputed assets to count. It may now change as often as annually. Will WSHFC change the imputed interest rate on all their forms going forward?

A: No, WSHFC will keep the imputed interest rate at 2% on its forms and in WBARS. This is because in the vast majority of cases, a fluctuation of the imputed interest rate will not cause a household to be ineligible for a tax credit unit. We are fine with owners/managers using the actual HUD imputed

interest rate in their asset calculations; be sure to note clearly on all calculations if you are using an amount other than 2%. Making revisions on the HEC by hand to show a different interest rate is fine.

Asset with Multiple Owners

Q: A recent applicant had a Certificate of Deposit (worth $100,000) she divided into quarters, distributing three portions to three other people (not members of the household), and keeping one portion for herself. She did this one month prior to moving into our property. How should we value this asset?

A: Include the entire amount of the CD when determining the applicant's income, but separate it into two different asset categories. The amount the applicant currently owns ($25,000) should be counted as a regular asset and the earnings calculated accordingly. The $75,000 that was given away should be counted as ***an asset that was disposed of for less than fair market value***. It should be counted for two years from the date of disposal, so count the $75,000 at initial qualification and at the first annual recertification.

IRAs, 401(k) Accounts, Annuities

Q: When valuing an asset, do I need to determine the resident's original investment?

A: No. To determine the value of an asset, start with the current value of the asset (annuity or IRS balance) and deduct any fees and penalties for converting to cash, plus any tax penalties.

Example:

Ms. Hanson has an annuity with a current value of $68,000, earning annual interest of approximately 4.85%. If Ms. Hanson withdraws the balance, she would need to pay $7,500 in surrender fees plus $2,500 in tax penalties.

The cash asset value of her annuity for purposes of determining her total assets is $68,000 minus $10,000 = $58,000 (added to other assets to determine the imputed interest).

The income from Ms. Hanson's annuity is $68,000 x 4.85% = $3,298.

Q: Do I need to count the Required Minimum Distribution (RMD) on an IRA account as income?

A: Not if it is taken in one lump sum annually. Regardless whether the resident spends the RMD on vacation, new household items, or basic necessities, the income is not counted. If the resident decides to re-invest the money, or deposits the money into a savings or checking account, it will show up as an increase to the resident's assets. In this case, the IRA itself is counted as an asset.

If a resident chooses to take the annual RMD as periodic payments, then the RMD is counted as income. In this case, the account the RMD is drawn from **would not** be counted as an asset.

Q: How does WSHFC define the term "periodic"?

A: "Periodic payments" are those withdrawals or disbursements of income which occur at regular intervals, and occur two or more times per year.

Real Estate Valuation

Q: Do I need to get a market analysis to verify the value of real estate owned by an applicant?

A: The goal is to obtain approximate market value and to document your reasonable attempts to get this information. Copies of real estate tax statements (including those obtained from online county property value tools); a Realtor's record of recent comparable sales in the real estate's vicinity, and letters from realtors can all be used to establish the value of real estate. One good indicator of value is a copy of the listing agreement if the property is currently for sale. The best indicator of actual value would be a copy of the HUD-1 Statement issued at closing, showing net proceeds to the seller.

In the event that there is a significant difference between the appraised and the market value of a property, and the applicant is close to the income limit, you might want to think about a market comparison, but it is not necessarily required. If all else fails, document the file with attempts to get information, and use a self-certification as the last option.

Q: Does market value equal the asset's cash value?

A: No. You must deduct the total amount of mortgages plus the cost of selling the real estate to determine the cash value of an asset.

Q: What if the resident sold the real estate on a contract and receives payments on a mortgage or Deed of Trust?

A: The mortgage or Deed of Trust current value (amount owed to resident holding the DOT) is considered an asset. If the resident receives monthly principle and interest payments, the interest portion of those payments must also be counted as income.

Q: What do I need to get to prove that a house is in foreclosure? Is a notice on a credit report enough?

A: No. Foreclosures are handled by a trustee. The type of proof that you need depends upon the type of foreclosure.

TYPE	Proof Required
1. Regular Foreclosure	Notice of Sheriff Sale
2. Deed in Lieu of Foreclosure	Copy of the Deed
3. Judicial Foreclosure	Notice of Sheriff's Sale
4. Short Sale (before foreclosure for less than what is owed)	HUD1 Settlement Statement (Agreement from lender)

Q: Do I subtract the amount the household lost in the foreclosure from the Adjusted Gross Income?

A: No, you would not subtract the amount lost in a foreclosure when figuring income. Provided the foreclosure can be documented, no adjustment to income should be made for the house--positive or negative.

Timeshare Properties

Q: A prospective resident has a vacation timeshare that she occasionally rents to the public. Do I include the rent that the resident will receive when determining the resident's income? Is there anything else I need to know about vacation rentals or other like assets?

A: A vacation timeshare is considered an asset. Therefore, income includes any amount to which household members have access. If the **total** cash value of all the household's assets is more than **$5,000**, then income includes the greater of a) the actual amount of money derived from the asset or b) 2% of the market value of all the household's assets (called the HUD imputed income amount). For example, "Sally" has an interest in a timeshare and the market value of her interest is $25,000. Two percent of $25,000, or the imputed income amount, is $500. Sally occasionally rents the timeshare out, and next year, Sally expects to receive $200 in rental income after paying all expenses. Because the imputed income amount is greater, you must include $500 in Sally's gross annual income estimation.

REPORTING & RECORD KEEPING

Annual Reports – Tax Credits

Q: When are tax credit annual reports due and what must be included?

A: Tax credit annual reports are due by January 31 each year. Refer to **Chapter 6** in the ***Tax Credit Compliance Manual*** for detailed instructions on what to submit in your annual compliance report. Also review the information on our website's Forms and Reports page for additional details.

Q: How do we submit our rental activity data to WSHFC?

A: WSHFC requires all tax credit owners to submit rental activity for each calendar year via our Web-Based Annual Reporting System (WBARS). The reports are required to be submitted via WBARS by January 31st of every year.

Q: If more than one household occupies a unit during the reporting period, should I submit resident packages on all households?

A: No, you will only submit requested packages for the last occupant of the unit during the reporting period. If any units were vacant for the entire reporting year, provide requested certification packages for the last occupant in the unit the prior year.

Record Keeping

Q: How long must I keep resident income qualification paperwork?

A: Records must be retained for six years after the due date for income tax return filing (plus any extensions). For instance, if a resident moved in your property during 2002 and the 2002 partnership income tax return was filed in June of 2003, records for that resident must be retained until June of 2009.

First Year records must be kept for six years beyond the initial compliance period. (15 years plus six years after filing first return = 22 years).

Q: Can I keep records electronically?

A: Yes, as long as your electronic storage system meets requirements of Revenue Procedure 97-22.

Q: Does the Commission report noncompliance that happens before final 8609s are issued?

A: Yes, the IRS instructs us to report pre-8609 noncompliance to them.

SPECIAL-NEEDS HOUSING COMMITMENTS

Persons with Disabilities Commitment

Q: What is the definition of a Disabled person for purposes of meeting my projects' commitment to serve persons with disabilities?

A: WSHFC follows HUD's definition of Disabled or Disability which is described as a physical or mental impairment that substantially limits one or more major life activities. Disabilities are typically long-term or permanent in nature.

Disability Verification

Q: Can Social Security and Supplemental Security Income benefits statements be used as third-party verification of disability?

A: Yes, Social Security disability payments are adequate verification of an individual's disability status. Receipt of veteran's disability payments may also qualify a person as disabled, depending on the amount of information included on the third-party document. The resident must also acknowledge that they have a disability by checking "yes" on the ***Disability Certification*** form.

Elderly Commitment and Households with Children

Q: We have a property that has an Elderly Commitment for 55 and older residents. Must we allow children in our property?

A: It depends. Fair Housing laws allow Elderly properties to exclude children as long as all rental eligibility and marketing information clearly identifies the property as an "adult" elderly facility. Also, if you allow a child in one unit, you must allow children in all other units. For more information, please contact the Fair Housing agencies listed on the Compliance website at: *http://www.wshfc.org/managers/f_h_resources.htm.*

Q: Do all household members in an Elderly property have to be 55 or older?

A: No. However, you must actively market **and rent** each unit to Elderly households, and **each unit** must have at least one individual who is 55 or older.

Q: What happens if a 55-year old and a 30-year old live together at a 55+ property and the older person leave or dies?

A: The 30-year old may remain in the unit. HUD allows up to 20% of the units to be under 55 for purposes of attrition (the 80% Elderly rule). If, at any time, the percentage of units with elderly residents falls below 80%, the property is no longer considered Elderly, and must be open to all age groups.

Q: Does the 80% Elderly rule apply to 62 or older properties?
A: No, **all** residents in a 62+ property must be age 62 or older.

Q: What about Elderly properties with HUD or Rural Development financing?

A: If a property was specifically financed as a HUD or RD Elderly property, the occupancy rules of those programs apply. For instance, many of these agreements allow Elderly properties to house elderly *or* disabled persons.

Farmworkers

Q: What is the definition of a **Farmworker**?

A: A Farmworker is someone who earns at least $3,000 per year from farm work. For additional guidance, please review the Farmworker forms, instructions, references and video on our website at http://www.wshfc.org/managers/forms-RC.htm.

Homeless Commitments

Q: What is the difference between Permanent Housing for the Homeless and Transitional Housing Special Needs Commitments?

A: **Transitional Housing for the Homeless** requires that any building having a transitional unit must have 100% transitional units. The **Permanent Housing for the Homeless Commitment** allows set-aside units to float throughout the property (i.e., a building may contain less than 100% Homeless units). There are a number of other requirements associated with each option, but these are the main differences; please review the Special-Needs Commitments information in WSHFC's *Tax Credit Compliance* manual, as well as required forms and instructions, for additional information.

Q: Transitional Housing units are intended to house residents for up to 24 months. Do I need to evict residents after they have been there for 24 months? Often there just isn't permanent housing available for residents at month 25.

A: No. It is not necessary to evict a resident who has been living in a transitional housing unit for over 24 months. Transitional housing was created in the Stuart B. McKinney Act as a program designed to move formerly homeless residents to permanent housing within 24 months. As long as there is a service plan for each member and the goal for the transitional building remains "transition to permanent housing," WSHFC will consider units to be in compliance with federal law regarding Transitional housing.

Large Household

Q: What is the definition of a Large Household?

A: To qualify as a Large Household, the household must live in a three-bedroom or larger unit and have four or more occupants.

Double Counting

Q: A property has elected the Large Households and Disabled Special-Needs Commitments. If a household of four, one of whom is disabled, moves in, can this household be used to meet the Special-Needs Commitment in ***both*** categories?

A: In this case, the answer is no. The same household cannot be used for more than one of these Special-Needs Commitments, regardless of whether the household is eligible for both. These Commitments are based on a minimum of 10% or 20% of the Total Housing Units for each category.

The exception would be if the property has two Commitments, one for 100% Elderly or one for 75% or greater Farmworker or Homeless/Transitional housing. Under these scenarios, a household could qualify for more than one set-aside. Contact your Portfolio Analyst if you are unsure whether or not a household can qualify under two Special-Needs Commitments.

Initial Occupancy

Q: If I elected the Large Household, Disabled, or Farmworker Special-Needs Commitment and my property cannot fill the units with the required population at initial occupancy, can management rent the units to the general population?

A: No, for new construction, the ***initial occupant(s)*** of a unit ***must*** meet the specified Special-Needs Commitment or the unit must be held vacant until it can be rented to a Special-Needs household. For acquisition/rehab properties, Special Needs Commitments may be met through attrition.

Marketing: 30-Day Requirement

Q: Our property made the Large Households Commitment. We met the requirement at initial rent up but now we are having a hard time filling these units. We hate leaving them vacant. Is there anything we can do?

A: Yes, since you met your requirement at initial occupancy, if you market your unit in a rent-ready condition for a period of 30 days and you cannot find a qualified household, you may rent the unit to a household that is not considered a large household but *is* income-qualified. You must document your marketing efforts to the desired population. The next 3-bedroom unit that becomes available must go through the same process. The 30-day recruitment procedure applies to all Special Needs Commitments **except** Elderly, Homeless or Transitional. Elderly, Homeless or Transitional units must always be rented to qualified applicants from those populations.

Marketing Vacant Units

Q: Do I need to advertise our vacant units in newspapers or can I advertise them through other media?

A: There are many ways to advertise units that will meet your marketing requirement. At least annually, the Owner must notify (1) the relevant public housing authority, (2) at least two agencies in the area of the Project, and (3) the general public. To satisfy requirement number three, Owners may use the Internet and/or other media. You should be able to demonstrate that the media method chosen is an effective method of marketing to your property's targeted population in the general area of your property and is in compliance with the Fair Housing Act and state and local law.

Once Qualified, Always Qualified

Q: A property elected the Large Household Commitment (defined as a unit with three or more bedrooms occupied by a household of four or more). A household is initially qualified and during the re-certification process it is found that one of the household members has moved out, would this unit still be in compliance with the three household members left?

A: Yes, as long as the next available, three-bedroom unit is rented to a qualified large household. For all Special-Needs Commitments, once the household qualifies at move in, the household remains qualified (as long as at least one member of the initially qualified household remains in the unit).

Q: Do I have to re-confirm that my Disabled residents are still disabled at recertification?

A: No.

STUDENTS

Qualified Resident Goes Back to School

Q: An eligible resident moves in and two months later he goes back to school fulltime. Is he still qualified?

A: It is permissible for a unit to be occupied by a fulltime student where there are other residents in the household that qualify. However, when a unit becomes occupied ***entirely*** by fulltime students (defined as individuals enrolled ***fulltime*** at an educational organization for at least ***five calendar months*** during the year), the unit becomes disqualified unless one of the following exceptions applies: The unit is occupied by at least ***one*** individual who is:

1. enrolled in a job training program receiving assistance under the Workforce Investment Act (formerly JTPA) or other similar program funded by a state or local government agency.
2. receiving benefits under Title IV of the Social Security Act (e.g. TANF).
3. a single parent and the single parent is not a dependent of another individual, nor are their children dependents of another individual except another parent of such children.
4. married and eligible to file a joint return.
5. A student that was previously under the care of a state foster care program.

International Students

Q: We have an international student who attends school fulltime but receives zero credits. Schools generally confirm student status by the number of credit hours taken, so it is possible that the college may verify their status as part time. Should we consider these students full time or part time?

A: International Students are almost **always considered** fulltime Students. This is because their Student Visa specifically requires these students to attend school fulltime to remain in the United States. Households with International Students would need to have at least one other household member who is **not** a fulltime student to remain a qualified household.

Married Students

Q: Do married students need to actually file a joint return to qualify as an exception?

A: No. It is only necessary to verify that married students are eligible to file jointly, not that they actually did.

Q. Can legally married same-sex couples qualify for the "married, filing jointly" student exception?

A. Yes.

Student Status and Foster Care

Q: Is there now another exception to the fulltime student household for those persons who previously received foster care assistance?
A: Yes. If you have a household composed entirely of income-qualified fulltime students and one of those students was previously under the care of a state foster care program, the household remains qualified for a tax credit unit.

The Owner must obtain written verification from a state foster care administrative entity (DSHS in Washington State) that the student was previously in a foster care program. Washington State DSHS has informed us that residents could obtain this information with a Social Security number. It's not clear whether the Owner agent, acting as a third party, could obtain documentation. If the Owner agent is unable to obtain written verification directly from DSHS, the Commission will allow copies of documentation directly from the resident as proof of this exception to the fulltime student rule.

Students with Unborn Children

Q: If I have a written confirmation from an applicant's ob-gyn that this applicant is pregnant, and she is a fulltime student, may I rely on the pregnancy verification that one other person in the household is not a fulltime student, therefore it will be a two-person household: Mom is fulltime, baby is not?

A: We are uncertain how the IRS would view this. While an unborn child can be counted toward household size when determining the income limit (or determining qualification for the Large Household Commitment), we don't think it would count as an exception to the Student Rule until the baby has been born.

Verifying Student Status

Q: Regarding a current resident that is intending to start college - how often do we need to verify the fulltime or part-time status? If she goes fulltime one quarter and then part-time the next, does that allow her to continue to live here?

A: Students that are "fulltime" for more than five calendar months during the calendar year are generally prohibited from tax credit housing unless they meet one of the exceptions described above. Whether a student is attending school "fulltime" is determined by the school that the student is attending. Property management would need to make an initial determination of whether a household was likely to exceed the five-month rule during the calendar year, and if so, the resident should not be allowed to move in (unless the student is part of an otherwise qualified household). It is important to inform prospective residents about the student issue in their lease and ask that they inform management immediately of any student status changes. Many management agencies are checking quarterly to prevent a recapture problem, but there is no requirement to check any more often than annually at re-certification.

UNIT OCCUPANCY

Casualty Loss

Q: I know there has been some guidance by the IRS regarding the treatment of casualty losses. I understand that we must report casualty loss that takes a unit out of service for an "unreasonable" period of time. My understanding is that a two-year period is not a reasonable amount of time. Is this correct?

A: According to the IRS, state housing agencies must always report a casualty loss that takes low-income units out of service. The taxpayer cannot claim the credit while the unit is out of service. However, if the property is in an area designated as a **federal** disaster area, the Owner likely still can claim credits.

What is "reasonable" depends on the damage, but generally, the two years following the end of the tax year in which the casualty loss occurred is a "reasonable" time period to repair the damage or replace the property. Thus, for severe damages, two years is likely reasonable. **However, most damages can and should be repaired within a few months. When casualty losses occur, Owners should contact their Portfolio Analyst immediately to report the loss and to receive guidance in documenting the loss appropriately.**

Q: Units are vacant for a variety of reasons, including fires, floods, mold issues, or residents who trash units upon move-out. What exactly is considered a "casualty loss?"

A: Casualty losses are sudden, unexpected damages - generally due to natural causes such as hurricanes, tornados, floods and earthquakes. Damages incurred over long periods of time like dry rot, termites, mold damage, poor construction or resident-caused destruction, do not qualify as "sudden" casualty losses. However, regardless of the cause, Owners must make repairs to units with damages in a timely manner to maintain qualified basis and prevent possible loss of credits.

Daycare/Home Business Use of a Unit

Q: May my residents operate a home business in their unit, such as a small daycare or other small business?

A: Yes, but the Owner must ensure that strict guidelines are placed on any home business. We suggest that Owners work with an attorney to include the following in their lease documents:

- The unit must be the principle residence for all household members included on the lease.
- No sign should be displayed that advertises the home business.
- If a daycare, it must meet state and local laws and ordinances and be properly licensed for the number of children they care for.
- Any business, including daycares, should not infringe on the rights of other residents in the building. Your House Rules, for example, should outline acceptable hours for a daycare or other business; number of children cared for in various sized units; number of children who can be cared for from outside the property; number of clients who may visit a home business in a given day; extra deposits required, if any, for daycare or other business.

Move-out After Lease Signing

Q: We have an applicant who qualified for a unit at our property. They signed a six month lease, took the unit keys and gave us a rent check on Monday. On Tuesday the applicant came in, turned in the keys and told us her check would bounce and that she was not going to rent the unit. Can we count this unit as initially qualified by this applicant?

A: As long as you have thoroughly documented the circumstances leading to this vacancy, emphasizing that all signs indicated this applicant intended to rent long-term, you may count this unit as qualified.

Moving Over-Income Households

Q: In a **mixed-income** tax credit property, can a previously qualified over-income household move to another unit and remain qualified?

A: Yes, as long as the household moves/transfers within the same building, they remain qualified. The IRS clarified that a household ***may also*** move to a different building and remain qualified, ***if*** their income at the last certification did not exceed 140% of the qualifying limit. The units essentially "swap statuses."

These rules are particularly important during the first credit year. If a qualified household moves from one unit to another, the unit they occupy at the end of the first credit year is "qualified". The unit they left would revert to its previous "empty" status and need to be occupied by another income-qualified household to be considered a tax-credit-qualified unit.

Q: What about moving households in a 100% tax credit low-income property?

A: Since the IRS no longer requires annual recertifications of households (in a 100% low-income property, households that were initially income-qualified may move from building-to-building, without restriction. Owners should ensure that they selected the multi-building project box on IRS Form 8609 (box 8b) if there is more than one building in the project.

Q: Does this also apply to 100% tax credit properties, that were also financed by **Tax-Exempt bonds**?

A: Yes, as long as the property is 100% low-income restricted, and all units are income-qualified at move-in.

140%/Next Available Unit Rule

Q: Are the 140% rules now the same for 4% tax credit properties (i.e., tax credit property also financed with tax-exempt bonds) as they are for 9% properties?

A: Yes, the Next Available Unit Rule is now a Building Rule vs. a Project Rule. In other words, if the income of a household in a bond and tax-credit financed property increases above allowable levels, that household will continue to be considered "qualified" if the next available unit in the same **building** is rented to an income-qualified household. This provision ***does not apply*** to properties financed with bonds and other sources, but with no tax credit financing.

Turning a Unit

Q: What's a reasonable amount of time to turn a unit?

A: The IRS expects that vacant units are always rent-ready and available to the public. That said, the Commission considers no more than 15 to 30 days to be a reasonable amount of time to prepare a vacated unit for occupancy by the next household; depending on the level of repairs needed. Your management company, Owner or investor may have stricter expectations for this timeframe.

> It is important to understand that turning a unit quickly **and** keeping it in rent-ready status are equally important. Any units sitting for prolonged periods of time in a **non**-rent-ready condition constitute material non-compliance and will be reported to the IRS.

Q: What about when I have to store items abandoned by the resident for 45 days. Can I do this in a vacant unit?

A: No. Units must be made rent-ready and available to the public to be eligible for tax credits. They cannot be used to store items. We recommend that you check with your legal counsel regarding moving and storing abandoned resident items in a storage facility, garage or other secure area.

Q: Can we maintain a Model Unit at our property?

A: Yes, but Model Units must be rotated on a regular basis and always be available to interested renters.

UTILITIES

Alternate Utility Allowance Calculation Methods

Q: I'd like to use an alternate method to calculate the utility allowances at my property. How do I get started?

A: Review ***Appendix O*** in WSHFC's *Tax Credit Compliance Procedures Manual*. Then contact Compliance staff to start the process. Our staff must approve requests for any alternate methods and the proposed rates must be posted for resident comment 90 days prior to implementation. We cannot retroactively approve utility allowance schedules.

Q: When structuring proformas, I usually just plug in the area PHA Section 8 utility allowances. However, they tend to be high because the properties that go into those numbers tend to be older and less energy-efficient. What alternate methods are available?

A: Our *Tax Credit Compliance Procedures Manual* outlines detailed utility allowance calculation procedures in ***Appendix O***. Utility allowance rules are governed by the IRS and outlined in Section 1.42-10. If the property is not regulated by HUD or RD, you may use an estimate from a local utility company or several other alternate methods described in ***Appendix O***.

To encourage owners to use more accurate utility allowance estimates, specifically the Energy Consumption model, the Commission is now offering additional points in its 9% Tax Credit Application to owners who agree to use the Energy Consumption model to calculate the utility allowances for their proposed project.

For additional information about recent revisions to our policies as well as how the application points are applied, review a recording of a Utility Allowance webinar recently presented by the Commission's Sustainability Coordinator; the webinar links are located under the ***Appendix O*** link on our Tax Credit Manual web page.

Studio & SRO Unit Allowances

Q: If a utility allowance schedule doesn't show allowances for studio units, what utility allowance should I use?

A: It is permissible to use the rate for a one-bedroom unit if you are unable to obtain an allowance for a studio unit.

Q: I have SRO (Single Room Occupancy) units; which allowance should I use?

A: You can use the Studio allowances contained in the schedule for any SRO unit.

Water/Sewer Allowances

Q: The Owner of our property is interested in the possibility of our residents paying their own sewer and water. Is this a question for the Commission or a housing authority? What would be involved if he decided to go this route?

A: The residents may pay their own sewer and water. The costs of these utilities would need to be included in the utility allowance and subtracted from the Maximum Allowable Rents to determine the rent the residents can pay. To compute such an allowance, separate metering to each unit is required.

MISCELLANEOUS TOPICS

Households found to be over-income at the time of Move-In

Q: What should I do if I find that a household was overqualified at move-in during a tax credit lease up? What do I need to tell the Commission?

A: If you determine that a household is found to be over the income limit at move-in on an initial lease- up certification, you should correct the noncompliance, and immediately email your Portfolio Analyst to inform them what was found, and how and when it was corrected. At that time the Commission is required to issue a notice of noncompliance to the IRS. The notice will be issued as corrected and with an explanation that the owner/manager identified, fixed and reported the noncompliance. The IRS will determine if credits can be taken on the unit. Additionally, this type of incident would be noted on Question #24 of the ***Owner's Annual Certification*** form.

Q: What if the household found to be over-income at move-in was not the one to initially qualify the unit for credit?

A: If this is not an initial lease-up unit and you discover noncompliance at any time prior to an

annual report request, you should correct the noncompliance, immediately email your Portfolio Analyst to inform them what was found, and how and when it was corrected. This type of incident would be noted on Question #24 of the ***Owner's Annual Certification***. If this procedure is followed, the Commission does not have to notify the IRS of the noncompliance.

If you do not identify the noncompliance, fix it, and notify your Portfolio Analyst prior to the Commission sending an Annual Report request, the noncompliance must be reported to the IRS. It does not matter if the noncompliance was due to management error or the resident failing to disclose all income sources.

Demographic Data Collection Requirement

Q: Do we need to collect and report demographic information on our residents that reside in tax credit properties?

A: Yes. Federal legislation requires all state Housing Finance Agencies (like WSHFC) to collect and report information on race, ethnicity, family composition, age, income, use of rental assistance, disability status and household rent payments to HUD annually.

Q: How should we collect and report this data to WSHFC?

A: Have all applicants for housing complete our *Household Demographic Reporting Form* ***after*** you have confirmed that the household is income-qualified. Since the information is optional, residents may check a box on the form indicating their desire not to disclose the information. This data is then entered into WBARS to report to WSHFC. WBARS includes Demographic Data fields on each household's individual record which will capture this information.

Fair Housing Act--Accessibility

Q: Do tax credit properties need to meet Fair Housing Accessibility requirements?

A: Yes. All properties built after 1992 must be accessible to disabled persons. Ground floor units on buildings with four or more units and all units (and Common Areas) in buildings with elevators must be accessible to disabled persons.

When Applicant/Resident signs with an "X"

Q: Is something special required when an applicant or resident signs his or her name on a WSHFC form with an "X" or is physically unable to sign?

A: We recommend that managers add a simple attestation (by the person witnessing the signature) or a notary acknowledgement below the resident signature block. The attestation should state something like "On (insert date) I witnessed (insert full name) make an "X". Or, "On (insert date), (insert name) reviewed this REA with me and acknowledged it to be accurate and complete. He/she is physically unable to sign the form and asked that I sign on his/her behalf."

Reporting Resident Misrepresentation of Fraud to IRS

Q: Should fraud be reported to the IRS?

A: Yes, Owners and managers should report instances of resident fraud to the IRS by completing and submitting IRS Form 211, which can be downloaded from the IRS website.

Q: Is fraud considered reportable noncompliance?

A: It depends. If the Owner corrects fraud issues and informs WSHFC, noncompliance is not reported. If WSHFC discovers fraud at the time of an annual review an IRS Form 8823 must be filed.

Regulatory Period

Q: How is the expiration date for the regulatory agreement period calculated?

A: For tax credit properties, the date is calculated from the first year the Owner takes credits, which can be either the Placed-in-Service year or the following year.

Codes:

Section 42	Complete Version – Low Income Housing Tax Credit *(8/13/01)*
Section 42	Compliance Excerpts - Low Income Housing Tax Credit

Regulations:

IRS Reg 1.42-5	Compliance Monitoring Requirements *(8/13/01)*
IRS Reg 1.42-5	Revisions 1/14/00 - Compliance Monitoring Requirements *(8/13/01)*
IRS Reg 1.42-9	For Use by General Public
IRS Reg 1.42-10	Utility Allowances
IRS Reg 1.42-11	Providing Services for Residents
IRS Reg 1.42-15	Next Available Unit Rule
IRS Reg 1.42-16	Eligible Basis Reduced by Federal Grants

Revenue Rulings:

RR90-89	Household Income Consists of Combined Income of All Occupants of Unit, Whether or Not They Are Legally Related
RR92-61	Manager's Unit as Common Area
RR94-57	Effect of Changes in AMGI on Income Limitations
RR95-49	Right of First Refusal by Tenants OK

Revenue Procedures:

RP94-9	Number of Bedroom Method Election
RP94-57	Gross Rent Floor Election
RP94-64	Waiver of Annual Certification
RP94-65	Use of Tenant's Sworn Statement Where Assets Do Not Exceed $5,000

Private Letter Rulings:

PLR9330013	Maintenance Unit as Common Are, Nontransient Use
PLR9538015	Security Office Unit as Common Area

To read the full text of any of the above regulations, rulings and procedures, go to:
www.novoco.com/low_income_housing/lihtc/irs_guidance.php

Download latest TC Allocation Policies at:
www.wshfc.org/tax-credits/application/D-policies.pdf

See Website
www.wshfc.org/managers/ManualTaxCreditIndex.htm

Compliance Monitoring Fees

Annual Compliance Monitoring Fees for Tax Credit & Tax Credit with Tax-Exempt Bond Properties:

- **Placed in Service <u>before</u> 3/31/01**
  ⇒ $35.00 per unit
  ⇒ $350.00 (10 or fewer units)

(No separate fee for Tax Credit with Tax Exempt Bond financed properties until end of the bond compliance period.)

- **Placed in Service <u>after</u> 3/31/01**
  ⇒ $45.00 per unit
  ⇒ $450.00 (10 or fewer units)

(Includes all Tax Credit and Tax Credit with Commission Tax Exempt Bond properties.)

- **Placed in Service <u>after</u> 3/31/01 that have Non-Commission issued tax-exempt bonds ***
  ⇒ $58.00 per unit

*** A Property owned or controlled by a Housing Authority or Public Development Authority that placed in service after 3/31/01 pays the $45.00 rate.**

- **RHS Financed Properties**
  ⇒ $500.00 per project (14 units or fewer units pay $35.00 per unit)

FEES ARE SUBJECT TO CHANGE

EXHIBIT "B"

TO REGULATORY AGREEMENT (EXTENDED USE AGREEMENT)

PROJECT DESCRIPTION:

1.	NAME OF PROJECT:	**Happy Village**
	TC OR OID NUMBER:	**99-23M**
	OWNER:	**Happy Village Limited Liability Corporation**
	OWNER'S ADDRESS:	**500 Squeaky Clean Lane Hana, HI 96713**
	CONTACT FOR LEGAL NOTICES:	**Jim Gleemer President Happy Village Company 500 Squeaky Clean Lane Hana, HI 96713**
2.	PROJECT AND OWNER COMMITMENTS, RESTRICTIONS, COVENANTS:	
	CREDIT SET-ASIDE CATEGORY:	**For Profit**

*The agreement to comply with the conditions of the Preservation of Federally Assisted Low-Income Housing Allocation Criterion as set forth in the Application and/or Credit Reservation Contract does not apply to this Project.

ADDITIONAL LOW-INCOME HOUSING USE PERIOD:	**22 years**
PROJECT COMPLIANCE PERIOD:	**40 years**
TOTAL UNITS:	**102**
TOTAL COMMON AREA UNITS:	**2**
†TOTAL HOUSING UNITS:	**100**
† PROJECT APPLICABLE FRACTION:	**95 %**
MINIMUM LOW-INCOME HOUSING SET-ASIDE:	**40/60 "**
PERCENT OF AMGI FOR QUALIFIED LOW-INCOME HOUSING UNITS:	**60 %**

SAMPLE

†TOTAL HOUSING UNITS IN LOW-INCOME HOUSING SET-ASIDE:	95	
PERCENT OF AMGI FOR HOUSING UNITS SUBJECT TO ADDITIONAL LOW-INCOME HOUSING SET-ASIDE:	40 %	
	#* OF HOUSING UNITS	%* OF ALL HOUSING UNITS
†ADDITIONAL LOW-INCOME HOUSING SET-ASIDE:	25	25%
†SPECIAL-NEEDS HOUSING SET-ASIDES AND FARMWORKER HOUSING PROJECT		
FOR LARGE HOUSEHOLDS:	20	20 %
FOR PERSONS WITH DISABILITIES:	20	20 %
FOR PERSONS WHO ARE ELDERLY:	0	0 %
The Owner has elected the following criteria for operating the Project as an Elderly Housing Project:	Election 2: A Project in which all Housing Units are each intended and operated for occupancy by at least one Resident who is 55 or older, and where at least 80% of the Total Housing Units are in fact occupied by at least one Resident who is 55 or older.	
FOR TRANSITIONAL HOUSING:	25	25 %
FOR FARMWORKERS:	0	0 %

The following buildings are of the Tax Credit Type: **New Construction**

BIN for each Building	Street Address for each Building (or, if none is available, the legal description included in Exhibit "A")	City	State	# of Housing Units in each Building†	# of Qualified Low-Income Housing Units in each Building†	# of Common Area Units
WA-99-05000	4000 21st Avenue	Walla Walla	WA	25	25	0
WA-99-05001	4003 21st Avenue	Walla Walla	WA	25	24	1
WA-99-05002	4005 21st Avenue	Walla Walla	WA	25	20	0
WA-99-05003	4007 21st Avenue	Walla Walla	WA	25	24	1

* Based on the lesser of the Unit Fraction or Floor Space Fraction.

† Excludes any Common Area Units

SAMPLE

Sample

For Killowatt Acres Apartments

VANCOUVER HOUSING AUTHORITY

Allowance for Tenant-Furnished Utilities

Housing Choice Voucher Program

Clark County, Washington - Rates Effective January 1, 2009

New Multiplex
(Apartment Built After 1980 or with Maximum Weatherization)

Utility or Service		Monthly Dollar Allowance					
		X 0 Bdrm	X 1 Bdrm	X 2 Bdrm	X 3 Bdrm*	X 4 Bdrm	X 5 Bdrm
Space Heating	Electric	16	(22)	(27)	33	39	n/a
	Natural Gas	16	21	26	(33)	38	n/a
	Oil	26	36	44	55	63	n/a
Water Heating	Electric	14	(20)	(24)	29	34	n/a
	Natural Gas	12	17	21	(25)	29	n/a
	Oil	18	26	32	38	44	n/a
Cooking	Electric	4	(5)	(7)	9	11	n/a
	Natural Gas	7	9	10	(13)	16	n/a
Other Electric		13	(15)	(18)	(20)	22	n/a
Water		4	6	13	21	29	n/a
Sewer		28	29	29	30	31	n/a
Trash Collection		17	17	17	31	31	n/a
Tenant Owned Range		3	3	3	3	3	n/a
Tenant Owned Refrigerator		3	3	3	3	3	n/a
			62	76	91		

Actual Family Allowance	Utility or Service	Per Month Cost
Name of Family	Space Heating	
	Water Heating	
	Cooking	
Address of Unit	Other Electric	
	Water	
	Sewer	
	Trash Collection	
Number of Bedrooms	Range	
	Refrigerator	
Date	Total	

* Note: 3BR units have gas available for utilities.

Sample

Download the latest contact information for Washington State housing authorities at:

http://www.hud.gov/offices/pih/pha/contacts/states/wa.cfm

or

http://www.awha.org/contact.htm

WASHINGTON STATE HOUSING FINANCE COMMISSION

Opening doors to a better life



Forms & Reports

- Resident Certification Packages
- Bond Reports
- Bond Most Common Reporting Errors
- Tax Credit Reports REVISED PROCEDURES for January 2018 Submissions
- Tax Credit Annual Report Common Errors/Best Practices *01/2016*
- Change of Property Contact Information Form (Word)

Asset Management and Compliance

- Contact Us
- Forms and Reports
- Income and Rent Limits
- Inspections
- Tax Credit Compliance Manual
- Tax Credit Compliance FAQs
- Bond Compliance Manual
- Bond Compliance FAQs
- Compliance Workshop Registration
- Event Calendar
- Resources
- WBARS

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Asset Management & Compliance

01/08/2016

Washington State Housing Finance Commission
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Refund Status

Get Your Tax Record

View Your Account

Make a Payment

e-Services for Tax Professionals

Employer ID Number (EIN)

Where's My Amended Return?

Visit the Trucking Tax Center

Forms and Instructions

1040
Individual Tax Return

1040-EZ
Tax Return for Single and Joint Filers With No Dependents

W-4
Employee's Withholding Allowance Certificate

Search Forms & Instructions



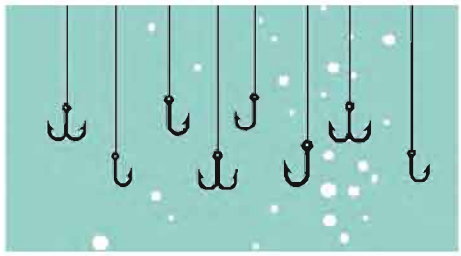
Tax Reform

Get the latest information on the Tax Cuts and Jobs Act.



Got mail from the IRS?

Here's what to do if you receive a letter or notice from the IRS.



Watch out for scams this summer

Don't let your guard down. Scams continue throughout the year.



Do a "Paycheck Checkup"



LITC Celebrating 20 years



New education tax benefits

Use the Withholding Calculator to make sure you have the right amount of tax…

National Taxpayer Advocate applauds Low Income Taxpayer Clinics.

IRS guidance on recent 529 education savings plan changes.

IRS2Go Mobile App

The official mobile app of the IRS

Learn more



IRS

Our Agency

- About IRS
- Work at IRS
- Help
- Contact Your Local Office
- Tax Stats, Facts & Figures

Know Your Rights

- Taxpayer Bill of Rights
- Taxpayer Advocate Service
- Accessibility
- Civil Rights
- Freedom of Information Act
- No Fear Act
- Privacy Policy

Resolve an Issue

- Respond to a Notice
- Office of Appeals
- Identity Theft Protection
- Report Phishing
- Tax Fraud & Abuse

Other Languages

- Español
- 中文
- 한국어
- Русский
- Tiếng Việt

Related Sites

- U.S. Treasury
- Treasury Inspector General for Tax Administration
- USA.gov

Life Cycle of a Tax Credit Project
(Competitive 9% Tax Credits, New Construction, 3 Buildings, 40 Year Commitment)

2005

January	February	March	April	May	June	July	August	September	October	November	December
Application for Tax Credits submitted			**Credit Reservation Contract issued**	10% of total project budget costs are spent from receipt of Reservation Contract through the end of 2005 ---> ---> ---> --->							

> As a result, the project qualifies for a Carryover Allocation (this extends the deadline by which all buildings must "Place in Service")

2006

January	February	March	April	May	June	July	August	September	October	November	December
				Building 1 places in service (i.e. the building has at least one unit that is certified as available for occupancy)						**Building 2 places in service**	

> A building's availability for occupancy is confirmed by the Certificate of Occupancy form
> The placing in service of a building triggers the date at which the owner may begin claiming credits
> **In this scenario, the First Credit Year for Bldgs 1 & 2 may begin in 2006 or be deferred a year to 2007; Bldg 3's First Credit Year may begin in 2007 or be deferred to 2008.**

2007

January	February	March	April	May	June	July	August	September	October	November	December
							Building 3 places in service				**12/31/07: Deadline by which all bldgs must be placed-in-service**

> The housing finance agency issues IRS Form 8609 (one form for each building) to officially award credits once all buildings place in service

2008

January	February	March	April	May	June	July	August	September	October	November	December

> **All buildings must be sufficiently leased to meet their minimum set-aside requirements by December 31st of their First Credit Year!**
(this includes meeting each building's minimum "applicable fraction" by ensuring that not only the correct number but the correct size units are leased)

> The **Credit Period** (the time during which the owner can claim credits against their tax liability) continues for 10 years from the date the owner elects to begin taking credits (the First Credit Year).
> In this scenario, the Credit Period for Bldgs 1 & 2 will end in **2016** (10 years including 2007); Bldg 3's Credit Period will end in **2017.**

> The **Compliance Period** (the time during which the property must be monitored by the housing finance agency for adherence to federal program regulations) begins the First Credit Year and continues for the next 15 years.
> In this scenario, the Compliance Period for Bldgs 1 & 2 ends in **2021** (15 years including 2007); Bldg 3's Compliance Period ends in **2022.**

> All records from the First Credit Year must be kept for **21 years** (15 year Compliance Period plus 6 years)!
(the first year records are the only proof a property has that it met its minimum set-asides and applicable fractions)

> The **Extended Use Period** (the total amount of time the property is held as affordable housing) brings the total affordability and monitoring period to - in most cases - 40 years
(the housing finance agency is still monitoring for program compliance during this time, but does not report federal noncompliance to the IRS)
> In this scenario, the Extended Use Period ends in **2047** (2007 plus 40 years).

Qualifying a Household

Qualifying families for Tax Credit-financed housing is a complex process. We want to help you think about what factors to plan for when interviewing families for housing at your property, and offer tips for things to do that will help you maximize this process, both initially and ongoing.

Prior to Interviewing

Physical Environment

The Interview Environment

- Is the location convenient to public transportation, and/or does it provide parking? Is the entrance clearly marked?
- Is the location accessible to persons with disabilities?
- Is there informational material available about your property?
  1. Do these materials need to be available in languages other than English, or available in large type, depending on your market or funding requirements?
- Do you have copies of Landlord/Tenant law readily available for applicants? Are your staff familiar with state regulations as well as any local directives?
- Do you have written information and/or clearly-posted signs regarding Fair Housing laws?

  1. Do these materials need to be available in languages other than English, or available in large type, depending on your market or funding requirements?
  2. Is Fair Housing signage clearly visible to current and prospective Residents?
  3. Are your staff aware of additional Fair Housing laws pertaining to your local jurisdiction, as well as the state and federal rules?

- Is your interview area free from significant auditory or visual distractions? Is there a door so that the interview area can be closed off and personal information can be examined in a confidential manner?
- In your interview area, do you have signs posted listing the responsibilities of the applicant and those of the interviewer? These are often very helpful in establishing "ground rules" for the interview process, and can help applicants know what to expect.

Planning for Tax Credit Set-Aside Requirements

The income and asset certification part of the interview is the most challenging and labor-intensive part of qualifying a family for a tax credit property. However, there are other issues that management staff need to plan for prior to leasing appointments so that other critical requirements can be met.

Income Set-Asides

- If you have multiple income set-asides, it is important to plan ahead of time how many units you must rent to satisfy each income set-aside.

  1. How would you explain, for instance, the set-aside concept to a family that may qualify for a 30% unit but can only be offered a 45% or 50% unit because you have already met your lower income set-asides but not yet met your higher income set-asides?

Special Needs Commitments

- Plan in advance how many units you will have to rent in order to satisfy any Special-Needs Commitments (e.g. Farmworker, Homeless, Disabled, Large Household).

  1. Remember that any project with Transitional units is 100% Transitional by building, not necessarily the whole project.
  2. Any project with an Elderly commitment is a 100% Elderly project.
  3. How are you going to effectively market your units to these populations?

Common Area Units

These units are for full time property staff. If you decide not to have an on-site manager or maintenance person, or these staff live off-site, you can rent the Common Area Unit to a tax credit-qualified Household. Remember that Common Area Units cannot be moved from building to building without prior Commission approval. Even moving a Common Area Unit within a building could be tricky if you have market-rate units, and if the proposed unit is a different size, thus upsetting your applicable fraction in that building.

Leasing Issues

Remember that your set-asides numbers must be met by the end of the property's First Credit Year (both the low-income set-asides and the Special-Needs Commitments). Failure to lease all your low-income units means that the project could lose some or all of its allocated tax credits.

- Do you have a leasing goal schedule for each building? Is it, at minimum, a weekly schedule?

- Do you always attach a copy of the latest Commission Lease Rider to each lease?
- Is your lease detailed enough to prohibit, within acceptable legal parameters, any unwanted behavior at your project?

    1. Does your lease include language making a Resident's failure to abide by Tax Credit program rules a material violation of their lease?
    2. Do you outline in your lease the process you follow for rent increases?
    3. Does your lease speak to the issue of household additions or changes?
    4. Language about these and other kinds of issues can be included in the lease, or in a House Rules document, or another type of lease rider. Check with an attorney to find out the best option for your property.

- Do you contract with a background check company that gives you thorough, reliable information (including rental history, criminal/eviction information, credit history) about your applicants?

    1. A background check that includes credit history can be helpful for identifying an applicant's marital status, whether or not they own real estate, and their length of time at particular addresses.

- What are your lease term options after fulfilling the initial six-month lease term? Are these set out in your lease?
- Do you use lease compliance documents that are valid according to state and local Landlord/Tenant laws? Are you consistent in your treatment of all residents when notifying them of lease violations or initiating the eviction process?

Interview Techniques

Interviews that involve eliciting personal information from people can make some applicants anxious, or result in some applicants overlooking (sometimes intentionally) aspects of their personal situations that are crucial to the qualification process. For this reason, it is a good idea to find feasible ways of training appropriate staff in effective interviewing techniques.

Among other traits, effective interviewers display the following skills:

- Polite and respectful demeanor
- Able to clarify mutual responsibilities and outcomes of the process

- An interest in the applicant
- Patience, visible willingness to understand
- An orientation toward service
- Display objectivity, not being judgmental
- Ability to establish rapport with applicant
- Use effective verbal style to elicit critical information (e.g., avoid leading questions, don't use jargon, ask clarifying questions, etc.)

During the Interview

(Interview Phases information courtesy of Nan McKay & Associates, Inc.)

Do you have an interview checklist that outlines all the steps and forms required in the interview process? You may want to create a form that you use in conjunction with the Compliance Checklist so that you can keep track of all the interview steps (including what to do before and after the interview) and assemble the applicant files in an order that resembles how you will have to submit paperwork to the Commission for review.

The Interview Itself

The following phases of the interview process can provide a sense of direction and purpose to the entire process. These phases can also help staff stay organized and remember steps they must follow to successfully complete the process.

Interview Phases

I. Rapport-building and Ground Rules

- Ask for form of legal identification, preferably photo I.D.
- Answer critical questions or concerns first before going on.
- Provide overview of process.
- Emphasize your commitment to being conscientious about this process and about your job.
- Clarify both of your roles and objectives for the interview.
- Explain information that will be needed.
- Emphasize confidentiality and that all questions being asked are asked of every applicant at your property.
- Also emphasize that everything asked for is required by the agencies that oversee the Tax Credit program or provide your property with funding (e.g. IRS, HUD, State Dept. of Community, Trade and Economic Development, etc.)
- Explain how information will be verified.

- Explain consequences for providing false information or failing to provide complete information.
- Assure client that you will answer any additional questions at the end of the process (also ensure you will not be regularly interrupted by the phone or co-workers).

II. Information Gathering

- Complete all paperwork keeping in mind that this is a data collection phase only, not an evaluative phase.
- Ask all questions required by the forms.
- Record all answers accurately.
- Don't interpret answers or challenge conflicting or discrepant information.
- While completing the paperwork, be making file notations as appropriate.
- Do not leave any lines or items blank; put a response down for each item (for example, "doesn't apply").
- Do not use correction fluid to correct errors. Cross out mistakes and initial next to the crossed-out item. Have the applicant do the same for any items they fill out themselves.
- Do not use name stamps to "sign" staff names on any forms or letters. This may make the document problematic for use in a legal proceeding.
- Review each form with the client before obtaining necessary signatures.
- Make sure all forms are signed and dated by all necessary household members.
- If you ask questions about information provided, only ask clarifying questions, not evaluative questions, during this stage.

III. Evaluating Information

- Determine what information must be **verified** in order to meet IRS, HUD, funder/investor requirements, including, but not limited to:
  - Wages
  - Unearned income
  - Student Status
  - Assets
  - Accommodation requests

- Decide what additional documents you'll need to complete the file or properly verify information. Some items you may need are:
  - Income tax returns
  - Divorce decree
  - Legal identification
  - Birth certificates
  - Self-certifications (where appropriate)
- Discuss discrepancies in the information provided, ask for more information regarding circumstances that need explanation or for facts that are contradictory.

IV. Closing the Interview

- Summarize what you are going to do next and what the applicant needs to do next. Provide these instructions to the applicant in writing, and give a deadline date for the submission of additional information or completion of other actions.
- Answer any additional questions.
- Provide the applicant with additional information about other housing programs, if appropriate.
- Explain what will happen next and how to contact you if they have questions in the meantime.
- Reaffirm your commitment to good service and thank the applicant for their cooperation.

Eligibility

As discussed earlier, it will be helpful to use a checklist when completing the eligibility process so you're sure to complete all required forms and perform all needed action steps.

Use our Compliance Forms Checklist to make sure all areas of eligibility have been covered and all correct forms have been used. This can also assist in your assembly of the file, and help you find information more easily for Compliance reviews.

Tracking Tools

To track the verification process, you may want to consider using a spreadsheet for each applicant household. You can record each household member, what documentation is required for each person, when you requested pertinent documents, follow-up requests, when you received the paperwork, and whether or not you approved and leased to the applicant. Such a tool may be helpful if you regularly evaluate families with many

household members or with many different types of income and/or assets. It also serves as a record of your "due diligence" in obtaining third-party verification, in case you must use a less desirable form of documentation.

Additionally, there may be software programs that accomplish these tasks and also allow you to run reports to determine if tasks are being completed and if deadlines are being met.

Filling Out Forms

For guidance on how to fill out Commission verification forms for income, assets, students, and Commission-designated Special Needs categories, please review ***Chapter 6, Reporting and Records Retention*** in this Manual. For detailed instructions on filling out each form, please access our website at ***http://wshfc.org/managers/formsindes.htm*** Click on the "Resident Certification Packages" link, then choose the specific document you need to complete.

Income & Asset Certification

For guidance on how to verify and calculate income and assets, please review ***Chapter 5, Income and Asset Certification*** in this Manual.

The Commission's income certification policies derive from HUD's Occupancy Handbook 4350.3, specifically *Chapter 5 - Determining Income and Calculating Rent*. However, only part of the chapter is relevant for Tax Credit property owners. For your convenience, we have excerpted *Section 1-Determining Annual Income, Section 3-Verification,* as well as some exhibits in ***Appendix N*** of this Manual. Please review this appendix for more in-depth guidance and examples of income calculation and verification.

After Initial Qualification

After successfully determining eligibility and leasing to an applicant for housing, there are periodic tasks and reviews which must be completed to keep your property in compliance and maintain the eligibility of your residents.

On-going Compliance Issues

On-going compliance issues/questions that must be addressed after a household is leased:

- Annual recertifications of all qualified households
- If at recertification you have households with income above 140% of their applicable income limit – are you applying the Available Unit Rule?
- For properties with market rate units – are you applying the Unit Vacancy Rule when you have both set-aside and market rate unit vacancies at the same time?

- For properties with Special-Needs Commitments vacancies (other than Elderly or Housing for the Homeless Commitments) – are you applying the 30-Day Marketing Rule before renting to a qualified household that does not meet the Special-Needs Commitment?
- Are you checking with your utility allowance schedule provider(s) every three months to see if the providers have made changes to the allowance amounts? Do you have forms and a process that will allow you to make rent adjustments and implement any utility updates within 90 days of a change?
- Are you checking the Commission's Compliance website every year (usually in the Spring) to update your maximum rent limits and income limits?
- You have the option to allow or prohibit additions to a qualified household after the initial 6-month lease – is your policy clear on this issue?

For more detail on the above issues, please review ***Chapter 2, Federal Regulations***, ***Chapter 3, Washington State Requirements***, and ***Chapter 4, Rents & Tenancy Issues*** in this Manual.

Recertifications

The eligibility of all qualified households must be recertified annually, prior to the anniversary of the lease start date. The recertification process should be started approximately 120 days prior to the lease anniversary date.

The process and priorities of the recertification interview are similar to the initial qualification interview, however, staff should now be comparing the household's current year information to that submitted in the prior year. This is the best way to determine if changes have occurred in the last twelve months.

Annual Reports

Every project must submit property information to the Commission each January and June. For general information on these reports, please review ***Chapter 6, Reporting and Records Retention*** in this Manual. For detailed instructions on how to fill out each report, access our website at http://www.wshfc.org/managers/formsindex.htm. Click on the appropriate Reports link, then choose the document you need to complete.

Document Retention

Remember it is vital to keep your records in a safe and secure manner. All First Credit Year paperwork must be kept for at least 21 years (15 year Compliance Period plus 6 years). All recertification paperwork must be kept for at least 6 years beyond the applicable recertification year.

Things to Consider

- Do your records need to be kept at the property, or at an off-site location?
- Do you need to take precautions to prevent damage to your records from earthquakes, fires, floods, tornadoes? Other natural disasters?
- In the event of a disaster, will your records be recoverable?
- Are computer records backed up?
- Can paper records be scanned or microfiched with secondary copies kept in another location?

For more information about retaining your program records, please review ***Chapter 6, Reporting and Records Retention*** in this Manual.

DIFFERENCES BETWEEN TAX CREDITS AND BONDS

	Tax-Exempt BOND Projects	Tax Credit Projects
MINIMUM SET-ASIDE	Bond projects must meet either the 20/50 or 40/60 tests on a **project** basis.	LIHTC projects must meet either the 20/50 or 40/60 tests on a project or a building basis.
COMPLIANCE PERIOD	Compliance period for bond projects (Qualified Project Period) begins the first day on which 10% of units are occupied and ends on the later of: 1) the date which is 15 years after the date on which 50% of the units are occupied; 2) the first day on which no tax-exempt private activity bond issued is outstanding; or 3) the date when Section 8 assistance, if any, terminates.	Compliance period for LIHTC projects is a period of 15 taxable years beginning with the first taxable year of the credit period. An additional 15 years is required by the IRS without recapture for a total of 30 years. Regulatory Agreements for LIHTC projects typically indicate a longer compliance period due to state agency requirements.
RENT RESTRICTIONS	Rent restrictions are not required unless restrictions are outlined in the Regulatory Agreement. Section 8 Housing Assistance payments are generally not considered rent.	Rent restrictions are calculated at 30% of AMGI. Rent is imputed at 1.5 persons per bedroom. Section 8 Housing Assistance payments are generally not considered rent.
CERTIFICATION OF INCOME	Households must certify as to their income and have all income/assets third-party verified by the Owner.. The income certification process must be completed before move-in. The household income certification has a required format in the Regulatory Agreement.	Same as Tax-Exempt Bond projects.
NONCOMPLIANCE ISSUES	Noncompliance issues are on a project level.	Noncompliance issues are on a building level and may also be on a project level.

	Tax-Exempt BOND Projects	Tax Credit Projects
VERIFICATION OF INCOME AND ASSETS	HUD Handbook 4350.3 outlines requirements for verification of income and assets. A document from the Public Housing Authority (PHA) verifying a Household's income is usually not recognized unless specified in the Regulatory Agreement.	HUD Handbook 4350.3 outlines requirements for verification and calculation of income and assets. A document from the PHA verifying a Household's income may be obtained by the property manager as a substitute for verifications **with Commission approval.**
FULLTIME STUDENT STATUS	Bond properties follow Tax Credit Student Rules in their entirety.	Fulltime student household may occupy the unit if household member is: 1. receiving assistance under Title IV of the Social Security Act (TANF); 2. enrolled in a job training program receiving assistance; 3. single parents with dependent children; 4. married and eligible to file a joint return; 5. someone previously under the care of the state foster system.
REVIEWING AGENCY	Reviewing agency for bond projects is the issuer of the bonds.	Reviewing agency for LIHTC projects is the state agency that allocated tax credits to the project.
UNIT VACANCY	The unit will maintain its low-income status if the unit is reoccupied for a period that exceeds 31 days. Once it is reoccupied, it will be considered "low-income" if the Household is income-qualified. Income set-asides are outlined in the Regulatory Agreement.	The unit will maintain its low-income status if the initial occupants' income met the income limitation, if the unit continues to be marketed and rent-ready and if the next available units are rented to qualified Households.
OVER-INCOME UNITS	This is now a **building** rule. Household income may increase above the applicable income limit if the Household was initially qualified. However, if a	Same as Tax-Exempt Bond Projects.

	Tax-Exempt BOND Projects	Tax Credit Projects
OVER-INCOME UNITS CONT.	Household's income increases over 140% of the limit, then the next available unit of comparable or smaller size **in the building** must go to a qualified Household in order for the over-income Household to continue to be qualified.	Same as Tax-Exempt Bond Projects.
RECERTIFICATION	Most Regulatory Agreements require an income certification to be completed at least annually.	WSHFC requires recertification of all Households within 120 days prior to the Household's lease anniversary date.
TRANSIENT BASIS OF UNITS	Units may not be used on a transient basis. Regulatory Agreements define "transient basis." A minimum lease term of 30 days is usually required.	Units may not be used on a transient basis. A minimum initial lease term of six months (unless the unit is an SRO) is required.
UTILITY ALLOWANCE	Generally, there are no rent or utility restrictions in Bond Regulatory Agreement.	Rents must be reduced by a utility allowance for the utilities Households pay themselves. Household-paid rent amount plus utility allowance must not exceed the Maximum Allowable Rent.
REPORTING REQUIREMENTS	Bond Projects must file Form 8703 annually. For new construction projects, quarterly reports are due from 10% thru 90% occupancy with annual reports due each January 7th thereafter. Affirmative Marketing Report is also due annually. Acquisition-rehab properties must be in compliance within one year of bond closing (initial report required at 8 months after closing) and must report annually each January thereafter.	LIHTC Projects must file IRS Form 8609 the first credit year with the IRS and provide copies to the Commission. Beginning after the first credit year, annual compliance reports are due to the Commission by January 31st of each year.
HOUSEHOLD TRANSFERS	Households that transfer from one unit to another, even in the same building, must be requalified. Projects with Bonds and Tax Credits may use the less restrictive Tax Credit rule.	Households that transfer from one unit to another unit *in the same building* do not need to be requalfied. As long as a Household is under 140% of their applicable income limit, they may also transfer to a unit located in another building at the property.

Income & Asset Verification Summary Chart

Chart is a learning tool and is not all-inclusive. Read Chapter 5, Income & Asset Certification, in Tax Credit Compliance Procedures Manual and read ALL form instructions.

Appendix M – Income & Asset Verification Summary Chart

Type of Income	Required Verification Documentation	Source/Resources	Notes	Commission Forms
EMPLOYMENT	▪ Completed Commission form (occasionally both the Employment Verification and Clarification by Telephone forms may need to be used, see **Notes**) ▪ Or, print-out from The Work Number or similar company	**Employer /** Many employers are outsourcing employment verification and may require you to dial a 900 number and pay a fee to get this information. The Work Number is now the employment verification source for over 1000 employers. Low-income housing providers should be able to get the verification for free or for a reduced rate. Call 1-800-996-7566 or visit http://www.theworknumber.com/	▪ Resident must sign Commission form. ▪ Fax or mail to employer. ▪ **ALL** blanks must be filled in by employer. ▪ Include self-addressed envelope if mailing. *For Telephone Verification:* ▪ Complete all blanks, put N/A by questions an employer refuses to answer. ▪ Complete ONLY the parts that will clarify verification already submitted.	Employment Verification Income Verification/Clarification by Telephone (**Note:** this form can also be used to complete verification information for other sources of income/assets)
SELF-EMPLOYMENT	▪ Signed copy of most recent tax return (1040) with schedules. ▪ Completed Commission form with a *Profit and Loss Statement* (for new business only)	**Resident / IRS**		Self-Employment Verification (use for NEW business only)
SOCIAL SECURITY OR SUPPLEMENTAL SECURITY INCOME	▪ Award Letter ▪ Or, recently dated Benefit Statement ▪ Or, completed Commission form	**Social Security Administration /** Call regional office to have statements mailed to the resident: 1-800-772-1213 Mail Commission form to the local Social Security Office: http://www.ssa.gov/ Local Office Finder: http://s3abaca.ssa.gov/pro/fol/fol-home.html Cost of Living Allowance Increases: http://www.ssa.gov/cola/ For deceased individuals, try the Social Security Death Index http://www.ancestry.com/search/rectype/vital/ssdi/main.htm	SSA/SSI award letters for the new year are typically received by the recipient in November or December of the previous year.	
CHILD SUPPORT **ALIMONY**	▪ Print-out from DSHS/Office of Support Enforcement ▪ Or, letter from parent paying support (must be notarized) ▪ Or, completed Commission form (must be notarized) ▪ Separation Agreement/Divorce Decree ▪ Letter from former spouse paying support (must be notarized)	**Department of Social and Health Services Division of Child Support** **Attorney / Court / Parent**	The Commission form must be used when there is no formal court-ordered child support arrangement and the resident cannot provide any other documentation Affidavit MUST be notarized	Child Support Affidavit

Income & Asset Verification Summary Chart

Chart is a learning tool and is not all-inclusive. Read Chapter 5, Income & Asset Certification, in Tax Credit Compliance Procedures Manual and read ALL form instructions.

Appendix M, Income & Asset Verification Summary Chart

Type of Income	Required Verification Documentation	Source/Resources	Notes	Commission Forms
PUBLIC ASSISTANCE	▪ Print-out from DSHS ▪ Or, completed Commission form	**Department of Social and Health Services caseworker /** http://www.dshs.wa.gov/	*Do not verify or count:* ▪ Food stamps ▪ HUD housing assistance ▪ Plymouth Housing ▪ Shelter Plus Care	Public Assistance Verification
UNEMPLOYMENT, LABOR & INDUSTRIES, DISABILITY BENEFITS	▪ Benefit statement from appropriate office showing payment dates and amount. ▪ Or, completed Commission form	**Employment Security Department /** ATTN: Records Disclosure PO Box 9046, Olympia, WA 98507-9046 Phone (360) 586-2132 Fax (360) 586-2133 **Labor and Industries /** http://www.lni.wa.gov/	Benefit should be annualized unless there is also regular seasonal employment or resident intends to go back to verifiable employment within next 12 months .	Unemployment Benefits Verification Request
MILITARY	▪ A copy of the service member's *Leave and Earnings Statement* (known as an "L.E.S."), from the current location, with the applicable annual clothing allowance added ▪ Or, completed Commission form	**Military /** http://www.dfas.mil/militarymembers.html Service members can get their LES using a computer and their PIN#	*Do not verify or count:* ▪ Re-enlistment bonus ▪ Imminent Danger (Hazardous Duty) pay	Military Pay Verification Request
PENSION, RETIREMENT FUND, INSURANCE POLICY, DEATH BENEFITS, VETERAN'S BENEFITS	▪ Annual benefits statement ▪ Or, completed Commission form	**Benefit provider or financial institution /** **Veterans Benefits Administration /** http://www.benefits.va.gov/benefits/		Pension Verification Request
ON-GOING MONETARY GIFTS	▪ Notarized statement signed by the person/entity providing the assistance, stating the purpose, dates, and value of the monetary gifts ▪ Or, completed Commission form (must be notarized)	**The gift provider or resident**	▪ Must count gifts regardless of source ▪ Must count all gifts ▪ Affidavit MUST be notarized.	Gift Affidavit
NO INCOME	▪ Completed Commission form	**Appropriate adult household member**	Use Commission form when an adult household member will receive **no** earned OR unearned income during the next 12 months.	Zero Income Certification
Do Not Include As Income:	▪ Temporary, nonrecurring or sporadic income ▪ Lump sum additions (one-time lottery, inheritances) - value them as **assets** ▪ Employment income from Minors, unless they will turn 18 within 12 months of certification ▪ See ***Appendix N*** in Tax Credit Manual for a complete list of items that are and ARE NOT included as income.			

Income & Asset Verification Summary Chart

Chart is a learning tool and is not all-inclusive. Read Chapter 5, Income & Asset Certification, in Tax Credit Compliance Procedures Manual and read ALL form instructions.

Appendix M – Income & Asset Verification Summary Chart

Type of ASSET	Required Verification Documentation	Source/Resources	Notes	Commission Forms
Household Claims LESS Than $5,000 In Assets	▪ Completed Commission form ▪ *If total household assets* ***exceed $5,000****, you* ***MUST*** *verify the income received from the assets using third-party verification* ▪ *Or, obtain the most recent complete and signed tax return.*	**ALL household members**	A definition of what is counted as an asset is part of the certification and should be given to a household with less than $5,000 in assets. Self-certifications are not acceptable when a household's assets exceed $5,000.	Under $5,000 Asset Certification or Sworn Statement of Net Family Assets
CHECKING ACCOUNTS **SAVINGS ACCOUNTS**	▪ Completed Commission form showing average balance for last six months (CHECKING account) ▪ Or, most recent six months' worth of bank statements ▪ Monthly bank statement showing current balance (SAVINGS account) ▪ Or, completed Commission form showing current balance	**Household member / Financial institution**		Deposit Verification Request
STOCKS , BONDS, T-BILLS, MONEY MARKET FUNDS, CDS, 401(K)S, IRAS, ANNUITIES	▪ Account statements, Certificates of Deposit, verification forms, letters or documents from a financial institution or broker's quarterly statements showing value of stocks or bonds or quotes from a stockbroker ▪ Documentation should show what **net** amount family or household would receive if they liquidated the funds ▪ Documents should show rates of return where applicable	**Broker / Financial institutions**	Count the current **net CASH** VALUE of the asset (i.e., the value of the funds **after** deducting whatever penalties are incurred when converting the funds to cash)	Annuity or Stock Verification Request
TRUSTS - REVOCABLE **TRUSTS - NON-REVOCABLE**	▪ Copy of the Trust Agreement	**Resident** *Revocable Trust* - Household member(s) has access to this asset at any time. *Non-Revocable or Irrevocable Trust* - Trusts which are not controlled by and cannot be accessed by any member of the household	▪ Count actual gross income distributed from trust to the resident ▪ Count all income generated (unless reinvested) If there is no income distributed from the trust, then **do not** count any income from the trust (e.g., income from the trust that is reinvested into the trust.)	

Income & Asset Verification Summary Chart

Chart is a learning tool and is not all-inclusive. Read Chapter 5, Income & Asset Certification, in Tax Credit Compliance Procedures Manual and read ALL form instructions.

Appendix M – Income & Asset Verification Summary Chart

Type of ASSETS	Required Verification Documentation	Source/Resources	Notes	Commission Forms
RENTAL PROPERTY INCOME	▪ Copy of the resident's most current *signed* tax return (IRS Form 1040 and Schedule E.) ▪ If the resident has just started to rent the property and no tax return has been filed, obtain a copy of the resident's tenant rental agreement to determine the rental income. ▪ Obtain a copy of the latest mortgage payments on the property. The income in this case would be the difference between the rental payment received from their tenant minus the interest on mortgage payment, taxes, insurance & reasonable maintenance costs.	**Resident / IRS**	Add back to net income any depreciation taken (See Schedule E of tax return).	
REAL ESTATE	▪ Copy of resident's *signed* tax return with *all* schedules ▪ If real estate is currently listed for sale, obtain a copy of the listing agreement. If the sale is pending, obtain a copy of the RESPA statement which will reflect the net proceeds. If the transaction has closed recently, request a HUD –1 Settlement Statement.	**Resident / IRS /** Real Estate Tax Assessment Form or Card from the appropriate tax assessor.	Private contract interest only If real estate was sold on contract. You will need to obtain a copy of the contract and determine whether there is an underlying mortgage and if so, the interest rate. This information will determine which method you will use for figuring income.	
PERSONAL PROPERTY COUNTED AS AN INVESTMENT	▪ Documented appraisal ▪ Or, applicant/resident certification	**Resident / Appraiser**	▪ Count things like: antique cars, stamp or coin collections, fine jewel collection, boat, etc. ▪ Do not count things used everyday, such as furniture, clothes, TV, in-use car, etc. ▪ Count collection's **CASH VALUE**.	
ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE	▪ Self-certification of resident, person who purchased or received asset ▪ Appraisal	**Resident**	▪ Determine **CASH VALUE** at time of disposal (i.e., what's left over after you subtract the disposal amount from the actual fair market value of the asset). ▪ Count **cash** value as an asset for two years after disposal.	

CHAPTER 5. DETERMINING INCOME AND CALCULATING RENT

5-1 Introduction

A. Owners must determine the amount of a family's income before the family is allowed to move into assisted housing and at least annually thereafter. The amount of assistance paid on behalf of the family is calculated using the family's annual income less allowable deductions. HUD program regulations specify the types and amounts of income and deductions to be included in the calculation of annual and adjusted income.

B. Although the definitions of annual and adjusted income used for the programs covered in this handbook have some similarities with rules used by the U.S. Internal Revenue Service (IRS), the tax rules are different from the HUD program rules.

C. The most frequent errors encountered in reviews of annual and adjusted income determinations in tenant files fall in three categories:

1. Applicants and tenants failing to fully disclose income information;

2. Errors in identifying required income exclusions; and

3. Incorrect calculations of deductions, often the result of failure to obtain third-party verification.

Careful interviewing and thorough verification can minimize the occurrence of these errors.

D. Chapter 5 is organized as follows:

- **Section 1: Determining Annual Income** discusses the requirements regarding annual income and the procedure for calculating a family's annual income when determining eligibility. This section also includes guidance on determining income from assets.

- **Section 2: Determining Adjusted Income** describes the procedures and requirements for determining adjusted income based on allowable deductions.

- **Section 3: Verification** presents the requirements for verifying information provided by applicants and tenants related to their eligibility.

- **Section 4: Calculating Tenant Rent** discusses the methods for calculating the tenant's portion of rent under the different programs covered by this handbook.

5-2 Key Terms

A. There are a number of technical terms used in this chapter that have very specific definitions established by federal statute or regulations, or by HUD. These terms are listed in Figure 5-1 and their definitions can be found in the Glossary to this handbook. It is important to be familiar with these definitions when reading this chapter.

B. The terms "disability" and "persons with disabilities" are used in two contexts – for civil rights protections, and for program eligibility purposes. Each use has specific definitions.

1. When used in context of protection from discrimination or improving the accessibility of housing, the civil rights-related definitions apply.

2. When used in the context of eligibility under multifamily subsidized housing programs, the program eligibility definitions apply.

NOTE: See the Glossary for specific definitions and paragraph 2-23 for an explanation of this difference.

Figure 5-1: Key Terms

• Adjusted income	• Live-in aide
• Annual income	• Low-income family
• Assets	• Market rent
• Assistance payment	• Minimum rent
• Assisted rent	• Operating rent
• Assisted tenant	• Project Assistance Contract (PAC)
• Basic rent	• PRAC Operating Rent
• Co-head of household	• Project Rental Assistance Contract (PRAC)
• Contract rent	• Project assistance payment
• Dependent	• Project rental assistance payment
• *Enterprise Income Verification (EIV)*	• Tenant rent
• Extremely low-income family	• Total tenant payment
• Foster adult	• Unearned income
• Foster children	• Utility allowance
• Full-time student	• Utility reimbursement
• Gross rent	• Very low-income family
• Hardship exemption	• Welfare assistance
• Head of household	• Welfare rent
• Housing assistance payment (HAP)	
• Income limit	

Section 1: Determining Annual Income

5-3 Key Regulations

This paragraph identifies the key regulatory citation pertaining to Section 1: Determining Annual Income. The citation and its title are listed below.

- *24 CFR 5.233 Mandated Use of HUD's Enterprise Income Verification (EIV) System*
- 24 CFR 5.609 Annual Income

5-4 Key Requirements

A. Annual income is the amount of income that is used to determine a family's eligibility for assistance. Annual income is defined as follows:

1. All amounts, monetary or not, that go to or are received on behalf of the family head, spouse or co-head (even if the family member is temporarily absent), or any other family member; or

2. All amounts anticipated to be received from a source outside the family during the 12-month period following admission or annual recertification effective date.

B. Annual income includes all amounts that are not specifically excluded by regulation. Exhibit 5-1, Income Inclusions and Exclusions, provides a list of income inclusions and exclusions published in the regulations and *Federal Register* notices.

C. Annual income includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

5-5 Methods for Projecting and Calculating Annual Income

A. The requirements for determining whether a family is eligible for assistance, and the amount of rent the family will pay, require the owner to project or estimate the annual income that the family expects to receive. There are several ways to make this projection. The following are acceptable methods for calculating the annual income anticipated for the coming year:

1. Generally the owner must use current circumstances to anticipate income. The owner calculates projected annual income by annualizing *current* income. Income that may not last for a full 12 months (e.g., unemployment compensation) should be calculated assuming current circumstances will last a full 12 months. If changes occur later in the year, an interim recertification can be conducted to change the family's rent.

2. If information is available on changes expected to occur during the year, use that information to determine the total *anticipated* income from all known sources during the year.

3. *Using EIV:

   (a) The owner must not use the quarterly wage income reported on the EIV Income Report for calculating the tenant's annual income from employment. The owner must confirm with the tenant that the information in EIV is correct. If the tenant agrees that the employment information reported in EIV is correct, the owner must:

      (1) Use the Income Report as third party verification of the tenant's employment; and

      (2) Use tenant provided documents for calculating the tenant's annual income, e.g. 4-6 current, consecutive check stubs.

Example 1: EIV shows that John is working at Jack's Restaurant and John agrees that he is working there. John has brought in his four most current, consecutive check stubs. The owner must use the EIV Income Report as third party verification that John is employed at Jack's Restaurant and use the gross pay shown on the check stubs provided by the tenant for determining John's annual income. John is paid weekly.

Check stubs – gross pay 1) $120; 2) $145; 3) $125; 4) $130 – total gross pay = $520

$520 / 4 = $130 average gross pay per week

$130 x 52 weeks = $6,760 gross annual income

Example 2: EIV shows Sally works at Beauty World and Sally agrees that she is working there. Sally has brought in a payroll summary report prepared by her employer which shows that Sally works 30 hours per week and earns $12.50 per hour. The owner must use the EIV Income Report as third party verification that Sally is employed at Beauty World and use the payroll summary report prepared by Beauty World for determining Sally's annual income.

30 hours x 52 weeks = 1,560 hours per year

$12.50 per hour x 1,560 hours = $19,500 gross annual income

b. The owner must not use the quarterly unemployment compensation benefits reported on the EIV Income Report for calculating the tenant's annual income from unemployment. The owner must confirm with the tenant that the unemployment information in EIV is correct. If the tenant agrees that he/she is receiving unemployment compensation benefits as reported in EIV, the owner must:

(1) Use the Income Report as third party verification that the tenant is receiving unemployment; and

(2) Use tenant provided documents for calculating annual income, e.g. unemployment monetary benefit notice.

Example: Peter has brought in the unemployment benefit notice he received showing he is being paid weekly unemployment benefits of $175. The owner will use the EIV Income Report as third party verification that Peter is receiving unemployment benefits and the unemployment benefit notice for determining Peter's annual income.

$175 per week x 52 weeks = $9,100.00 gross annual income

NOTE: If Peter's unemployment is terminated during the annual recertification period, Peter should report this to the owner along with documentation supporting the date of termination of the benefits. The owner will then prepare an interim recertification removing the unemployment income. If Peter is unable to provide documentation verifying termination of unemployment compensation benefits, the owner must verify the termination directly with the state workforce agency (SWA) source.

c. If the tenant agrees with the social security benefit information on the EIV Income Report, the owner must use the EIV Income Report as third party verification, receiving social security benefits and also for calculating the tenant's annual income.

Example: The Income Report shows that Joe Smith is receiving gross social security benefits of $980.40 per month. Joe agrees that this is the amount he is receiving. The owner will use the Income Report as third-party verification that Joe is receiving social security benefits and for calculating Joe's annual income.

$980.40 x 12 months = $11,764.80 (rounded to $11,765) gross annual income.

d. If the tenant disputes the employment and income information in EIV, the owner must obtain third party verification from the source.*

B. Once all sources of income are known and verified, owners must convert reported income to an annual figure. Convert periodic wages to annual income by multiplying:

1. Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);

2. Weekly wages by 52;

3. Bi-weekly wages (paid every other week) by 26;

4. Semi-monthly wages (paid twice each month) by 24; and

5. Monthly wages by 12.

To annualize other than full-time income, multiply the wages by the actual number of hours or weeks the person is expected to work.

Example – Anticipated Increase in Hourly Rate

February 1 Certification effective date
$7.50/hour Current hourly rate
$8.00/hour New rate to be effective March 15

(40 hours per week x 52 weeks = 2,080 hours per year)

February 1 through March 15 =	6 weeks
6 weeks x 40 hours =	240 hours
2,080 hours minus 240 hours =	1,840 hours

(check: 240 hours + 1,840 hours = 2,080 hours)

Annual Income is calculated as follows:

240 hours x $7.50 =	$1,800	
$1,840 hours x $8.00 =	$14,720	
Annual Income		$16,520

(See **Appendix 8** for an explanation of the correct approach to rounding numbers.)

C. Some circumstances present more than the usual challenges to estimating anticipated income. Examples of challenging situations include a family that has sporadic work or seasonal income or a tenant who is self-employed. In all instances, owners are expected to make a reasonable judgment as to the most reliable approach to estimating what the tenant will receive during the year. In many of these challenging situations, midyear or interim recertifications may be

required to reflect changing circumstances. Some examples of approaches to more complex situations are provided below.

Examples – Irregular Employment Income

Seasonal work. Clyde Kunkel is a roofer. He works from April through September. He does not work in rain or windstorms. His employer is able to provide information showing the total number of regular and overtime hours Clyde worked during the past three years. To calculate Clyde's anticipated income, use the average number of regular hours over the past three years times his current regular pay rate, and the average overtime hours times his current overtime rate.

Sporadic work. Justine Cowan is not always well enough to work full-time. When she is well, she works as a typist with a temporary agency. Last year was a good year and she worked a total of nearly six months. This year, however, she has more medical problems and does not know when or how much she will be able to work. Because she is not working at the time of her recertification, it will be best to exclude her employment income and remind her that she must return for an interim recertification when she resumes work.

Examples – Irregular Employment Income

Sporadic work. Sam Daniels receives social security disability. He reports that he works as a handyman periodically. He cannot remember when or how often he worked last year: he says it was a couple of times. Sam's earnings appear to fit into the category of nonrecurring, sporadic income that is not included in annual income. Tell Sam that his earnings are not being included in annual income this year, but he must report to the owner any regular work or steady jobs he takes.

Self-employment income. Mary James sells beauty products door-to-door on consignment. She makes most of her money in the months prior to Christmas but has some income throughout the year. She has no formal records of her income other than a copy of the IRS Form 1040 she files each year. With no other information available, the owner will use the income reflected on Mary's copy of her form 1040 as her annual income.

5-6 Calculating Income—Elements of Annual Income

A. Income of Adults and Dependents

1. Figure 5-2 summarizes whose income is counted.

2. Adults. Count the annual income of the head, spouse or co-head, and other adult members of the family. In addition, persons under the age of 18 who have entered into a lease under state law are treated as adults, and their annual income must also be counted. These persons will be either the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

   NOTE: If an emancipated minor is residing with a family as a member other than the head, spouse, or co-head, the individual would be considered a dependent and his or her income handled in accordance with subparagraph 3 below.

3. Dependents. A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student

   The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents is counted and some is not.

   a. *Earned* income of minors (family members under 18) is not counted.

   b. Benefits or other *unearned* income of minors is counted.

Figure 5-2: Whose Income is Counted?

Members	**Employment Income**	**Other Income** (including income from assets)
Head	Yes	Yes
Spouse	Yes	Yes
Co-head	Yes	Yes
Other adult (including foster adult)	Yes	Yes
Dependents		
-Child under 18	No	Yes
Full-time student over 18	See Note	Yes
Foster child under 18	No	Yes
Nonmembers		
Live-in aide	No	No

NOTE: The earned income of a full-time student 18 years old or older who is a dependent is excluded to the extent that it exceeds $480.

c. When more than one family shares custody of a child, and both families live in assisted housing, only one family at a time can claim the dependent deduction. The family that counts the dependent deduction also counts the unearned income of the child. The other family claims neither the dependent deduction nor the unearned income of the child.

d. For full-time students, who are 18 years of age or older *and* are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of $480 per year for full-time students, age 18 or older, who are not the head of the family; spouse or co-head.*If the earned income is less than $480 annually, count all of the income. If the earned income exceeds $480 annually,* count $480 and exclude the amount that exceeds $480.

e. The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors.

f. All income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.

g. Payments received by the family for the care of foster children or foster adults are *not* counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.

h. Adoption assistance payments in excess of $480 are not counted.

B. Income of Temporarily Absent Family Members

1. Owners must count all income of family members approved to reside in the unit, even if some members are temporarily absent.

2. If the owner determines that an absent person is no longer a family member, the individual must be removed from the lease and the HUD-50059.

3. A temporarily absent individual on active military duty must be removed from the family, and his or her income must not be counted unless that person is the head of the family, spouse, or co-head.

   a. However, if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head, or spouse of the head of the family.

b. The income of the head, spouse, or co-head will be counted even if that person is temporarily absent for active military duty.

Examples – Income of Temporarily Absent Family Members

- John Chouse works as an accountant. However, he suffers from a disability that periodically requires lengthy stays at a rehabilitation center. When he is confined to the rehabilitation center, he receives disability payments equaling 80% of his usual income.

  During the time he is not in the unit, he will continue to be considered a family member. The owner will conduct an interim recertification. Even though he is not currently in the unit, his total disability income will be counted as part of the family's annual income.

- Mirna Martinez accepts temporary employment in another location and needs a portion of her income to cover living expenses in the new location. The full amount of the income must be included in annual income.

- Charlotte Paul is on active military duty. Her permanent residence is her parents' assisted unit where her husband and children live. Charlotte is not currently exposed to hostile fire. Therefore, because her spouse and children are in the assisted unit, her military pay must be included in annual income. (If her dependents or spouse were not in the unit, she would not be considered a family member and her income would not be included in annual income.)

C. Deployment of Military Personnel to Active Duty

Owners are encouraged to be as lenient as responsibly possible to support affected households in situations where persons are called to active duty in the Armed Forces. Specific actions that owners should undertake to support military households include, but are not limited to:

1. Allow a guardian to move into the assisted unit on a temporary basis to provide care for any dependents the military person leaves in the unit. Income of the guardian temporarily living in the unit for this purpose is not counted as income.

2. Allow a tenant living in an assisted unit to provide care for any dependents of persons called to active duty in the Armed Forces on a temporary basis, as long as the head and/or co-head of household continues to serve in active duty. Income of the child (e.g., SSI benefits, military benefits) is not counted as income of the person providing the care.

3. Exclude from annual income special pay received by a household member serving in the Armed Services who is exposed to hostile fire (see Exhibit 5-1).

4. Give consideration for any case involving delayed payment of tenant rent. Determine whether it is appropriate to accept a late payment.

5. Allow the assistance payment and the lease to remain in effect for a reasonable period of time (depending on the length of deployment)

beyond that required by the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. §§ 501-591, even though the adult members of the military family are temporarily absent from the assisted unit.

D. Income of Permanently Confined Family Members

1. An individual permanently confined to a nursing home or hospital may not be named as family head, spouse, or co-head but may continue as a family member at the family's discretion. The family's decision on whether or not to include the permanently confined family member as a family member determines if that person's income will be counted.

   a. *Include* the individual as a family member and the income and allowable deductions related to the medical care of the permanently confined individual are counted; or

   b. *Exclude* the individual as a family member and the income and allowances based on the medical care of the permanently confined individual are not counted.

   If the family elects to include the permanently confined member, the individual is listed on the HUD-50059 as an adult who is not the head, spouse, or co-head, even when the permanently confined family member is married to the person who is or will become the head of the family. The owner should consider extenuating circumstances that may prevent the confined member from being able to sign the HUD-50059. If the owner determines the confined member is unable to sign the HUD-50059,he owner must document the file why the signature was not obtained. If the family elects not to include the permanently confined member, the individual would not be listed on the HUD-50059.

E. Educational Scholarships or Grants

All forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income except for students receiving Section 8 assistance. This is true whether the assistance is paid to the student or directly to the educational institution

For students receiving Section 8 assistance, all financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income except if the student is over the age of 23 with dependent children or the student is living with his or her parents who are receiving Section 8 assistance. See Paragraph 3-13 for further information on eligibility of students to receive Section 8 assistance and the Glossary for the definition of Student Financial Assistance.

F. Alimony or Child Support

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

1. The owner may accept printouts from the court or agency responsible for enforcing support payments, or other evidence indicating the frequency and amount of support payments actually received.

2. Child support paid to the custodial parent through a State child support enforcement or welfare agency may be included in the family's monthly welfare check and may be designated in different ways. In some states these payments are not identified as separate from the welfare grant. In these states, it is important to determine which portion is child support and not to count it twice. In other states, the payment may be listed as child support or as "pass-through" payments. These amounts must be counted as annual income.

3. When no documentation of child support, divorce, or separation is available, either because there was no marriage or for another reason, the owner may require the family to sign a certification stating the amount of child support received.

G. Regular Cash Contributions and Gifts

1. Owners must count as income any regular contributions and gifts from persons not living in the unit. These sources may include rent and utility payments paid on behalf of the family, and other cash or noncash contributions provided on a regular basis.

Examples – Regular Cash Contributions

- The father of a young single parent pays her monthly utility bills. On average he provides $100 each month. The $100 per month must be included in the family's annual income.
- The daughter of an elderly tenant pays her mother's $175 share of rent each month. The $175 value must be included in the tenant's annual income.

2. Groceries and/or contributions paid directly to the childcare provider by persons not living in the unit are excluded from annual income.

3. Temporary, nonrecurring, or sporadic income (including gifts) is not counted.

H. Income from a Business

When calculating annual income, owners must include the net income from operation of a business or profession including self-employment income. Net income is gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis.

1. In addition to net income, owners must count any salaries or other amounts distributed to family members from the business, and cash or assets withdrawn by family members, except when the withdrawal is a reimbursement of cash or assets invested in the business.

2. When calculating net income, owners must not deduct principal payments on loans, interest on loans for business expansion or capital improvements, other expenses for business expansion, or outlays for capital improvements.

3. If the net income from a business is negative, it must be counted as zero income. A negative amount must not be used to offset other family income.

I. Periodic Social Security Payments

Count the gross amount, before deductions for Medicare, etc., of periodic Social Security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support. *See Section J below regarding adjustments for overpayment of benefits and Section O for calculating the income for tenants in ICF/MR or ICF/DD projects and assisted living units in elderly projects.*

> ***Example:** Mary's gross social security benefit is $700 per month. The owner calculates annual income by annualizing the gross monthly social security benefit amount.
>
> $700 per month x 12 months = $8,400 gross annual income.*

J. Adjustments for Prior Overpayment of Benefits

If an agency is reducing a family's benefits to adjust for a prior overpayment (e.g., social security, SSI, TANF, or unemployment benefits), count the amount that is actually provided after the adjustment.

Example – Adjustment for Prior Overpayment of Benefits

Lee Park's social security payment of $250 per month is being reduced by $25 per month for a period of six months to make up for a prior overpayment. Count his social security income as $225 per month for the next six months and as $250 per month for the remaining six months.

K. Public Assistance Income in As-Paid Localities

1. Special calculations of public assistance income are required for "as-paid" state, county, or local public assistance programs. An "as-paid" system is one:

   a. In which the family receives an amount from a public agency specifically for shelter and utilities; and

   b. In which the amount is adjusted based upon the actual amount the family pays for shelter and utilities.

2. The public assistance amount specifically designated for rent and utilities is called the "welfare rent."

3. To determine annual income for public assistance recipients in "as-paid" localities, include the following:

   a. The amount of the family's grant for other than shelter and utilities; and

   b. The maximum amount the welfare department can pay for shelter and utilities for a family of that size (i.e., the welfare rent). This may be different from the amount the family is actually receiving.

4. Each as-paid locality works somewhat differently, and many are subject to court-ordered modifications to the basic policy. Owners should discuss how the rules are applied with the HUD Field Office.

Example – Welfare Income in "As Paid" Localities

At application, a family's welfare grant is $300, which includes $125 for basic needs and $175 for shelter and utilities (based upon where the family is now living). However, the maximum the welfare agency could allow for shelter and utilities for this size family is $190.

Count the following as income:

$125 Amount family receives for basic needs

$190 Maximum for shelter and utilities

$315 Monthly public assistance income

L. Periodic Payments from Long-Term Care Insurance, Pensions, Annuities, and Disability or Death Benefits

1. The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. (See subparagraph O below for information on the withdrawal of cash or assets from an investment.) Payments such as Black Lung Sick Benefits, Veterans Disability, and Dependent Indemnity Compensation for the Widow of a Killed in Action Serviceman are examples of such periodic payments.

2. Withdrawals from retirement savings accounts such as Individual Retirement Accounts and 401K accounts that are not periodic payments do not fall in this category and are not counted in annual income (see paragraph 5.6.L.3).

Example – Withdrawals from IRAs or 401K Accounts

Isaac Freeman retired recently. He has an IRA account but is not receiving periodic payments from it because his pension is adequate for his routine expenses. However, he has withdrawn $2,000 for a trip with his children. The withdrawal is not a periodic payment and is not counted as income.

3. If the tenant is receiving long-term care insurance payments, any payments in excess of $180 per day must be counted toward the gross annual income. (**NOTE:** Payment of long-term care insurance premiums are an eligible medical expense – see paragraph 5-10 D.8.k.)

4. Federal Government/Uniformed Services pension funds paid to a former spouse.

Federal Government/Uniformed Services pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are not counted as annual income. The state court has, in the settlement of the parties' marital assets, determined the extent to which each party shares in the ownership of the pension. That portion of the pension that is ordered by the court (and authorized by the Office of Personnel Management (OPM), to be paid to the applicant's/tenant's former spouse is no longer an asset of the applicant/tenant and therefore is not counted as income. However, any pension funds authorized by OPM, pursuant to a court order to be paid to the former spouse of a Federal government employee, is counted as income for a tenant/applicant receiving such funds.

Example: Joan Carson is a retired Federal government employee receiving a retirement pension. She is also the recipient of Section 8 housing assistance and involved in a divorce proceeding. In settling the assets of the marriage between Mrs. Carson and her former husband, the court ordered that one half of her pension be paid directly to her former husband in the amount of $20,000. The court provided OPM with clear, specific and express instructions acceptable for OPM to process the payment to Mrs. Carson's former husband. OPM authorized the payment of pension benefits to Mrs. Carson's former husband in the amount of $20,000. The $20,000 represents an asset disposed of as a result of a court decree. At the interim reexamination of her income, Mrs. Carson indicated a change in her income due to the court ordered payment of pension benefits to her former husband. The PHA requested that Mrs. Carson provide a copy of her statement from OPM evidencing the payment of pension benefits to her (her statement reflected the line item payment to her former husband due to the court order). That portion of the pension paid to her former husband no longer belongs to Mrs. Carson and is not counted as income.

The OPM is responsible for handling court orders (any judgments or property settlements issued by or approved by any court of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, The Northern Mariana Islands, or the Virgin Islands in connection with the divorce, annulment of marriage, or legal separation of a Federal government employee or retiree) affecting current and retired Federal government employees. See 5 C.F.R. § 838.103. OPM must comply with court orders, decrees, or court-approved property settlement agreements in connection with divorces, annulments of marriage, or legal separations of employees that award a portion of the former Federal government employee's retirement benefits. Id. at § 838.101(a)(1). State courts ordering a judgment or property settlement in connection with divorce, annulment of marriage, or legal separation have the responsibility of issuing clear, specific, and express instructions to OPM with regards to providing benefits to former spouses. Id. at § 838.122. In response to instructions from state courts, OPM will authorize payments to the former spouses. Id. at § 838.121. Once the payments have been authorized by OPM, the reduced pension amount paid to the retired

Federal employee (the tenant/applicant) will be reflected in the tenant's/applicant's statement from OPM. Former spouses of Federal government employees receiving court ordered pension benefits are provided a Form-1099 reflecting pension benefits received from the retired Federal government employee. In verifying the income of tenants/applicants, owners should require that tenants/applicants provide any copies of statements from OPM verifying pension benefits (including any reductions pursuant to a court order, decree or court-approved property settlement agreement), and any evidence of survivor benefits, pensions or annuities received from retired Federal government employees including, but not limited to, a Form-1099. (See Paragraph 5-7.G.5 for more information on the treatment of income from Federal government pensions.)

5. Other State, local government, social security or private pensions paid to a former spouse.

   Other state, local government, social security or private pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are also not counted as annual income and should be handled in the same manner as 4, above. The decree and copies of statements should be obtained in order to verify the net amount of the pension that should be applied in order to determine eligibility and calculate rent.

M. Income from Training Programs

1. Amounts received under HUD-funded training programs are excluded from annual income.

2. Incremental earnings and benefits received by any family member due to participation in qualifying state or local employment training programs are excluded. Income from training programs not affiliated with a local government, and income from the training of a family member resident to serve on the management staff, is also excluded.

   a. Excluded income must be received under employment training programs with clearly defined goals and objectives and for a specific, limited time period. The initial enrollment must not exceed one year, although income earned during extensions for additional specific time periods may also be eligible for exclusion

   b. Training income may be excluded only for the period during which the family member participates in the employment training program.

   c. Exclusions include stipends, wages, transportation or child care payments, or reimbursements.

   d. Income received as compensation for employment is excluded only if the employment is a component of a job training program.

Once training is completed, the employment income becomes income that is counted.

e. Amounts received during the training period from sources that are unrelated to the job training program, such as welfare benefits, social security payments, or other employment, are not excluded.

2. Owners may ask to use project funds or funds from the Residual Receipts account to underwrite all or a portion of the cost of developing, maintaining, and managing a job training program for project residents if funds are available.

a. The Field Office will make the determination if the job training program may be approved, and if project funds are sufficient to fund the job training program and maintain the physical and financial integrity of the project. Job training programs may be either on-site at the project or off-site. For example, job training programs that have partnerships with local colleges, community based organizations, or local business, may have in-house job training programs designed for project residents.

b. Funds that an owner may choose to use to underwrite a job training program may include Section 8 funds, Community Development Block Grant funds, or housing authority funds. These funds may be used to cover the costs of various components of a job training program, including course materials, computer software, computer hardware, or personnel costs. Also, contractors and subcontractors, in connection with work performed under a Flexible Subsidy contract, may elect to hire project residents to perform certain skills required under the contract. If the employment of the project residents was pursuant to an apprenticeship program, this could constitute a training program using HUD funds, and income received by the tenants in the apprenticeship program will qualify as an exclusion from income.

N. Resident Services Stipends

Resident services stipends are generally modest amounts of money received by residents for performing services such as hall monitoring, fire patrol, lawn maintenance, and resident management.

1. If the resident stipend exceeds $200 per month, owners must include the entire amount in annual income.

2. If the resident stipend is $200 or less per month, owners must exclude the resident services stipend from annual income.

O. **Income Received by a Resident of an Intermediate Care Facility for the Mentally Retarded or for the Developmentally Disabled (ICF/MR or ICF/DD) and Assisted Living Units in Elderly Projects**

1. An intermediate care facility is a group home for mentally retarded or developmentally disabled individuals (ICF/MR or ICF/DD). The term "intermediate care facility" is one used by state mental health departments for group homes serving these residents.

2. Assisted living units are units in projects developed for elderly residents with project-based assistance that have been converted to assisted living units.

3. The local agency responsible for Medicaid provides funds directly to group home operators and assisted living providers for services.

4. Annual income at an ICF/MR, ICF/DD, or assisted living unit must include:

   a. The SSI payment a tenant receives or the facility receives on behalf of the tenant; plus

   b. All other income the tenant receives from sources other than SSI that are not excluded from income by HUD regulations (see Exhibit 5-1). Examples of other sources of income include wages, pensions, income from sheltered workshops, income from a trust, or other interest income.

   c. The personal allowance of an individual residing in an ICF/MR or ICF/DD is not included in annual income. If the owner is unable to determine the actual amount of the personal allowance, use $30.

5. Annual income does not include the enhanced benefit portion of the SSI that is provided to pay for services. In some instances, a resident's SSI income may be reduced between annual recertifications if the resident's earnings exceed a specified amount. If this happens, the resident may request an interim recertification.

P. **Withdrawal of Cash or Assets from an Investment**

The withdrawal of cash or assets from an investment received as periodic payments should be counted as income. Lump sum receipts from pension and retirement funds are counted as assets. If benefits are received through periodic payments, do not count any remaining amounts in the account as an asset. See Paragraph 5-7 for guidance on calculating income from an asset.

Q. **Lump Sum Payments Counted as Income**

1. Generally, lump sum amounts received by a family, such as inheritances, insurance settlements, or proceeds from sale of property are considered assets, not income.

2. When social security or SSI benefit income is paid in a lump sum as a result of deferred periodic payments, that amount is *excluded* from annual income.

3. *For Section 8 tenants only, any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum or in prospective monthly amounts are *excluded* from annual income.*

4. Settlement payments from claim disputes over welfare, unemployment, or similar benefits may be counted as assets, but lump sum payments caused by *delays in processing* periodic payments for unemployment or welfare assistance are included as income.

   How lump sum payments for delayed start of benefits are counted depends upon the following:

   a. When the family reports the change;

   b. When an interim re-examination is conducted; and

   c. Whether the family's income increases or decreases as a result.

   A lump sum payment resulting from delayed benefit income may be treated in either of the two ways illustrated in the example shown in Figure 5-3.

5. Lottery winnings paid in one payment are treated as assets. Lottery winnings *paid in periodic payments* must be counted as income.

Figure 5-3: Treatment of Delayed Benefit Payments Received in a Lump Sum

Family member loses his/her job on October 19 and applies for unemployment benefits. The family receives a lump sum payment of $700 in December to cover the period from 10/20 to 12/5 and begins to receive $100 a week effective 12/6.

Option A: The owner processes one interim re-examination immediately effective 11/1 and a second interim after unemployment benefits are known.

	10/1	11/1	12/1	1/1	2/1
Monthly gross income	800	*0	*0	492**	492**
Monthly allowances (three minors x 480 / 12 months)	120	-	-	120	120
Monthly adjusted income	680	0	0	372	372
Total tenant payment (TTP)	204	25	25	25***	112***

* The family's income is calculated at $0/month beginning November 1, continuing until benefits actually begin and new income is calculated. TTP is set at the minimum rent.

** Family's actual income for 1/1 is $100/week x 52 weeks = $5,200 / 12 = $433.

However, because the family's TTP was calculated at zero income for the months of November and December (the period eventually covered by the $700 lump sum payment), the annual income to be used in calculating monthly gross income should be as follows:

$100/week benefit x 52 weeks = $5,200 + $700 lump sum payment = $5,900 annual gross income/ 12 = $492.

*** Increased rent does not start until 2/1 in order to give the family notice of rent increase.

Option B: The owner processes one interim re-examination after unemployment benefits are known.

	10/1	11/1	12/1	1/1	2/1
Monthly gross income	800	0/800*	0/800*	433*	433*
Monthly allowances (three minors x 480 / 12 Months)	120	120	120	120	120
Monthly adjusted income	680	0/680	0/680	313	313
Total tenant payment	204	204*	204*	94	94
Recalculated TTP	-	94***	94*	94	94
Rent credit (204 – 94=)	-	110	110	-	-

* Family's actual income for 11/1 and 12/1 is zero, but because the owner does not process an interim re-examination, the family's TTP continues to be calculated using $800 as monthly gross income. Beginning 1/1, monthly gross income is known to be $100/week, or $433/month.

** The lump sum payment is taken into account by making the recertification retroactive to 11/1. Annual income is calculated as $5,200 / 12 = $433 monthly gross income.

*** TTP for November and December recalculated as $433 monthly gross income and $313 monthly adjusted income x .30 = 94 with credit or refund to family of $110/month for each of these two months for difference between TTP paid of $204 and recalculated TTP of $94.

R. Exclusions from Income

1. Regulations for the multifamily subsidized housing programs covered by this handbook specifically exclude certain types of income from annual income. However, many of the items listed as exclusions from annual income under HUD requirements are items that the IRS includes as taxable income. Therefore, it is important for owners to focus specifically on the HUD program requirements regarding annual income.

2. Among the items that are excluded from annual income is the value of food provided through:

   a. The Meals on Wheels program, food stamps, or other programs that provide food for the needy;

   b. Groceries provided by persons not living in the household; and

   c. Amounts received under the School Lunch Act and the Child Nutrition Act of 1966, including reduced lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC).

Examples – Income Exclusions

- The Value of Food Provided through the Meals on Wheels Program or Other Programs Providing Food for the Needy. Jack Love receives a hot lunch each day during the week in the community room and an evening meal in his apartment. One meal is provided through the Meals on Wheels program. A local church provides the other. The value of the meals he receives is not counted as income.
- Groceries provided by persons not living in the household. Carrie Sue Colby's mother purchases and delivers groceries each week for Carrie Sue and her two year old. The value of these groceries is not counted as income despite the fact that these are a regular contribution or gift.
- Amounts Received Under WIC or the School Lunch Act. Lydia Jeffries' two children receive a free breakfast and reduced priced lunches at school every day through the Special Supplemental Food Program for Women, Infants and Children (WIC). The value of this food is not counted as income.

3. Some additional examples of income that are excluded from the calculation of annual income follow.

Examples – Income Exclusions

- Resident service stipends. Rich Fuller receives $50 a month for distributing flyers for management. This amount is excluded from annual income.
- Deferred periodic payments of social security benefits. Germain Johnson received $32,000 in deferred social security benefits following a lengthy eligibility dispute. This delayed payment of social security benefits is treated as an asset, not as income.
- Income from training programs. Jennifer Jones is participating in a qualified state-supported employment training program every afternoon to learn improved computer skills. Each morning, she continues her regular job as a typist. The $250 a week she receives as a part-time typist is included in annual income. The $150 a week she receives for participation in the training program is excluded in annual income.
- Earned Income Tax Credit refund payments. Mary Frances Jackson is eligible for an earned income tax credit. She receives payments from her employer each quarter because of the tax credit. These payments are excluded in annual income.

5-7 Calculating Income from Assets

Annual income includes amounts derived from assets to which family members have access.

A. What is Considered an Asset?

1. Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the *income* from that asset.

2. Some tenants have assets that are not earning interest. A quantity of money under a mattress is an asset: it is a thing of value that could be used to the benefit of the tenant, but under the mattress it is not producing income.

3. Some belongings of value are not considered assets. Necessary personal property is not counted as an asset. Exhibit 5-2 summarizes the items that are considered assets and those that are not.

B. Determining Income from Assets

Note: For families receiving only BMIR assistance, it is not necessary to determine whether family assets exceed $5,000. The rule for imputing income from assets does not apply to the BMIR program.

1. The calculation to determine the amount of income from assets to include in annual income considers both of the following:

   a. The total cash value of the family's assets; and

   b. The amount of income those assets are earning or could earn.

2. The rule for calculating income from assets differs depending on whether the total cash value of family assets is $5,000 or less, or is more than $5,000.

C. Determining the Total Cash Value of Family Assets

1. To comply with the rule for determining the amount of income from assets, it is necessary to first determine whether the total "cash value" of family assets exceeds $5,000.

   a. The "cash value" of an asset is the market value less reasonable expenses that would be incurred in selling or converting the asset to cash, such as the following:

      (1) Penalties for premature withdrawal;

      (2) Broker and legal fees; and

      (3) Settlement costs for real estate transactions.

      The cash value is the amount the family could actually receive in cash, if the family converted an asset to cash.

Example – Calculating the Cash Value of an Asset

A family has a certificate of deposit (CD) in the amount of $5,000 paying interest at 4%. The penalty for early withdrawal is three months of interest.

$5,000 x 0.04 = $200 in annual income

$200/12 months = $16.67 interest per month

$16.67 x 3 months = $50.01

$5,000 - $50 = $4,950 cash value of CD

   b. It is essential to note that a family is not required to convert an asset to cash. Determining the cash value of the asset is done simply as a calculation by the owner because it is a required step when determining income from assets under program requirements.

D. Assets Owned Jointly

1. If assets are owned by more than one person, prorate the assets according to the percentage of ownership. If no percentage is specified or provided by a state or local law, prorate the assets evenly among all owners.

2. If an asset is not effectively owned by an individual, do not count it as an asset. An asset is not effectively owned when the asset is held in an individual's name, but (a) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.

3. Determining which individuals have ownership of an asset requires collecting as much information as is available and making the best judgment possible based on that information.

Example – Determining the Cash Value of an Asset

The "cash value" of an asset is the amount a family would receive if the family turned a noncash asset into cash.

The cash value is the market value—or the amount another person would pay to acquire the asset—less the cost to turn the asset into cash.

If a family owns real estate, it may be necessary to consider the family's equity in the property as well as the expense to sell the property.

To determine the family's equity, subtract amounts owed on the property from its market value:

Market value
- Mortgage amount owed
Equity in the property

Calculate the cash value by subtracting the expense of selling the property:

Equity
- Expense of selling
Cash Value

Juanita Player owns a rental house. The market value is $100,000. She owes $60,000. The cost to dispose of this house would be $8,000. The owner would determine the cash value as follows:

Market Value	$100,000
Mortgage amount	- $60,000
	40,000
Cost of disposing of the asset (real estate commission, and other costs of sale)	- $8,000
Cash Value	**$32,000**

a. In some instances, but not all, knowing whose social security number is connected with the asset may help in identifying ownership. Owners should be aware that there are many situations in which a social security number connected with an asset does not indicate ownership and other situations where there is ownership without connection to a social security number.

b. Determining who has contributed to an asset or who is paying taxes on the asset may assist in identifying ownership.

Examples – Jointly Owned Assets

- Helen Wright is an assisted-housing tenant. She and her daughter, Elsie Duncan, have a joint savings account. Mother and daughter both contribute to the account. They have used the account for trips together and to cover emergency needs for either of them. Assume in this example that state law does not specify ownership. Even though either Helen Wright or Elsie Duncan could withdraw the entire asset for her own use, count Helen's ownership as 50% of the account.
- Jean Boucher's name is on her mother's savings account to ensure that she can access the funds for her mother's care. The account is not effectively owned by Jean and should not be counted as her asset.

E. Calculating Income from Assets When Assets Total $5,000 or Less

If the total cash value of all the family's assets is $5,000 or less, the actual income the family receives from assets is the amount that is included in annual income as income from assets.

F. Calculating Income from Assets When Assets Exceed $5,000

1. When net family assets are more than $5,000, annual income includes the greater of the following:

   a. Actual income from assets; or

   b. A percentage of the value of family assets based upon the current passbook savings rate as established by HUD. This is called *imputed* income from assets. The passbook rate is currently set at 2%.

2. To begin this calculation, first add the cash value of all assets. Multiply the total cash value of all assets by .02. The product is the "imputed income" from assets. Then, add the actual income from all assets. The greater of the imputed income from assets or the actual income from assets is included in the calculation of annual income.

Example – Use Actual Income from Assets When Total Net Family Assets are $5,000 or Less

Type of Asset	Cash Value	Actual Yearly Income
Certificate of Deposit $1,000 withdrawal fee $50 interest @ 4%	$950	$40
Savings Account $500 interest @ 2.5%	$500	$13
Stock $300 Not paying dividends	$300	$0
Total	$1,750	$53

The total cash value of the family's assets is $1,750. Therefore, the amount that is added to annual income as income from assets is the actual income earned or $53.

Example – Imputed Income from Assets

"Imputed" means "attributed" or "assigned." Imputing income from assets is "assigning" an amount of income solely for the sake of the annual income calculation. The imputed income is not real income.

For example, money under a mattress is not earning income. If the money were put in a savings account it would earn interest. Imputed income from such an asset is the interest the money would earn if it were put in a savings account.

A family with cash under a mattress is not required to put the cash in a savings account; but when the owner is calculating income for a family with more than $5,000 in assets, the owner must assign an amount that cash would earn if it were in a savings account.

Example – Determining Income from Assets When Net Family Assets Exceed $5,000

Type of Asset	Cash Value	Actual Yearly Income
Checking Account (non-interest bearing)	$455	$0
Savings Account (interest at 2.5%)	$6,000	$150
Stocks (not paying dividends this year)	$3,000	$0
Total	$9,455	$150

Total cash value of assets is greater than $5,000. Therefore, it is necessary to compare the actual income from assets to the imputed income from assets.

The total cash value of assets ($9,455) is multiplied by 2% to determine the imputed income from assets.

.02 x $9,455 = $189

$189 is greater than the actual income from assets ($150).

In this case, therefore, the owner will add $189 to the annual income calculation as income from assets.

G. Calculating Income from Assets - Specific Types of Assets

1. Trusts.

a. Explanation of trusts.

(1) A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries). A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Generally, the assets are invested for the benefit of the beneficiaries.

(2) Trusts may be revocable or nonrevocable. A revocable trust is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account. When the creator sets up a nonrevocable trust, the creator has no access to the funds in the account.

(3) The beneficiary frequently will be unable to touch any of the trust funds until a specified date or event (e.g., the

beneficiary's 21st birthday or the grantor's death). In some instances, the beneficiary may receive the regular investment income from the trust but not be able to withdraw any of the principal.

(4) The beneficiary and the grantor may be members of the same family. A parent or grandparent may have placed funds in trust to a child. If the trust is revocable, the funds may be accessible to the parent or grandparent but not to the child.

b. How to treat trusts.

(1) The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account.

(2) Revocable trusts. If any member of the tenant family has the right to withdraw the funds in the account, the trust is considered to be an asset and is treated as any other asset. The cash value of the trust (the amount the family member would receive if he or she withdrew all that could be withdrawn) is added to total net assets. The actual income received is added to actual income from assets.

Example – A Trust Accessible to Family Members

Assez Charaf lives alone. He has placed $20,000 in trust to his grandson to be available to the grandson upon the death of Assez. The trust is revocable, that is, Assez has control of the principal and interest in the account and can amend the trust or remove the funds at any time. In calculating Assez's income, the owner will add the $20,000 to Assez's net family assets and the actual income received on the trust to actual income from assets.

(3) Nonrevocable trusts. If no family member has access to either the principal or income of the trust at the current time, the trust is not included in the calculation of income from assets or in annual income.

If only the income (and none of the principal) from the trust is currently available to a family member, the income is counted in annual income, but the trust is not included in the calculation of income from assets.

(4) Nonrevocable trust as an asset disposed of for less than fair market value. If a tenant sets up a nonrevocable trust for the benefit of another person while residing in assisted

housing, the trust is considered an asset disposed of for less than fair market value (see subparagraph G.6 below).

– If the trust has been set up so income from the trust is regularly reinvested in the trust and is not paid back to the creator, the trust is calculated as any other asset disposed of for less than fair market value for two years and not taken into consideration thereafter.

Example – Nonrevocable Trust As an Asset Disposed of for Less Than Fair Market Value

Sarah Gordy placed $100,000 in a nonrevocable trust for her grandson. Last year, the trust produced $8,000, which was reinvested into the trust.

The trust is treated as an asset disposed of for less than fair market value for two years. (See paragraph 5.7 G.6.) No actual income from the trust is included in Sarah's annual income, but the value of the asset when it was given away, $100,000, is included in net family assets for two years from the date the trust was established.

– Nonrevocable trust distributing income. When a tenant places an asset in a nonrevocable trust but continues to receive income from the trust, the income is added to annual income *and* the trust is counted as an asset disposed of for less than market value for two years. Following the two-year period, the owner will count only the actual income distributed from the trust to the tenant.

Example – Nonrevocable Trust Distributing Income to the Creator/Tenant

Reggie Bouchard has established a nonrevocable trust in the amount of $35,000 that no one in the tenant family controls. Income from the trust is paid to Reggie. Last year, he received $3,500.

The owner will count Reggie's actual anticipated income from the trust in next year's annual income.

Because the asset was disposed of for less than fair market value (see paragraph 5.7 G.6), the value of the asset given away, $35,000, is counted as an asset disposed of for less than fair market value for two years.

(5) Payment of principal from a trust. The beneficiary of a trust may receive funds from the trust in different ways. A beneficiary may receive the full value of a trust at one time. In that instance the funds would be considered a lump sum receipt and would be treated as an asset. A trust set up to provide support for a person with disabilities may pay only income from the trust on a periodic basis. Occasionally, however, a beneficiary may be given a portion of the trust principal on a periodic basis. When the principal is paid out on a periodic basis, those payments are considered regular income or gifts and are counted in annual income.

Example – Payment of Principal Amounts from a Trust

Jared Leland receives funds from a nonrevocable trust established by his parents for his support. Last year he received $18,000 from the trust. The attorney managing the trust reported that $3,500 of the funds distributed was interest income and $14,500 was from principal. Jared receives a payment of $1,500 each month (an amount that includes both principal and interest from the trust).

The owner will count the entire $18,000 Jared received as annual income.

c. Special needs trusts.

A special needs trust is a trust that may be created under some state laws, often by family members for disabled persons who are not able to make financial decisions for themselves. Generally, the assets within the trust are not accessible to the beneficiary.

(1) If the beneficiary does not have access to income from the trust, then it is not counted as part of income.

(2) If income from the trust is paid to the beneficiary regularly, those payments are counted as income.

Example – Special Needs Trust

Daryl Rockland is a 55-year-old person with disabilities, living with his elderly parents. The parents have established a special-needs trust to provide income for their son after they are gone. The trust is not revocable; neither the parents nor the son currently have access to the principal or interest. In calculating the income of the Rocklands, the owner will disregard the trust.

2. Annuities.

a. Annuity facts and terms.

(1) An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals. Fixed annuities guarantee a certain payment amount, while variable annuities do not, but have the potential for greater returns.

– A hybrid annuity (also called a combination annuity) combines the features of a fixed annuity and a variable annuity.

– A deferred annuity is an annuity that delays income payments until the holder chooses to receive them. An immediate annuity is one that begins payments immediately upon purchase.

– A life annuity continues to pay out as long as the owner is alive. A single-life annuity provides income benefits for only one person. A joint life annuity is issued on two individuals, and payments continue in whole or in part as long as either individual is alive.

(2) Generally, a person who holds an annuity from which he or she is not yet receiving payments will also be earning income. In most instances, a fixed annuity will be earning interest at a specified fixed rate similar to interest earned by a CD. A variable annuity will earn (or lose) based on market fluctuations, as in a mutual fund.

(3) Most annuities charge surrender or withdrawal fees. In addition, early withdrawal usually results in tax penalties.

(4) Depending on the type of annuity and the current status of the annuity, the owner will need to ask different questions of the verification source, which will normally be the applicant or tenant's insurance broker.

b. Income after the holder begins receiving payments.

(1) When verifying an annuity, owners should ask the verification source whether the holder of the annuity has the right to withdraw the balance of the annuity. For annuities without this right, the annuity is not treated as an asset.

(2) Generally, when the holder has begun receiving annuity payments, the holder can no longer convert it to a lump sum of cash. In this situation, the holder will receive regular payments from the annuity that will be treated as regular income, and no calculations of income from assets will be made.

c. Calculations when an annuity is considered an asset.

(1) When an applicant or tenant has the option of withdrawing the balance in an annuity, the annuity will be treated like any other asset. It will be necessary to determine the cash value of the annuity in addition to determining the actual income earned.

(2) In most instances, an annuity from which payments have not yet been made is earning income on the balance in the annuity. A fixed annuity will earn income at a fixed rate in the same manner that a CD earns income. A variable annuity will earn (or lose) based on current market conditions, as with a mutual fund.

(3) The owner will need to verify with the insurance agent or other appropriate source:

- The right of the holder to withdraw the balance (even if penalties are involved).
- The basis on which the annuity may be expected to grow during the coming year.
- The surrender or early withdrawal penalty fee.
- The tax rate and the tax penalty that would apply if the family withdrew the annuity.

(4) The cash value will be the full value of the annuity, less the surrender (or withdrawal) penalty, and less any taxes and tax penalties that would be due.

(5) The actual income is the balance in the annuity times the percentage (either fixed or variable) at which the annuity is expected to grow over the coming year. (This money will be reinvested into the annuity, but it is still considered actual income.)

(6) The imputed income from the asset is calculated only after the cash value of all family assets has been determined.

Imputed income from assets is calculated on the total cash value of all family assets.

3. Lump sum receipts counted as assets.

a. Commonly, when a family receives a large amount of money, a lump sum payment, the family will put the money in a checking or savings account, or will purchase stocks or bonds or a CD. Owners must count lump sum payments received by a tenant as assets. Examples of lump sum payments include the following:

(1) Inheritances;

(2) Capital gains;

(3) Lottery winnings paid in one payment;

(4) Cash from the sale of assets;

(5) Insurance settlements (including health and accident insurance, workers compensation, and personal and property losses); and

(6) Any other amounts that are received in one-time lump sum payments.

Example – Calculating the Cash Value of an Annuity

Rodrigo Ramirez, site manager at Fernwood Forrest, has interviewed Barbara Barstow, an applicant who reports holding an annuity from which she will not receive payments for another 15 years when she turns 65. The applicant could not provide any more detail on the annuity but did report the name, address, and phone number of her insurance agent.

Rodrigo called the insurance agent and faxed a copy of the applicant's approval for release of information. As a result, Rodrigo learned that the annuity is a fixed annuity, with a current value of $20,400 earning interest at an annual rate of 4.5%. The applicant could withdraw the current balance in the account but would pay a surrender penalty of $3,000. If the annuity is withdrawn, then the applicant will owe $1,200 in tax penalties.

In this example, the important information for calculating cash value is the current value, $20,400; the surrender fee, $3,000; and the tax penalties, $1,200. If the applicant withdrew the cash from the annuity, after paying the surrender fee and tax penalty, then the amount of cash received would be $16,200.

The cash value, $16,200, is recorded as an asset.

Rodrigo will also calculate the actual anticipated income on this asset: $20,400 x .045 = $918.

b. A lump sum payment is counted as an asset only as long as the family continues to possess it. If the family uses the money for something that is not an asset—a car or a vacation or education—the lump sum must not be counted.

c. It is possible that a lump sum or an asset purchased with a lump sum payment may result in enough income to require the family to report the increased income before the next regularly scheduled annual recertification. But this requirement to report an increase in income before the next annual recertification would not apply if the income from the asset was not measurable by the tenant (e.g., gems, stamp collection).

Examples – Lump Sum Additions to Family Assets (One-Time Payment)

- JoAnne Wettig won $500 in the lottery and received it in one payment. Do not count the $500 as income. At JoAnne's next annual recertification, she will report all of her assets.

- Mia LaRue, a tenant in a Section 8 property, won $75,000 in one payment in the lottery. She buys a car with some of the money, and puts the remaining amount of $24,000 in the bank. Mia receives her first bank statement and notices that the income on this asset is $205 per month. She must report this increase in income because the family has experienced a cumulative increase in income of more than $200 per month. (See paragraph 7-10 A.4 on rules for reporting interim increases in income.) The owner must perform an interim recertification and count the greater of the actual or imputed income on this asset (since the net family assets are greater than $5,000).

4. Balances held in retirement accounts.

a. Balances held in retirement accounts are counted as assets if the money is accessible to the family member. For individuals still employed, accessible amounts are counted even if withdrawal would result in a penalty. However, amounts that would be accessible only if the person retired are not counted.

b. IRA, Keogh, and similar retirement savings accounts are counted as assets, even though withdrawal would result in a penalty, *unless benefits are being received through periodic payments.*

c. Include contributions to company retirement/pension funds:

(1) While an individual is employed, count only amounts the family can withdraw without retiring or terminating employment.

(2) After retiring or terminating employment, count as an asset any amount the employee elects to receive as a lump sum.

d. Include in *annual income* any retirement benefits received through periodic payments. *Do not count any remaining amounts in the account as an asset.*

Examples – Balances Held in an IRA or 401K Retirement Account

- Jed Dozier's 401K account balance is $35,000. He is able to terminate his participation in the retirement plan without quitting his job, but if he did so he would lose a part of his employer's contribution and would pay a penalty fee. The total cash he could withdraw, $18,000, is the amount that is counted as an asset.

5. Federal Government/Uniformed Services Pensions

In instances where the applicant/tenant is a retired Federal Government/Uniformed Services employee receiving a pension that is determined by a state court in a divorce, annulment of marriage, or legal separation proceeding to be a marital asset and the court provides OPM with the appropriate instructions to authorize OPM to provide payment of a portion of the retiree's pension to a former spouse, that portion to be paid directly to the former spouse is not counted as income for the applicant/tenant. However, where the tenant/applicant is the former spouse of a retired Federal Government/Uniformed Services employee, any amounts received pursuant to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation are reflected on a Form-1099 and is counted as income for the applicant/tenant. (See Paragraph 5-6.K.4 for more information on Federal Government/Uniformed Services pension funds paid to a former spouse.)

6. Other state, local government, social security or private pensions.

Other state, local government, social security or private pensions where pensions are reduced due to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation and paid directly to the former spouse are not counted as income for the applicant/tenant and should be handled in the same manner as 5, above.

7. Mortgage or deed of trust.

a. Occasionally, when an individual sells a piece of real estate, the seller may loan money to the purchaser through a mortgage or deed of trust. This may be referred to as a "contract sale."

b. A mortgage or deed of trust held by a family member is included as an asset. Payments on this type of asset are often received as one combined payment that includes interest and principal. The value of the asset is the unpaid principal as of the effective date of the certification. Each year this balance will decline as more principal is paid off. The interest portion of the payment is counted as actual income from an asset.

8. Assets disposed of for less than fair market value. Applicants and tenants must declare whether an asset has been disposed of for less than fair market value at each certification and recertification. Owners must count assets disposed of for less than fair market value during the two years preceding certification or recertification. The amount counted as an asset is the difference between the cash value and the amount actually received. (This provision does not apply to families receiving only BMIR assistance.)

a. Any asset that is disposed of for less than its full value is counted, including cash gifts as well as property. To determine the amount that has been given away, owners must compare the cash value of the asset to any amount received in compensation.

b. However, the rule applies only when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than $1,000.

Examples – Assets of More or Less Than $1,000 Disposed of for Less Than Fair Market Value

- During the past two years, Alexis Turner donated $300 to the local food bank, $150 to a camp program, and $200 to her church. The total amount she disposed of for less than fair market value is $650. Since the total is less than $1,000, the donations are not treated as assets disposed of for less than fair market value.
- Jackson Jones gave each of his three children $500. Because the total exceeds $1,000, the gifts are treated as assets disposed of for less than fair market value.

c. When the two-year period expires, the income assigned to the disposed asset also expires. If the two-year period ends in the middle of a recertification year, the tenant may request an interim recertification to remove the disposed asset(s). However, if the owner elects to only include the income for a partial remaining year as shown in the example below, an interim recertification should not be conducted.

Example – Asset Disposed of for Less Than Fair Market Value

Margot Lundberg's recertification will be effective January 1. On that date, it will be 18 months since she sold her house to her daughter for $60,000 less than its value. The owner will count income on the $60,000 for only six months. (After six months, the two-year limit on assets disposed of for less than fair market value will have expired.)

d. Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorces, or separation, are *not* counted.

e. Assets placed in nonrevocable trusts are considered as assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

f. Applicants and tenants must sign a self-verification form at their initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or certifying that no assets have been disposed of for less than fair market value.

g. Owners need to verify the tenant self certification only if the information does not appear to agree with other information reported by the tenant/applicant.

Examples – Asset Disposed of for Less Than Market Value

(1) An applicant "sold" her home to her daughter for $10,000. The home was valued at $89,000 and had no loans secured against it. Broker fees and settlement costs are estimated at $1,800.

$89,000	Market value
- 1,800	Fees
$87,200	Cash value
- 10,000	Sales price to daughter
$77,200	Asset disposed of for less than fair market value

In this example, the asset disposed of for less than fair market value is $77,200. That amount is counted as the resident's asset for two years from the date the sale took place.

(The $10,000 received from the daughter may currently be in a savings account or other asset or may have been spent. The $10,000 will be counted as an asset if the applicant has not spent the money.)

(2) A resident contributed $10,000 to her grandson's college tuition and gave her two granddaughters $4,000 each to save for college.

$10,000	College tuition gift
+ 8,000	Gift to granddaughters
$18,000	Asset disposed of for less than fair market value

The $18,000 disposed of for less than fair market value is counted as the tenant's asset for two years from the date each asset was given away.

Section 2: Determining Adjusted Income

Section 2 does not apply to families applying for or occupying 221(d)(3) BMIR units without additional subsidy.

5-8 Key Regulations

This paragraph identifies the key regulatory citation pertaining to Section 2: Determining Adjusted Income. The citation and its topic are listed below.

- 24 CFR 5.611 Adjusted Income

5-9 Key Requirements for Determining Adjusted Income

A. There are five possible deductions that may be subtracted from annual income based on allowable family expenses and family characteristics. The remainder, after these deductions are subtracted, is called adjusted income. Adjusted income is generally the amount upon which rent is based. See Section 4 of this chapter for information about specific rent calculation methods. This section focuses on the calculation of annual adjusted income. Before rent is calculated, annual adjusted income is converted to monthly adjusted income.

B. Of the five possible deductions, three are available to any assisted family, and two are permitted only for elderly or disabled families.

1. The three types of deductions available to any assisted family are:

   a. A deduction for dependents;

   b. A child care deduction; and

   c. A disability assistance deduction.

2. The two types of deductions permitted only for families in which the head, spouse, or co-head is elderly or disabled are:

   a. An elderly/disabled family deduction; and

   b. A deduction for unreimbursed medical expenses.

   NOTE: A family may not designate a family member as head or co-head solely to become eligible for these additional benefits. The remaining member of a family listed in paragraph 5-9 B.2 who is not 62 or older or a person with disabilities is not eligible for these allowances.

5-10 Calculating Adjusted Income

A. Dependent Deduction

1. A family receives a deduction of $480 for each family member *(except foster children and foster adults)* who is:

   a. Under 18 years of age;

   b. A person with disabilities; or

   c. A full-time student of any age.

   It is not necessary for a member of the family to have legal custody of a dependent in order to receive the dependent deduction.

2. Some family members may never qualify as dependents regardless of age, disability, or student status.

a. The head of the family, the spouse, and the co-head may never qualify as dependents.

b. A foster child, *foster adult*, an unborn child, a child who has not yet joined the family or a live-in aide may never be counted as a dependent.

3. A full-time student is one who is carrying a full-time subject load at an institution with a degree or certificate program. A full-time load is defined by the institution where the student is enrolled.

4. When more than one family shares custody of a child and both live in assisted housing, only one family at a time can claim the dependent deduction for that child. The family with primary custody or with custody at the time of the initial certification or annual recertification receives the deduction. If there is a dispute about which family should claim the dependent deduction, the owner should refer to available documents such as copies of court orders or an IRS return showing which family has claimed the child for income tax purposes.

B. Child Care Deduction

1. Anticipated expenses for the care of children under age 13 (including foster children) may be deducted from annual income if all of the following are true:

   a. The care is necessary to enable a family member to work, seek employment, or further his/her education (academic or vocational).

   b. The family has determined there is no adult family member capable of providing care during the hours care is needed.

   c. The expenses are not paid to a family member living in the unit.

   d. The amount deducted reflects reasonable charges for child care.

   e. The expense is not reimbursed by an agency or individual outside the family.

   f. Child care expenses incurred to permit a family member to work must not exceed the amount earned by the family member made available to work during the hours for which child care is paid.

2. When child care enables a family member to work or go to school, the rule limiting the deduction to the amount earned by the family member made available to work applies only to child care expenses incurred while the individual is at work. While that family member is at school or looking for work, the expense for child care is not limited.

Example – Child Care Deduction
Separate Expenses for Time at Work and Time at School

Bernice and Ernest have two children. Both parents work, but Bernice works only part-time and goes to school half time. She pays $4.00 an hour for eight hours of child care a day. For four of those hours, she is at work; for four of them she attends school. She receives no reimbursement for her child care expense.

Her annual expense for child care during the hours she works is $4,000. Her annual expense for the hours she is at school is also $4,000. She earns $6,000 a year. Ernest earns $18,000.

The rule requires that Bernice's child care expense while she is working not exceed the amount she is earning while at work. In this case, that is not a problem. Bernice earns $6,000 during the time she is paying $4,000. Therefore, her deduction for the hours while she is working is $4,000.

Bernice's expense while she is at school is not compared to her earnings. Her expense during those hours is $4,000, and her deduction for those hours will also be $4,000.

Bernice's total child care deduction is $8,000 ($4,000 + $4,000). The total deduction exceeds the amount of Bernice's total earnings, but the amount she pays during the hours she works does not exceed her earnings.

If Bernice's child care costs for the hours while she works were greater than her earnings, she would not be able to deduct all of her child care costs.

Bernice is paying a total of $8,000 in child care expenses. Of that expense, payments of $4,000 cover the hours while she is in school; payments of $4,000 cover the hours she works. If Bernice were earning $3,500, her total child care deduction for the hours she works would be capped at the amount of money she earns. In this case, the total deduction would be $7,500 ($4,000 for expenses while she is in school plus $3,500 of the amount she pays while she is working.)

3. Child care attributable to the work of a full-time student (except for head, spouse, co-head) is limited to not more than $480, since the employment income of full-time students in excess of $480 is not counted in the annual income calculation. Child care payments on behalf of a minor who is not living in the applicant's household cannot be deducted.

4. Child care expenses incurred by two assisted households with split custody can be split between the two households when the custody and expense is documented for each household and the documentation demonstrates that the total expense claimed by the two households does not exceed the cost for the actual time the child spends in care.

C. Deduction for Disability Assistance Expense

1. Families are entitled to a deduction for unreimbursed, anticipated costs for attendant care and "auxiliary apparatus" for each family member who is a person with disabilities, to the extent these expenses are reasonable and necessary to enable any family member 18 years of age or older who may or may not be the member who is a person with disabilities to be employed.

Examples – Eligible Disability Assistance Expenses

The payments made on a motorized wheelchair for the 42-year-old son of the head of the family enable the son to leave the house and go to work each day on his own. Prior to the purchase of the motorized wheelchair, the son was unable to make the commute to work. These payments are an eligible disability assistance expense.

Payments to a care attendant to stay with a disabled 16-year-old child allow the child's mother to go to work every day. These payments are an eligible disability assistance expense.

2. This deduction is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds 3% of the family's annual income. However, the deduction may not exceed the earned income received by the family member or members who are enabled to work by the attendant care or auxiliary apparatus.

3. If the disability assistance enables more than one person to be employed, the owner must consider the combined incomes of those persons. For example, if an auxiliary apparatus enables a person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

Example – Calculating a Deduction for Disability Assistance Expenses

Head's earned income	$14,500
Spouse's earned income	+$12,700
Total income	$27,200
Care expenses for disabled 15-year-old	$3,850
Calculation:	$3,850
(3% of annual income)	- $816
Allowable disability assistance expenses	$3,034

(**NOTE:** $3,034 is not greater than amount earned by spouse, who is enabled to work.)

4. Auxiliary apparatus includes items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a sight-impaired person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work.

   a. Include payments on a specially-equipped van to the extent they exceed the payments that would be required on a car purchased for transportation of a person who does not have a disability.

   b. The cost of maintenance and upkeep of an auxiliary apparatus is considered a disability assistance expense (e.g., the veterinarian costs and food costs of a service animal; the cost of maintaining the equipment that is added to a car, but not the cost of maintaining the car).

   c. If the apparatus is not used exclusively by the person with a disability, the owner must prorate the total cost and allow a specific amount for disability assistance.

5. In addition to anticipated, ongoing expenses, one-time nonrecurring expenses of a current resident for auxiliary apparatus may be included in the calculation of the disability assistance expense deduction after the expense is incurred. These expenses may be added to the family's total disability assistance expense either at the time the expense occurs through an interim recertification or in the rent calculation during the following annual recertification.

6. Attendant care includes but is not limited to reasonable expenses for home medical care, nursing services, housekeeping and errand services, interpreters for hearing-impaired, and readers for persons with visual disabilities.

Example – Calculating a Deduction When Disability Assistance Expenses Exceed Related Earnings

Kenisha Prior, an individual with disabilities, lives with her mother Grace Prior. Her mother works full time. Kenisha works part time at the library. She requires a motorized wheelchair and special transportation to get to her job.

Grace Prior's Income	$24,000
Kenisha Prior's Income	+ 5,000
Total income	$29,000
Disability Assistance Expense	$8,000
(3% of annual income)	- $870
	$7,130

The $7,130 exceeds the amount Kenisha earns. The disability assistance deduction, therefore, is limited to the amount earned by the person made available to work or, in this case, $5,000.

7. When the same provider takes care of children and a disabled person over age 12, the owner must prorate the total cost and allocate a specific cost to attendant care. The sum of both child care and disability assistance expenses cannot exceed the employment income of the family member enabled to work.

Example – Calculating Child Care and Disability Assistance Deductions

Head's earned income	$8,300
Spouse's earned income	+ $6,700
Total income	$15,000

The family has two children: a 10-year-old son and a 15-year-old son who is disabled. One care provider, who charges $120 per week, cares for both sons. The care provider reports that the cost for caring for the 10-year-old is $50 a week and the cost of care for the child with disabilities is $70 a week.

Child care expense $50 x 52 = $2,600

Total disability assistance expense $70 x 52 = $3,640

Total disability assistance expense ($3,640) less 3% of annual income ($450) = $3,190

Child care deduction	$2,600
Disability assistance deduction	+$3,190
Total deductions	$5,790

Total deductions when compared to earnings must not exceed employment earnings of $6,700.

D. Medical Expense Deduction

1. The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 years old or is a person with disabilities (elderly or disabled families).

2. If the family is eligible for a medical expense deduction, owners must include the unreimbursed medical expenses of all family members, including the expenses of nonelderly adults or children living in the family.

3. Medical expenses include all expenses the family anticipates to incur during the 12 months following certification/recertification that are not reimbursed by an outside source, such as insurance.

4. The owner may use the ongoing expenses the family paid in the 12 months preceding the certification/recertification to estimate anticipated medical expenses.

5. The medical expense deduction is that portion of total medical expenses that exceeds 3% of annual income.

Example – Calculating the Medical Expense Deduction

Age of head	64	Annual income	$12,000
Age of spouse	58	Total medical expenses	$1,500
		Sample Calculation	
		Annual income	$12,000
			x .03
		3% of annual income	$ 360
		Total medical expenses	$1,500
			- $360
		Allowable medical expenses	$ 1,140

6. In addition to anticipated expenses, past one-time nonrecurring medical expenses that have been paid in full may be included in the calculation of the medical expense deduction for current tenants at an initial, interim or annual recertification. Past one-time nonrecurring medical expenses that have been paid in full are not applicable when calculating anticipated medical expenses at move-in. If the tenant is under a payment plan, the expense would be counted as anticipated

   a. There are two options for addressing one-time medical expenses. These expenses may be added to the family's total medical expenses either: (1) at the time the expense occurs, through an interim recertification, or (2) at the upcoming annual recertification

      NOTE: If the one-time expense is added at an interim recertification, it cannot be added to expenses at the annual recertification.

   b. The following example illustrates the two options. Tenants may use either option.

The following example illustrates the two options. Tenants may use either option.
Example – One-Time, Nonrecurring Medical Expenses

Maria and Gustav Crumpler had a total of $2,932 in medical expenses last year (Year 1). Of this amount, $932 covered Gustav's gall bladder surgery; $2,000 was for routine costs that are expected to re-occur in the coming year. The entire amount may be included in the Crumpler's medical costs for the coming year (Year 2) despite the fact that the gall bladder surgery is a past event that is not likely to re-occur.

If, during the coming year (Year 2), the Crumplers experience additional one-time medical costs not anticipated at the annual recertification, they may request an interim recertification or wait for their next annual recertification (during Year 3) and ask for the unanticipated expenses to be included in the medical expense calculation for the following year.

The owner may wish to explain to residents that including past one-time medical expenses in an annual recertification rather than in an interim recertification will result in a rent reduction for a larger number of months.

For example, let us assume Maria has unanticipated dental surgery during Year 2 at a cost of $3,550 six months after the annual recertification. The Crumpler's current TTP is $560; their annual income is $25,000.

Annual income	$25,000
Less elderly household deduction	- $400
Less allowable medical deduction ($2,932 less 3% of $25,000)	- $2,182
Adjusted annual income	$22,418
Adjusted monthly income	$1,868
TTP	$560

If the Crumplers request an interim recertification, the $3,550 additional cost will lower their rent for 6 months; if they wait for their annual recertification, the cost of the dental surgery will affect their rent for 12 months.

Annual income	$25,000
Less elderly household deduction	- $400
Less allowable medical deduction ($6,482 less 3% of $25,000)	- $5,732
Adjusted annual income	$18,868
Adjusted monthly income	$1,572
TTP	$472

At the Crumplers' current annual income, the large dental bill reduces rent by $88.

OPTION #1: If the Year 2 rent is adjusted through an interim recertification, the Crumplers will save 6 months times $88 or $528.

OPTION #2: If the Crumplers wait until their annual recertification, the large bill will affect their rent for the 12 months of Year 3, and they will save twice as much, or $1,056.

7. When a family is making regular payments over time on a bill for a past one-time medical expense, those payments are included in anticipated medical expenses. However, if a family has received a deduction for the full amount of a medical bill it is paying over time, the family cannot continue to count that bill even if the bill has not yet been paid.

Example – Medical Expense Paid over a Period of Time

Ursula and Sebastian Grant did not have insurance to cover Sebastian's operation four years ago. They have been paying $105 a month toward the $5,040 debt. Each year that amount ($105 x 12 months or $1,260) has been included in their total medical expenses. A review of their file indicates that a total of $5,040 has been added to total medical expenses over the four-year period. However, the Grants bring a current invoice to their annual recertification interview. Over the four-year period they have missed five payments and still owe $525. Although they still owe this amount, the bill cannot be included in their current medical expenses because the expense has already been deducted.

8. Not all elderly or disabled applicants or participants are aware that their unreimbursed expenses for medical care are included in the calculation of adjusted income for elderly or disabled families. For that reason, it is important for owners to ask enough questions to obtain complete information about allowable medical expenses. The following list highlights some of the most common expenses that may be deducted. A list of examples of eligible medical expenses may be found in Exhibit 5-3.

   a. Services of doctors and health care professionals;

   b. Services of health care facilities;

   c. Medical insurance premiums or costs of an HMO;

   d. Prescription/nonprescription medicines that have been prescribed by a physician;

   e. Transportation to treatment;

   f. Dental expenses;

   g. Eyeglasses, hearing aids, batteries;

   h. Live-in or periodic medical assistance such as nursing services, or costs for an assistance animal and its upkeep;

   i. Monthly payments on accumulated medical bills;

   j. Medical care of a permanently institutionalized family member *if* his or her income is included in annual income; and

k. Long-term care insurance premiums. The family member paying a long-term care insurance premium must sign a certification (see Sample Certification for Qualified Long-Term Care Insurance Expenses in Exhibit 5-4) that states the insurance is guaranteed renewable, does not provide a cash surrender value, will not cover expenses covered under Medicare, and restricts the use of refunds. The certification must be maintained in the family's occupancy file. (Paragraph 5-6 L.3 describes situations in which long-term care insurance payments must be included in annual income.)

9. Special calculation for families eligible for disability assistance and medical expense deductions. If an elderly family has both unreimbursed medical expenses and disability assistance expenses, a special calculation is required to ensure that the family's 3% of income expenditure is applied only one time. Because the deduction for disability assistance expenses is limited by the amount earned by the person enabled to work, the disability deduction must be calculated before the medical deduction is calculated.

   a. When a family has unreimbursed disability assistance expenses that are less than 3% of annual income, the family will receive no deduction for disability assistance expense. However, the deduction for medical expenses will be equal to the amount by which the sum of both disability and medical expenses exceeds 3% of annual income.

   b. If the disability assistance expense exceeds the amount earned by the person who was enabled to work, the deduction for disability assistance will be capped at the amount earned by that individual. When the family is also eligible for a medical expense deduction, however, the 3% may have been exhausted in the first calculation, and it then will not be applied to medical expenses.

   c. When a family has both disability assistance expenses and medical expenses, it is important to review the collected expenses to be sure no expense has been inadvertently included in both categories.

E. Elderly Family Deduction

An elderly or disabled family is any family in which the head, spouse, or co-head (or the sole member) is at least 62 years of age or a person with disabilities. Each elderly or disabled family receives a $400 family deduction. Because this is a "family deduction" each family receives only one deduction, even if both the head and spouse are elderly or disabled.

Example – Special Calculation for Families Who Are Eligible for Disability Assistance and Medical Expense Deductions

The following is basic information on the family:

Head (retired/disabled)—SS/pension income	$16,000
Spouse (employed)—employment income	+ $4,000
Total Annual Income	$20,000
Total disability assistance expenses	$500
Total medical expenses	$1,000

Step 1: Determine if the disability assistance expenses exceed 3% of the family's total annual income.

Total disability assistance expenses	$500
Minus 3% of total annual income	-$600
	($100)

No portion of the disability expenses exceeds 3% of the annual income; therefore, the disability assistance deduction is $0.

Step 2: Calculate if the medical expenses exceed the balance of 3% of the family's total annual income.

Total medical expenses	$1,000
Minus the balance of 3% of total annual income	- $100
Allowable medical expenses deduction	$900

F. No Deduction for Alimony or Child Support Paid to a Person outside the Assisted Family

There is no deduction for an amount paid to a person outside the assisted family for alimony or child support. Even if the amount is garnished from the wages of a family member, it must be included in annual income.

Example – Child Support Garnished from Wages

George Graevette pays $150 per month in child support. It is garnished from his monthly wages of $950. After the child support is deducted from his salary, he receives $800. The owner must count $950 as George's monthly income.

Section 3: Verification

5-11 Key Regulations

This paragraph identifies key regulatory citations pertaining to Section 3: Verification. The citations and their titles (or topics) are listed below.

A. 24 CFR part 5, subpart B – Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information

B. *24 CFR 5.233 Mandated Use of HUD's Enterprise Income Verification (EIV) System*

C. 24 CFR 5.659 Family Information and Verification

D. 24 CFR 8.24, 8.32, 100.204 (Reasonable accommodation)

5-12 Verification Requirements

A. Key Requirements

1. Owners must verify all income, assets, expenses, deductions, family characteristics, and circumstances that affect family eligibility or level of assistance.

2. *Owners must use the EIV Income Report for third party verification of a tenant's employment and income at the time of recertification (annual and interim) and to assist in reducing administrative and subsidy payment errors.*

3. Applicants and adult family members must sign consent forms to authorize the owner to collect information to verify eligibility, income, assets, expenses, and deductions. Applicants and tenants who do not sign required consent forms will not receive assistance.

4. *Household members must disclose and provide verification of their complete and accurate SSN except for those individuals who do not contend eligible immigration status, and tenants age 62 or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010. See Paragraphs 3-9 and 3-31 for SSN disclosure and verification requirements.*

5. The owner must handle any information obtained to verify eligibility or income in accordance with the Privacy Act.

Figure 5-4: Privacy Act Notice

The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et. seq.), by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and by the Fair Housing Act (42 U.S.C. 3601-19). The Housing and Community Development Act of 1987 (42 U.S.C. 3543) requires applicants and participants to submit the social security number of each household member.

Purpose: Your income and other information are being collected by HUD to determine your eligibility, the appropriate bedroom size, and the amount your family will pay toward rent and utilities.

Other Uses: HUD uses your family income and other information to assist in managing and monitoring HUD-assisted housing programs, to protect the Government's financial interest, and to verify the accuracy of the information you provide. This information may be released to appropriate federal, state, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law.

Penalty: You must provide all of the information requested by the owner, including all social security numbers you, and all other household members, have and use. Giving the social security numbers of all household members is mandatory, and not providing the social security numbers will affect your eligibility. Failure to provide any of the requested information may result in a delay or rejection of your eligibility approval.

B. Timeframe for Conducting Verifications

Owners conduct verifications at the following three times.

1. Owners must verify income, assets, expenses, and deductions and all eligibility requirements prior to move-in.

2. Owners must verify each family's income, assets, expenses, and deductions as part of the annual recertification process. Refer to Chapter 7, Section 1 for information on annual recertifications.

3. Owners must verify changes in income, allowances, or family characteristics reported between annual recertifications. Refer to Chapter 7, Section 2 for information on interim recertifications.

5-13 Acceptable Verification Methods

A. Methods of Verification

Owners must use verification methods that are acceptable to HUD. The owner is responsible for determining if the verification documentation is adequate and credible. *Acceptable methods of verification, in order of acceptability: 1) upfront-income verification (UIV) with use of EIV being mandatory and use of non-EIV UIV being optional; 2) third-party verification from source (written), 3) third-party verification from source (oral), and 4) family certification.* If third-party verification is not available, owners must document the tenant file to explain why third-party verification was not available. **Appendix 3** provides a detailed list of acceptable forms of verification by type of information.

B. Third-Party Verification

1. *The following describes the types of third-party verification in order of acceptability

   a. Upfront-income verification (UIV)

      UIV is verification of income before or during a certification and/or recertification, through an independent source that systematically and uniformly maintains income information in a computerized form.

      (1) Using HUD's EIV system for tenants (not available for applicants). **(Mandatory)**

          It is mandatory that owners use the EIV system as the third-party source to verify employment and income information of tenants during recertification (annual and interim) of family composition and income.

      (2) UIV using non-EIV system **(Optional)**

          (a) Owners may use other non-HUD UIV tools such as The Work Number and other state government databases, if available, to verify income:

              (1) Of applicants;

              (2) When no employment or income is available in EIV; or

              (3) For other types of income received by the family.

b. Third-party verification from source (written)

(1) An original or authentic document generated by a third party source that is dated within 120 days from the date of receipt by the owner. Such documentation may be in possession of the tenant (or applicant), and commonly referred to as tenant-provided documents. These documents are considered third-party verification because they originated from a third-party source.

Examples of tenant-provided documentation that may be used includes, but is not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

Owners must consider the following when using tenant-provided documentation:

(a) Is the document current? Documentation of public assistance may be inaccurate if it is not recent and does not show any changes in the family's benefits or work and training activities.

(b) Is the documentation complete? Owners may not accept pay stubs to document employment income unless the applicant or tenant provides the most recent four to six, consecutive pay stubs to illustrate variations in hours worked. Actual paychecks or copies of paychecks should never be used to document income because deductions are not shown on the paycheck.

(c) Is the document an unaltered original? The greatest shortcoming of tenant-provided documents as a verification source is their susceptibility to undetectable change through the use of high-quality copying equipment. Documents with original signatures are the most reliable. Photocopied documents generally cannot be assumed to be reliable.

(2) Written documentation sent directly by the third-party source by mail or electronically by fax, email or internet.

Note: See Paragraph 9-10 for situations when this method of verification must be used prior to verifying through (1) above.*

(For information about electronic documentation, see subparagraph B.2 below.)

c. *Third-party verification from source (oral).*

When verifying information over the telephone, it is important to be certain that the person on the telephone is the party he or she claims to be. Generally, it is best to telephone the verification source rather than to accept verification from a source calling the property management office. Oral verification must be documented in the file, as described in paragraph 5-18.C.

d. *Family Certification.

An owner may accept a tenant's notarized statement or signed affidavit regarding the veracity of information submitted only if the information cannot be verified by another acceptable verification method. In these instances, the owner must document the file why third-party verification was not available. (See Paragraph 5-18.E for documentation requirements when third-party verification is not available.). The owner may witness the tenant signature(s) in lieu of a notarized statement or affidavit.*

2. *The following describes use of electronic information when used as third-party verification.*

Electronic Verification. The owner may obtain accurate third-party written verification by facsimile, email, or Internet, if adequate effort is made to ensure that the sender is a valid third-party source.

a. Facsimile. Information sent by fax is most reliable if the owner and the verification source agree to use this method in advance during a telephone conversation. The fax should include the company name and fax number of the verification source.

b. Email. Similar to faxed information, information verified by email is more reliable when preceded by a telephone conversation and/or when the email address includes the name of an appropriate individual and firm.

c. Internet. Information verified on the Internet is considered third party verification if the owner is able to view web-based information from a reputable source on the computer screen. Use of a printout from the Internet may also be adequate verification in many instances. Refer to subparagraph C. Review of Documents below.

Example – Verification by Internet Printout

Jose Perez maintains a portfolio of stocks and bonds through an Internet-based stockbroker. The broker only provides electronic account statements and will not respond to a written verification request. The owner may accept a printout of Jose's most recent statement if it includes the relevant information required for third-party verification and an Internet address and header or footer that identifies the company issuing the statement. If the owner has reason to question the authenticity of a document, the owner may require Jose to access the electronic file via the Internet in the owner's office, without providing the owner with username or password information.

5-14 Identifying Appropriate Verification Sources

An owner must only collect information that is necessary to determine the applicant's or tenant's eligibility for assistance or level of assistance. **Appendix 3** provides a list of acceptable forms of third-party verification.

5-15 Required Verification and Consent Forms

A. Consent and Verification Forms

Adult members of assisted families must authorize owners to request independent verification of data required for program participation. To provide owners with this authorization, adult family members must sign two HUD-required consent forms plus the owner's specialized verification forms. Owners must create their own verification forms to request information from employers, child care providers, and others. Families sign these and the two HUD consent forms at the time of move-in certification and annual recertification. All adults in each assisted family must sign the required consent forms or the family must be denied assistance. Owners must give the family a copy of each form the family signed.

B. HUD-Required Consent and Release Forms

Applicants and tenants must sign two HUD-required consent forms.

1. Form HUD-9887, *Notice and Consent to the Release of Information to HUD and to a PHA*. Each adult member must sign the form regardless of whether he or she has income. Each family member who is at least 18 years of age and the head, spouse or co-head, regardless of age, must sign this form at move-in, initial and at each annual recertification. The form must also be signed when a new adult member joins the household. The form is valid for 15 months from the date of signature. The consent allows HUD or a public housing agency to verify information with the Internal Revenue Service *(IRS), the Social Security Administration (SSA), the Department of Health and Human Services (HHS') National Directory of New Hires (NDNH), and with state agencies that maintain wage and unemployment claim information (SWICAs).* Owners must

keep the original signed form in the tenant's file and provide a copy to the family. Exhibit 5-5 contains a copy of form HUD-9887.

2. Form HUD-9887-A, *Applicant's/Tenant's Consent to the Release of Information – Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance*. Owners and the head of household, spouse, co-head, *regardless of age,* and each family member who is at least 18 years of age must sign a HUD-9887-A form at move-in and at each annual recertification. Each adult member must sign a form regardless of whether he or she has income. The consent allows owners to request and receive information from third-party sources about the applicant or tenant. Owners keep the original form in the tenant's file and provide a copy to the family. Exhibit 5-6 contains a copy of form HUD-9887-A.

C. Information to Tenants

Owners must provide applicants and tenants with the HUD Fact Sheet, a copy of the *Resident Rights and Responsibilities* brochure, *and a copy of the *EIV & You* brochure.*

1. HUD-9887 Fact Sheet. When applicants and tenants sign form HUD-9887 and form *HUD-9887-A*, owners must provide each family with a copy of the *HUD-9887/A* Fact Sheet. This Fact Sheet describes the verification requirements for applicants and tenants and the tenant protections that are part of the verification process. Exhibit 5-7 contains a copy of the *HUD-9887/A* Fact Sheet.

2. *Resident Rights and Responsibilities Brochure*. Owners must provide applicants and tenants with a copy of the *Resident Rights and Responsibilities* brochure at move-in and annually at recertification. *See Chapter 1, paragraph 1-7.B for information on obtaining copies of the brochure.*

3. **EIV & You* Brochure. Owners must provide applicants and tenants with a copy of the *EIV & You* brochure at move-in and annually at recertification. See Chapter 1, paragraph 1-7.B for information on obtaining copies of the brochure.*

D. Owner-Created Verification Forms

1. Owners must create verification forms for specific *verificat*ion needs and must include the language required by HUD as shown in Figure 5-5. **Appendix 6** contains instructions, a sample verification consent, and guidance about the types of information to request when verifying income and eligibility.

2. It is important that the applicant or tenant know whom owners will ask to provide information and to whom the completed form will be returned. Therefore, verification forms must clearly state in a prominent location that the applicant or tenant may not sign the consent if the form does not

clearly indicate who will provide the requested information and who will receive the information. When sending a request for verification to a third party, owners send the verification form with the applicant's or tenant's original signature to the third-party source. Owners must retain a copy of the verification form and provide a copy to the applicant or tenant upon request.

Figure 5-5: Language Required on all Consent Forms

The following statement must appear on all consent forms developed by owners:

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

5-16 Effective Term of Verifications

Verifications and consent forms must be used within a reasonable time. HUD has set specific limits on the duration of verification consents. In addition, verified information must be used in a timely manner since family circumstances are subject to change. HUD places several other limits on the information that may be requested and when and how it may be used.

A. Duration of Verification Authorization

Owner-created verification forms and the forms HUD-9887 and *HUD-9887-A* expire 15 months after they are signed. Owners must ensure that the forms HUD-9887 and *HUD-9887-A* have not expired when processing verifications. However, there are differences between the duration of form HUD-9887 and that of the individual verification forms.

1. The form HUD-9887-A and individual verification forms can be used during the 120 days before the certification period. During the certification period, however, these forms may be used only in cases

where the owner receives information indicating that the information the tenant has provided may be incorrect. Other uses are prohibited.

2. Owners may verify anticipated income using individual verification forms to gather prospective information when necessary (e.g., verifying seasonal employment). Historical information that owners may request using individual verification forms is restricted as follows:

   a. Information requested by individual verification forms is restricted to data that is no more than 12 months old.

   b. However, if the owner receives inconsistent information and has reason to believe that the information the applicant or tenant has supplied is incorrect, the owner may obtain information from any time in the last five years when the individual was receiving assistance, as provided by the form HUD-9887-A.

3. The form HUD-9887 may be used at any time during the entire 15 month period. The information covered by the form HUD-9887 is restricted as follows:

   a. State Wage Information Collection Agency (SWICA) Information received from SWICA is limited to wages and unemployment compensation the applicant or tenant received during the last five years she/he received housing assistance.

   b. *NDNH. Information received from HHS' NDNH is limited to wages and unemployment compensation received during period(s) within the last five years when the tenant has received assisted housing benefits.*

   c. Internal Revenue Service and Social Security Administration. form HUD-9887 authorizes release by IRS and SSA of data from only the current income tax return and IRS W-2 form.

      If the IRS, *NDNH* or SSA matches reveal that the tenant may have supplied inconsistent information, HUD may request that the tenant consent to the owner acquiring information on the last five years during the periods in which the tenant was receiving assistance.

B. Effective Term of Verifications

1. Verifications are valid for 120 days from the date of receipt by the owner, *not the effective date of the 50059.*

2. If verifications are more than 120 days old *from the date of receipt by the owner*, the owner must obtain new verifications.

3. Time limits do not apply to information that does not need to be reverified, such as:

a. Age;

b. Disability status;

c. Family membership; or

d. Citizenship status.

5-17 Inconsistent Information Obtained Through Verifications

An owner may not take any action to suspend, terminate, reduce or make a final denial of any benefits based on inconsistent information received during the verification process or when the tenant disputes information obtained until the owner has independently investigated the information. The owner *must* follow procedures for addressing errors and fraud and for terminating assistance in accordance with Chapter 8.

5-18 Documenting Verifications

A. Key Requirement

Owners must include verification documentation in the tenant file.

B. Documenting Third-Party Verification

All third-party verification documentation must be put in the tenant file, e.g., EIV Income Reports or verifications received from sources via mail, etc.

C. Documenting Telephone Verification

When verifying information by phone, the owner must record and include in the tenant's file the following information:

1. Third-party's name, position, and contact information;

2. Information reported by the third party;

3. Name of the person who conducted the telephone interview; and

4. Date and time of the telephone call.

D. Recording Inspection of Original Documents

Original documents should be photocopied, and the photocopy placed in the tenant file. *Originals of tenant-provided documents are to be returned to the tenant.* If the original document cannot be copied, a clear note to the file must describe the type of document, the information contained in the document, the name of the person who reviewed the document, and the date of that review.

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E. **Documenting Why Third-Party Verification Is Not Available**

When third-party verification is not available, owners must document in the file efforts made to obtain the required verification and the reason the verification was not obtained. The owner must include the following documents in the applicant's or tenant's file:

1. A written note to the file explaining why third-party verification is not possible; or

2. A copy of the date-stamped original request that was sent to the third party;

3. Written notes or documentation indicating follow-up efforts to reach the third party to obtain verification; and

4. A written note to the file indicating that the request has been outstanding without a response from the third party.

F. **Reasonable Accommodation**

If an applicant or tenant cannot read or sign a consent form because of a disability, the owner must provide a reasonable accommodation. See Chapter 2, Section 3, Subsection 4 for a description of the requirements regarding reasonable accommodations.

Examples – Reasonable Accommodation

- Provide forms in large print.
- Provide readers for persons with visual disabilities.
- Allow the use of a designated signatory.
- Visit the person's home if the applicant or tenant cannot travel to the office to complete the forms.

5-19 Confidentiality of Applicant and Tenant Information

A. Federal law limits the information owners can collect about an applicant or tenant to only information that is necessary to determine eligibility and level of assistance.

B. Federal privacy requirements also establish the responsibility of owners and their employees to use information provided by applicants and tenants only for specified program purposes and to prevent the use or disclosure of this information for other purposes.

1. To help ensure the privacy of applicant and tenant information, owners and their employees are subject to penalties for unauthorized disclosure

of applicant/tenant information. In addition, applicants and tenants may initiate civil action against an owner for unauthorized disclosure or improper use of the information they provided. Language on the HUD-required consent forms, the verification forms developed by owners, and the HUD-50059 clearly describes owners' responsibility regarding the privacy of this information and the possible penalties.

2. HUD encourages owners to develop their own procedures and internal controls to prevent the improper use or unauthorized disclosure of information about applicants and tenants. Adequate procedures and controls protect not only applicants and tenants, but also owners.

C. Owners must also comply with state privacy laws concerning the information they receive from third-party sources about applicants and tenants. These laws generally require confidentiality and restrict the uses of this information.

5-20 *Security of EIV Data

The data in EIV contains personal information on individual tenants that is covered by the Privacy Act. The information in EIV may only be used for limited official purposes.

A. Owners, in connection with the administration of their project, may only use the employment and income information in EIV at the time of recertification, or at other times as addressed in their policies and procedures.

B. Owners cannot share the EIV income information with governmental entities not involved in the recertification process used for HUD's assisted housing programs, e.g., the LIHTC program and RHS Section 515 program.

See Chapter 9, Enterprise Income Verification (EIV), for additional information on official use of EIV information.*

5-21 Refusal to Sign Consent Forms

A. If an applicant refuses to sign forms HUD-9887 or *HUD-9887-A* or the owner's verification forms, the owner must deny assistance.

B. If a tenant *or any member of the tenant's family* refuses to sign the required verification and consent forms, the owner must terminate *the household's* assistance. If the owner intends to terminate assistance for this reason, the owner must follow procedures established in the lease that require the tenant to pay the HUD-approved market rent for the unit. In a Section 202 PRAC or Section 811 PRAC project, the tenant may be evicted if the tenant *or any member of the tenant's family* refuses to sign the required verification and consent forms.

C. If a tenant is unable to sign the forms on time due to extenuating circumstances, the owner must document the reasons for the delay in the tenant file and indicate how and when the tenant will provide the proper signature.

Examples – Tenant Failure to Sign Consent Forms Due to Extenuating Circumstances

- Jonas and Joycelyn Hardwick were to have forms HUD-9887 and *HUD-9887-A* signed by their adult son. However, he was in an automobile accident and has been in a coma.
- Lydia Bailey's husband has been temporarily assigned to overseas duty as part of a missionary hunger-relief program. She has signed consent forms, and the forms have been mailed to him but have not been returned. She reports that mail has recently been taking five or six weeks.

5-22 Interim Recertifications

When processing an interim recertification, the owner must ask the tenant to identify all changes in income, expenses, or family composition since the last recertification. Owners only need verify those items that have changed. For example, if the head of household was laid off from his or her job and asks the owner to prepare an interim recertification, the owner does not need to reverify the spouse's employment income unless that has also changed. When the tenant signs the certification she or he certifies that the information on the report is accurate and current. Additional information about the procedures for conducting interim recertifications is discussed in Chapter 7, Section 2.

5-23 Record-Keeping Procedures

A. Owners must keep the following documents in the tenant's file at the project site:

1. All original, signed forms HUD-9887 and HUD-9887-A;

2. A copy of signed individual consent forms;

3. *A copy of the EIV Income Report, regardless of whether or not any income is reported for the household, along with the HUD-50059 and any other documentation obtained supporting income and rent determinations; and

4. Third-party verifications received from third-party sources.*

B. Owners must maintain documentation of all verification efforts throughout the term of each tenancy and for at least three years after the tenant moves out

C. The tenant's file should be available for review by the tenant upon request or by a third party who provides signed authorization for access from the tenant.

***NOTE:** The Federal Privacy Act (5 USC 552a, as amended) prohibits the disclosure of an individual's information to another person without the written

consent of such individual. As such, the EIV data of an adult household member may not be shared (or a copy provided or displayed) with another adult household member, unless the individual has provided written consent to disclose such information. See Chapter 9, paragraph 9-18 for more information on disclosing EIV data to another individual or entity.*

D. Owners must maintain applicant and tenant information in a way to ensure confidentiality. Any applicant or tenant affected by negligent disclosure or improper use of information may bring civil action for damages and seek other relief, as appropriate, against the employee. Forms HUD-9887 and *HUD-9887-A* describe the penalties for the improper use of consent forms.

E. Owners must dispose of tenant files and records in a manner that will prevent any unauthorized access to personal information, e.g., burn, pulverize, shred, etc.

Section 4: Calculating Tenant Rent

5-24 Key Regulations

This paragraph identifies key regulatory citations pertaining to Section 4: Calculating Tenant Rent. The citations and their titles or (topics) are listed below.

A. 24 CFR 5.628 Total Tenant Payment

B. 24 CFR 5.630 Minimum Rent

C. 24 CFR 236.735 Rental Assistance Payments and Rental Charges

D. 24 CFR 891.105, 891.410, 891.520, 891.640, 891.655, 891.705 (Project rental assistance payment, project assistance payment, tenant rent, total tenant payment, and rent for unassisted units)

E. 24 CFR 5.661 Section 8 project-based assistance programs: Approval for police or other security personnel to live in project

5-25 Calculating the Tenant Contribution for Section 8, PAC, PRAC, RAP, and Rent Supplement Properties

A. Total Tenant Payment (TTP)

The Total Tenant Payment (TTP) is the amount a tenant is expected to contribute for rent and utilities. TTP for Section 8, PAC, PRAC, RAP, and Rent Supplement properties is based on the family's income. The formulas for calculating TTP are shown in Figure 5-6. Exhibit 5-8 also shows the formulas for calculating tenant contributions for all assisted-housing programs.

B. Unit Rent

1. The contract rent (basic rent in the Section 236 program) represents the amount of rent an owner is entitled to collect to operate and maintain the property. It is HUD-approved. For Section 202 and 811 PRACS, the contract rent is the operating rent *(gross rent)* minus the utility allowance.

2. Projects in which the tenant pays all or some utilities have HUD-approved utility allowances that reflect an estimated average amount tenants will pay for utilities assuming normal consumption.

C. Timeframe for Calculating Rent

Owners calculate rent at three points in time.

1. Owners must calculate rent prior to occupancy by an applicant.

2. Owners must calculate rent as part of an annual recertification. Refer to Chapter 7, Section 1 for information on annual recertification of income.

3. When assistance is provided through Section 8, PAC, PRAC, RAP, or Rent Supplement, owners must recalculate rent if a tenant reports a change in income, allowances, or family composition. Refer to Chapter 7, Section 2 for information on interim recertifications of income.

Figure 5-6: Total Tenant Payment Formulas

Section 8, PAC, PRAC, and RAP

- TTP is the greater of the following:
  - 30% of monthly adjusted income;
  - 10% of monthly gross income;
  - Welfare rent (welfare recipients in as-paid localities only); or
  - The $25 minimum rent (Section 8 only).
- Section 8, RAP, and PAC programs may admit an applicant only if the TTP is less than the gross rent.
- In PRAC properties, the TTP may exceed the PRAC operating rent.

Rent Supplement

- TTP is the greater of the following:
  - 30% of monthly adjusted income; or
  - 30% of gross rent.
- At move-in or initial certification, the amount of Rent Supplement assistance may be no less than 10% of the gross rent or the tenant is not eligible.

5-26 Procedures for Determining Tenant Contribution for Section 8, PAC, PRAC, RAP, and Rent Supplement Properties

A. Tenant Rent

Tenant rent is the portion of the TTP the tenant pays each month to the owner for rent. Tenant rent is calculated by subtracting the utility allowance from the TTP.

It is possible for tenant rent to be $0 if the utility allowance is greater than the TTP.

Example – Calculating Tenant Rent

TTP:	$225
Utility allowance:	-$ 75
Tenant rent:	$150

B. Assistance Payments

The assistance payment is the amount the owner bills HUD every month on behalf of the tenant. The assistance payment covers the difference between the TTP and the gross rent. It is the subsidy that HUD pays to the owner.

1. Housing Assistance Payment (HAP) is the assistance payment made by HUD to owners with units receiving assistance from the Section 8 program.

Example – Calculating HAP

Gross rent	$564
TTP	- $175
HAP	$389

2. Rental Assistance Payment (RAP) is the assistance payment made by HUD to owners for units receiving assistance through the RAP program.

3. Rent Supplement payment is the assistance payment made by HUD to owners for units receiving assistance through the Rent Supplement program.

4. Project Assistance Payment (PAC) is the assistance payment made by HUD for assisted units in a Section 202 project for nonelderly disabled families and individuals (also referred to as Project Assistance Contract [PAC] projects).

5. Project Rental Assistance Payment (PRAC) is the assistance payment made by HUD for assisted units in Section 202 or Section 811 properties with a Project Rental Assistance Contract (PRAC).

C. Utility Reimbursement

When the TTP is less than the utility allowance, the tenant receives a utility reimbursement to assist in meeting utility costs. The tenant will pay no tenant rent. The utility reimbursement is calculated by subtracting the TTP from the utility allowance.

D. Section 8 Minimum Rent

Tenants in properties subsidized through the Section 8 program must pay a minimum TTP of $25.

NOTE: Minimum rent does not apply to Section 202 PAC, Section 202 PRAC, Section 811 PRAC, RAP, Rent Supplement, Section 221(d)(3) BMIR or Section 236 programs.

1. The minimum rent is used when 30% of adjusted monthly income and 10% of gross monthly income, and the welfare rent where applicable, are all below $25.

2. The minimum rent includes the tenant's contribution for rent and utilities. In any property in which the utility allowance is greater than $25, the full TTP is applied toward the utility allowance. The tenant will receive a utility reimbursement in the amount by which the utility allowance exceeds $25.

Example – Utility Reimbursement for a Tenant Paying Minimum Rent

The Nguyen family qualifies for the minimum total tenant payment of $25. The family pays its own utility bills. The utility allowance for the unit is $75 a month. The owner sends the Nguyen family a check each month for $50 ($75-$25) as a utility reimbursement. The Nguyen family does not pay any tenant rent to the owner.

3. Financial hardship exemptions.

   a. Owners must waive the minimum rent for any family unable to pay due to a long-term financial hardship, including the following:

      – The family has lost federal, state, or local government assistance or is waiting for an eligibility determination.

      – The family would be evicted if the minimum rent requirement was imposed.

      – The family income has decreased due to a change in circumstances, including but not limited to loss of employment.

      – A death in the family has occurred.

      – Other applicable situations, as determined by HUD, have occurred.

   b. Implementing an exemption request. When a tenant requests a financial hardship exemption, the owner must waive the minimum $25 rent charge beginning the month immediately following the tenant's request and implement the TTP calculated at the higher of 30% of adjusted monthly income or 10% of gross monthly income (or the welfare rent). The TTP will not drop to zero unless those calculations all result in zero.

(1) The owner may request reasonable documentation of the hardship in order to determine whether there is a hardship and whether it is temporary or long term in nature. The owner should make a determination within one week of receiving the documentation.

(2) If the owner determines there is no hardship as covered by the statute, the owner must immediately reinstate the minimum rent requirements. The tenant is responsible for paying any minimum rent that was not paid from the date rent was suspended. The owner may not evict the tenant for nonpayment of rent during the time in which the owner was making the determination. The owner and tenant should reach a reasonable repayment agreement for any back payment of rent.

(3) If the owner determines that the hardship is temporary, the owner may not impose the minimum rent requirement until 90 days after the date of the suspension. At the end of the 90-day period, the tenant is responsible for paying the minimum rent, retroactive to the initial date of the suspension. The owner may not evict the tenant for nonpayment of rent during the time in which the owner was making the determination or during the 90-day suspension period. The owner and tenant should reach a reasonable repayment agreement for any back payment of rent.

Example – Temporary Hardship Schedule

Due to the death of his wife, Yung Kim took a six-week leave of absence from his part-time job. He requests a financial hardship exception. The owner, Oak Knoll Management, reviews his request and determines that the hardship is not long term. Yung Kim and Oak Knoll Management implement the following schedule:

• Current TTP	$25
• Hardship request received	July 15
• Owner grants temporary hardship	July 20
• August TTP	$0
• September TTP	$0
• October TTP	$0
• 90-day period ends Total balance due 3 x $25	October 15 $75
• Tenant agrees to pay $10 extra per month for seven months and $5 extra on the eighth month.	
• Monthly payment for seven months November – May TTP $25 + $10	$35
• June TTP $25 + $5	$30
• July TTP	$25

(4) If the hardship is determined to be long term, the owner must exempt the tenant from the minimum rent requirement from the date the owner granted the suspension. The suspension may be effective until such time that the hardship no longer exists. However, the owner must recertify the tenant every 90 days while the suspension lasts to verify that circumstances have not changed. The length of the hardship exemption may vary from one family to another depending on the circumstances of each family. The owner must process an interim recertification to implement a long-term exemption. Owners must maintain documentation on all requests and determinations regarding hardship exemptions.

E. Welfare Rent

1. The term "welfare rent" applies only in states that have "as-paid" public benefit programs. A welfare program is considered "as-paid" if the welfare agency does the following:

   a. Designates a specific amount for shelter and utilities; and

b. Adjusts that amount based upon the actual amount the family pays for shelter and utilities.

2. The maximum amount that may be specifically designated for rent and utilities is called the "welfare rent." See below for an example.

Example – Calculating Welfare Rent

Published maximum for shelter and utilities:	$200
Amount of welfare assistance for other needs:	$220
Other income:	$100
Monthly income =	$520
"Welfare rent"=	$200

5-27 Calculating Assistance Payments for Authorized Police/Security Personnel

A. The amount of the monthly assistance payment to the owner is equal to the contract rent minus the monthly amount paid by the police officer or security personnel. HUD will not increase the assistance payment due to nonpayment of rent by the police officer or security personnel.

NOTE: The owner is not entitled to vacancy payments for the period following occupancy by a police officer or security personnel.

B. For police/security personnel whose income exceeds the income limit for the property, the rent is set by the owner.

1. The determination of the rent amount in such circumstances should take into consideration the income of the officer, the location of the property, and rents for comparable unassisted units in the area.

2. Owners should establish a rent that is attractive to the officer, but not less than what the officer would pay as an eligible Section 8 tenant.

3. Owners are expected to use a consistent methodology for each property when establishing the rents for officers in these circumstances.

5-28 Calculating Tenant Contribution for "Double Occupancy" in Group Homes

A. Double Occupancy

Some group homes for disabled residents provide units that may be shared by unrelated single tenants. The calculations for tenant contribution and for the assistance payment vary depending on whether the project is a Section 202/8 or a Section 811.

B. Total Tenant Payment

In both Section 202/8 and Section 811 group homes, each tenant in a double occupancy room is treated as a separate family in the calculation of TTP. Each resident is entitled to any deductions he or she would receive if occupying a single room, including the $400 elderly/disabled family deduction.

Example – TTP Calculation for Double Occupancy

Resident A:	
Annual income	$5,200
Elderly family deduction	- $400
Medical expense deduction	- $900
Annual adjusted income	$3,900
Monthly adjusted income	$325 ($3,900/12 months)
30% of monthly adjusted income	$98
10% of monthly gross income	$43
Minimum rent	$25
TTP for Resident A =	$98
Resident B:	
Annual income	$3,600
Elderly family deduction	- $400
Medical expense deduction	- $2,480
Annual adjusted income	$720
Monthly adjusted income	$60 ($720/12 months)
30% of monthly adjusted income	$18
10% of monthly gross income	$30
Minimum rent	$25
TTP for Resident B =	$30

C. Contract Rent and Assistance Payment in Section 202/8 Group Homes

1. In Section 202/8 group homes, the contract rent for a room shared by two occupants is split between the two tenants.

2. The assistance payment for the Section 202/8 double occupancy room is calculated separately for each tenant based on half of the contract rent for the unit.

Example – Assistance Payment, Section 202/8 Double Occupancy

Contract rent for the unit	$800
Half of the contract rent for the unit	$400
TTP for Tenant A =	$98
Assistance payment for Tenant A is $400 less $98 =	$302
TTP for Tenant B =	$30
Assistance payment for Tenant B is $400 less $30 =	$370

3. If the tenant rent for either tenant exceeds half of the contract rent, that tenant's rent will be capped at half of the contract rent. In the Section 202/8 double occupancy room, half of the contract rent is the maximum rent one occupant can pay.

Example – Section 202/8 Double Occupancy

Tenant A has an increase in income changing the monthly adjusted income to $1,500. 30% of $1,500 equals $450. Tenant A is no longer eligible for assistance. Tenant A's rent is capped at $400, which represents the maximum Tenant A will pay.

Gross rent for unit	$800
Half the contract rent for the unit	$400
TTP for Tenant A	$450
Assistance Payment for Tenant A	-0-
Rent Tenant A will pay	$400

4. Owner's rent-calculation software must reflect the split-unit rent and contain unit numbers that provide a distinction between tenants (e.g., unit 101A, 101B).

D. Operating Cost and Assistance Payment in Section 811 Group Homes

1. In a Section 811 group home, the operating cost for a room shared by two occupants is split between the two tenants.
2. The assistance payment for the Section 811 double occupancy room is calculated separately for each tenant based on half of the operating cost for the unit.

3. In a Section 811 property, each tenant is certified separately and pays the greater of 30% of monthly adjusted income, 10% of monthly annual income, or the welfare rent.

4. In the Section 811 double occupancy unit, both occupants will pay the calculated TTP amount even if it exceeds their portion of the operating cost for the unit.

Example – Calculating the Assistance Payment for a Double Occupancy Unit in a Section 811 Group Home

Operating cost for unit	$310
Half of the operating cost for the unit	$155
TTP Tenant A =	$160
Assistance Payment for Tenant A	$(5)
TTP Tenant B =	$75
Assistance Payment for Tenant B	$80

Although the Assistance Payment for Tenant A is zero, the voucher must indicate that $5 over the operating cost was collected for rent. This is indicated by bracketing the ($5.)

5. Owner's rent-calculation software must reflect the split-unit operating cost and contain unit numbers that provide a distinction between tenants (e.g., unit 101A, 101B).

Example – Section 811 Total Tenant Payments

Operating cost for the unit	$310
One half of operating cost	$155
TTP Tenant A =	$330
Assistance Payment for Tenant A	($175)
TTP Tenant B =	$240
Assistance payment for Tenant B	($85)

E. Calculating Rent at Change in Occupancy

1. If there is a change in the number of individuals occupying the double occupancy unit, the assistance payment for the whole unit may change.

2. In a Section 202/8 or a Section 811 PRAC double-occupancy room, the rent and assistance payments are calculated as if each tenant occupied a separate unit each with a rent equaling half of the contract rent or operating cost for the unit. If one resident moves out, the TTP and assistance payment calculations for the remaining resident remain the same. The other half of the unit is treated like a vacant unit: there is no assistance payment but the owner may be eligible for vacancy loss claims for the vacated half of the unit.

Example – Section 202/8 Calculation at a Change in Occupancy

Contract Rent	$800
Half of the contract rent	$400
Tenant A Tenant Rent	$98
Tenant B Tenant Rent	$30

Tenant A moves out.

Assistance Payment for Tenant B is calculated using half of the contract rent = $400 less the Tenant Rent for Tenant B $30 = $370 housing assistance payment.

There is no HAP payment for the half of the unit vacated by Tenant A. It is vacant. But, the owner may request a vacancy loss payment if appropriate.

Example – Section 811 Calculation at a Change in Occupancy

Operating Cost	$310
Half of the operating cost	$155
Tenant A Tenant Rent	$160
Tenant B Tenant Rent	$75

Tenant A moves out.

Assistance Payment for Tenant B is calculated using half of the operating cost = $155 less the Tenant Rent for Tenant B $75 = $80 housing assistance payment.

There is no Assistance Payment for the half of the unit vacated by Tenant A. It is vacant. Even though Tenant A was paying more than half of the operating cost for the unit at move-out, the owner may request a vacancy loss payment if all other vacancy claim requirements have been met.

5-29 Calculating Tenant Contribution for Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR)

A. Tenant's Rent Contribution

The tenant's contribution to rent in the Section 236 and Section 221(d)(3) BMIR programs is based on the cost to operate the property and the income of the family. Figure 5-7 presents the rules for determining the tenant rent in these two programs.

1. Section 236 property. Every Section 236 property has a HUD-approved basic rent and market rent. Basic rent is the minimum rent all Section 236 tenants must pay. It represents the cost to operate the property after HUD has provided mortgage assistance to reduce the mortgage interest expense. The market rent represents the amount of rent the owner would have to charge, if the mortgage were not subsidized. Tenants pay a percentage of their income towards rent, but never pay less than the basic rent or more than the market rent for the property.

   When a tenant pays more than basic rent, the difference between the tenant's rent and basic rent is called "excess income." Excess income is an amount that exceeds what the owner needs to operate the property and is subject to specific requirements. Refer to HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*, and other current HUD notices for guidance on handling excess income. Although a tenant may pay more than basic rent, no tenant in a Section 236 property will pay more than the market rent for the property.

Example – Calculating Excess Income

Rent for Tenant A (30% of Tenant A's income):	$350
Basic rent	-$300
Excess Income	$50

2. Section 221(d)(3) BMIR property. There is no rent calculation for tenants in a Section 221(d)(3) BMIR property. HUD approves a BMIR rent that all of the tenants must pay. The federal assistance in the BMIR property is provided through a below market interest rate for the mortgage loan. Applicants must meet income eligibility standards to be admitted to a BMIR property. After move-in, if a tenant's annual income goes above 110% of the BMIR income limit, the tenant must pay 110% the BMIR rent.

3. BMIR cooperative. If a BMIR cooperative member's annual income exceeds 110% of the BMIR income limit at the time of recertification, the cooperative must levy a surcharge to the member. See the definition of market rent in the Glossary for an explanation of the market carrying charge for over-income cooperative members.

B. Timeframe for Calculating Rent

Owners calculate rent at three points in time.

1. Owners must calculate rent prior to occupancy by an applicant.

2. Owners must calculate rent as part of an annual recertification. Refer to Chapter 7, Section 1 for information on annual recertification of income.

3. Owners of Section 236 properties must calculate rent if a tenant reports a change in income, allowances, or family composition. Refer to Chapter 7, Section 2 for information on interim recertifications of income.

Figure 5-7: Tenant Contributions for the Section 236 and Section 221(d)(3) BMIR

Section 236

Section 236 without Utility Allowance

- Tenant rent is the greater of:
  - 30% of monthly adjusted income; or
  - Section 236 basic rent.
- Tenant rent may not be more than the Section 236 market rent.

Section 236 with Utility Allowance

- Tenant rent is the greater of:
  - 30% of monthly adjusted income less the utility allowance; or
  - 25% of monthly adjusted income; or
  - Basic rent.
- Tenant rent may not be more than the Section 236 market rent.

Section 221(d)(3) BMIR

- At initial certification, the tenant pays the BMIR rent.
- At recertification, the tenant's annual income is compared to the BMIR income limits. If the tenant's annual income is:
  - Less than or equal to 110% of the BMIR income limit, the tenant pays the BMIR rent;
  - Greater than 110% of the BMIR income limit, the tenant pays 110% of the BMIR rent.

5-30 Determining Tenant Contribution at Properties with Multiple Forms of Subsidy

A. At many multifamily properties different kinds of subsidies have been combined. For many years, tenant-based Section 8 subsidies have been added to properties built with Section 202 loans or financed with Section 236 and Section 221(d)(3) mortgage subsidies. Recently, the Low Income Housing Tax Credit program has been combined with a wide range of programs, from Section 202 projects with Section 8 already in place (Section 202/8) to housing choice voucher assistance.

B. Although each of the programs combined within one property may have a different formula for determining tenant payments, it is generally possible to determine the correct rent for a family by identifying the available program for which that family is eligible that will provide the best option—or the lowest rent—for the tenant. The one exception to this can be at the recertification of a Section 8 or Rent Supplement family in a property with Low Income Housing Tax Credits. If the family's income has increased since move-in to a point that the assisted rent exceeds the Low Income Housing Tax Credit rent, that family will have to make a choice between the lower tax credit rent and the security of continuing on the rental assistance program.

C. The tenant rent at properties assisted under more than one program is generally the lowest rent available for which the tenant is eligible.

1. Section 202/Section 8. In a Section 202 property with Section 8 tenant-based assistance, a tenant eligible for Section 8 will pay the tenant rent based on the Section 8 rent formula. If that tenant's income increases to the point that its TTP equals or exceeds the Section 8 contract rent, the family would no longer be eligible for the tenant based assistance.

2. Section 236/Section 8. A family with a Section 8 subsidy in a Section 236 property will pay the Section 8 tenant rent unless, at recertification, the family's TTP equals or exceeds the Section 8 contract rent. Thereafter, the family will pay the tenant rent based on the Section 236 rent formula. A family living in a Section 236 property receiving Rent Supplement assistance would also stop receiving Rent Supplement assistance at the point the family's TTP increased to the level of the rent supplement contract rent. Thereafter the family will pay the tenant rent based on the Section 236 rent formula.

3. Section 221(d)(3) BMIR with Section 8. A family receiving Section 8 assistance at a BMIR project would continue to pay the tenant rent based on the Section 8 rent formula until the TTP equaled or exceeded the BMIR rent. Thereafter, the family would pay rent based on the BMIR rent formula.

D. In some instances, a tenant will not be eligible for the program offering the lowest rent, or a subsidy under that program will not be available for every unit or every tenant.

Sometimes, Section 8 subsidies are not available for the unit size the family needs, and the family must wait for a subsidy for the appropriate unit size. The owner's contract with HUD for the Section 8 assistance allocates Section 8 funding by unit size, and the owner is required to subsidize families based on the unit sizes allocated. If the owner was allocated 10 two-bedroom subsidies and has assigned those subsidies to 10 two-bedroom families, the owner cannot use an available three-bedroom subsidy to assist an 11th two-bedroom family. If the owner has determined that the bedroom distribution in its contract does not match the need in the project, the owner can ask HUD for a contract amendment to revise the unit size designations of the subsidy awarded.

E. In some instances, a family will not be eligible for a lower rent program available at the property.

For example, a family in a BMIR project with Section 8 may be financially stretched when paying the BMIR rent but may not be income-eligible for the lower-rent Section 8 program.

5-31 Procedures for Calculating Rent

A. Owners must calculate tenant rent payments electronically using on-site software or a service provider. Data used to determine the rent are based on information certified as accurate by the family and independently verified.

B. The owner's computer software calculates rent based on the appropriate formulas for the tenant's unit and produces a printed copy of the HUD-50059 to be signed by the tenant and the owner. The owner must produce a printed report in an easily read and understood format that contains all of the information used to calculate the tenant's rent.

C. The tenant and the owner sign a copy of the report containing a statement certifying the accuracy of the information. The certification statements are provided on the form HUD-50059 in Appendix 7-B.

D. The owner must give a copy of the printed HUD-50059 with the required signatures to the tenant and place another copy in the tenant file.

E. The HUD-50059 is then transmitted electronically to TRACS either directly or through the Contract Administrator.

F. In all cases, the computer generated HUD-50059 must include the required tenant signatures and owner signatures prior to submitting the data to the Contract Administrator or HUD. The owner may consider extenuating circumstances when an adult family member is not available to sign the HUD-50059, for example, an adult serving in the military, students away at college, adults who are hospitalized for an extended period of time, or a family member who is permanently confined to a nursing home or hospital. The owner must document the file why the signature(s) was not obtained and, if applicable, when the signature(s) will be obtained.

Chapter 5 Exhibits

5-1. Income Inclusions and Exclusions

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35699.pdf

5-2. Assets

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35701.pdf

5-3. Examples of Medical Expenses That Are Deductible and Nondeductible

http://portal.hud.gov/hudportal/documents/huddoc?id=43503e5-3HSGH.pdf

5-4. Sample Certification for Qualified Long-Term Care Insurance Expenses

http://portal.hud.gov/hudportal/documents/huddoc?id=90101.pdf

5-5. Form HUD-9887, *Notice and Consent for the Release of Information to HUD and to a PHA*

http://portal.hud.gov/hudportal/documents/huddoc?id=9887.pdf

5-6. Form HUD-9887-A, *Applicant's/Tenant's Consent to the Release of Information – Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance*

See 5-5 above.

5-7. HUD Fact Sheet – Verification of Information Provided by Applicants and Tenants of Assisted Housing

See 5-5 above.

5-8. Tenant Rent Formulas

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35705.pdf

Appendix 3

Acceptable Forms of Verification

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	ACCEPTABLE SOURCES					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[e]	Oral[c]			
• Age. *(See Chapter 3, Paragraph 3-28.C)*	• None required.	• None required.	• None required.	• Birth Certificate • Baptismal Certificate • Military Discharge papers • Valid passport • Census document showing age • Naturalization certificate • Social Security Administration Benefits printout		

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[e*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Alimony or child support. *(See Chapter 5, Paragraphs 5-6.F and 5-10.F)*	• Copy of separation or divorce agreement provided by ex-spouse or court indicating type of support, amount, and payment schedule. • Written statement provided by ex-spouse or income source indicating all of above. • If applicable, written statement from court/attorney that payments are not being received and anticipated date of resumption of payments.	• Recent original letters from the court.	• Telephone or in-person contact with ex-spouse or income source documented in file by the owner.	• Copy of most recent check, recording date, amount, and check number.	• Notarized statement or affidavit signed by applicant indicating amount received. • If applicable, notarized statement or affidavit from applicant indicating that payments are not being received and describing efforts to collect amounts due.	• Amounts awarded but not received can be excluded from annual income only when applicants have made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Assets disposed of for less than fair market value. *(See Chapter 5, Paragraph 5-7.G.8)*	• None required.	• None required.	• None required.	• None required.	• Certification signed by applicant *and/or tenant* that no *family* member has disposed of assets for less than fair market value during *the* preceding two years. • If applicable, certification signed by the owner of the asset disposed of that shows: - Type of assets disposed of; - Date disposed of; - Amount received; and - Market value of asset at the time of disposition.	• Only count assets disposed of within a two-year period prior to *certification or recertification.*

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Auxiliary apparatus. *(See Chapter 5, Paragraph 5-10.C)*	• Written verification from source of costs and purpose of apparatus. • Written certification from doctor or rehabilitation agency that use of apparatus is necessary to employment of any family member. • In a case where the disabled person is employed, statement from employer that apparatus is necessary for employment.	• Copies of receipts.	• Telephone or in-person contact with these sources documented in file by the owner.	• Evidence of periodic payments for apparatus.	• Not appropriate.	• The owner must determine if the expense is to be considered a medical or disability assistance.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Care attendant for disabled family members. *(Paragraph 5-10.C)*	• Written verification from attendant stating amount received, frequency of payments, hours of care. • Written certification from doctor or rehabilitation agency that care is necessary to employment of family member.	• Copies of receipts.	• Telephone or in-person contact with source documented in file by the owner.	• Cancelled checks indicating payment amount and frequency.	• Notarized statement or signed affidavit attesting to amounts paid.	• The owner must determine if this expense is to be considered a medical or disability assistance.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Child care expenses (including verification that a family member who has been relieved of child care is working, attending school, or looking for employment). *(Paragraph 5-10.B)*	• Written verification from person who provides care indicating amount of payment, hours of care, names of children, frequency of payment, and whether or not care is necessary to employment or education. • Verification of employment as required under Employment Income. • Verification of student status (full or part-time) as required under Full-Time Student Status.	• Copies of receipts	• Telephone or in-person contact with these sources (child care provider, employer, school) documented in file by the owner.	• Cancelled checks indicating payments. • For school attendance, school records, such as paid fee statements that show that the time and duration of school attendance reasonably corresponds to the period of child care.	• For verification of "looking for work," details of job search effort as required by owner's written policy.	• Allowance provided only for care of children 12 and younger. • When same care provider takes care of children and disabled person, the owner must prorate expenses accordingly. • Owners should keep in mind that costs may be higher in summer months and during holiday periods. • The owner must determine which family member has been enabled to work. • Care for employment and education must be prorated to compare to earnings. • Costs must be "reasonable."

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Citizenship *(See Chapter 3, Paragraph 3-12)*					• Citizens must sign declaration certifying U.S. Citizenship.	• Owners may require applicants/residents to provide verification of citizenship.
• Current net family assets. *(See Chapter 5, Paragraph 5-7.C)*	• Verification forms, letters or documents received from financial institutions, stock brokers, real estate agents, employers indicating the current value of the assets and penalties or reasonable costs to be incurred in order to convert nonliquid assets into cash.	• Passbooks, checking, or savings account statements, certificates of deposit, property appraisals, stock or bond documents, or other financial statements completed by financial institution. • Copies of real estate tax statements, if tax authority uses approximate market value. • Copies of real estate closing documents that indicate distribution of sales proceeds and settlement costs.	• Telephone or in-person contact with appropriate source, documented in file by the owner.	• Quotes from attorneys, stockbrokers, bankers, and real estate agents that verify penalties and reasonable costs incurred to convert asset to cash.	• Notarized statement or signed affidavit stating cash value of assets or verifying cash held at applicant's home or in safe deposit box.	• Use current balance in savings accounts and average monthly balance in checking accounts for last 6 months. • Use cash value of all assets (the net amount the applicant would receive if the asset were converted to cash). • **NOTE:** This information can usually be obtained simultaneously when verifying income from assets and employment (e.g., value of pension).

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Disability status. *(Paragraph 3-28.B)*	• Verification from *appropriate source of information* stating that individual qualifies under the definition of disability.	• Not appropriate.	• Telephone or in-person contact with medical professional verifying qualification under the federal disability definition and documentation in the file of the conversation.	• Not appropriate.	• Not appropriate.	• If a person receives Social Security Disability solely due to a drug or alcohol problem, the person is not considered disabled under housing law. A person that does not receive Social Security Disability may still qualify under the definition of a person with disabilities. • Owners must not seek to verify information about a person's specific disability other than obtaining a professional's opinion of qualification under the definition of a person with disabilities.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Dividend income and savings account interest income. *(See Chapter 5, Paragraph 5-7)*	• Verification form completed by bank.	• Copies of current statements, bank passbooks, certificates of deposit, if they show required information (i.e., current rate of interest). • Copies of Form 1099 from the financial institution, and verification of projected income for the next 12 months. • Broker's quarterly statements showing value of stocks/bonds and earnings credited to the applicant.	• Telephone or in-person contact with appropriate party, documented in file by the owner.		• Notarized statement or signed affidavit stating dividend income and savings account interest income.	• The owner must obtain enough information to accurately project income over next 12 months. • Verify interest rate as well as asset value.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Employment Income including tips, gratuities, overtime. *(See Chapter 5, Paragraph 5-5.A and C and Paragraph 5-6.)*	• *EIV Income Report (mandatory)* • Verification form completed by employer. See Paragraph 9-10 for situations when this method of verification must be used prior to verifying through an original or authentic document generated by a third-party source.	• W-2 Forms, if applicant has had same employer for at least two years and increases can be accurately projected. • Paycheck stubs or earning statements.	• Telephone or in-person contact with employer, specifying amount to be paid per pay period and length of pay period. Document in file by the owner.		• Notarized statements or affidavits signed by applicant that describe amount and source of income.	• *It is mandatory that the EIV Income Report be used as third-party verification of employment and income (24 CFR 5.233).* • Always verify: frequency of gross pay (i.e., hourly, biweekly, monthly, bimonthly); anticipated increases in pay and effective dates; overtime. • Require most recent *4-6* consecutive pay stubs; do not use check without stub. • For a fee, additional information can be obtained from The Work Number 800-996-7556; First American Registry 800-999-0350; and Verifax 800-969-5100. Fees are valid project expenses. Information does not replace third-party verification.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Family composition. *(See Chapter 3, Paragraph 3-27)*	• None required.	• None required.	• None required.	• Birth certificates • Divorce actions • Drivers' licenses • Employer records • Income tax returns • Marriage certificates • School records • Social Security Administration records • Social service agency records • Support payment records • Utility bills • Veterans Administration (VA) records		• An owner may seek verification only if the owner has clear written policy.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources: Third Party: Written [b and d]	Acceptable Sources: Third Party: *Provided by Applicant[a]	Acceptable Sources: Third Party: Oral[c]	*Provided by Applicant	Self-Declaration	Verification Tips
• Family type. (Information verified only to determine eligibility for project, preferences, and allowances.) *(See Chapter 3, Paragraph 3-28)*	• Disability Status: statement from physician or other reliable source, if benefits documenting status are not received. See paragraph 3.25 B.1 for restrictions on this form of verification. • Displacement Status: Written statement or certificate of displacement by the appropriate governmental authority.		• Telephone or in-person contact with source documented in file by the owner.	• Elderly Status (when there is reasonable doubt that applicant is at least 62): birth certificate, baptismal certificate, social security records, driver's license, census record, official record of birth or other authoritative document or receipt of SSI old age benefits or SS benefits. • Disabled, blind: evidence of receipt of SSI or Disability benefits.	• Elderly Status: Applicant's signature on application is generally sufficient.	• *When* the applicant receives income or benefits for which elderly or disabled status is a requirement, such status must be verified. • Status of disabled family members must be verified for entitlement to $480 dependent deduction and disability assistance allowance. • Owner may not ask the nature/extent of disability.
• Full-time student status (of family member 18 or older, excluding head, spouse, or foster children). *(See Chapter 5, Paragraph 5-6.A.3)*	• Verification from the Admissions or Registrar's Office or dean, counselor, advisor, etc., or from VA Office.		• Telephone or in-person contact with these sources documented in file by the owner.	• School records, such as paid fee statements that show a sufficient number of credits to be considered a full-time student by the educational institution attended.	• Not appropriate.	

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Immigration Status. *(See Chapter 3, Paragraph 3-12)*	• Verification of eligible immigration status must be received from DHS through the DHS SAVE system or through secondary verification using DHS Form G-845.		• None.	• Applicant/resident must provide appropriate immigration documents to initiate verification.	• Noncitizens must sign declaration certifying the following: Eligible immigration status; or Decision not to claim eligible status.	• Owners must require noncitizens requesting assistance to provide verification of eligible immigration status.
• *Immigration Status (SSN) Individuals who do not contend eligible immigration status under the Section 221(d)(3) BMIR, Section 202 PAC, Section 202 PRAC, Section 811 PRAC programs (See Chapter 3, Paragraph 3-9.A)*					• *Self-certification that they do not contend eligible immigration status.*	• *This verification is for exemption of the requirement to disclose and provide verification of a SSN when an individual does not contend eligible immigration status only for the programs listed in the Factor to be Verified column.*

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Income maintenance payments, benefits, income other than wages (i.e., welfare, Social Security [SS], Supplemental Security Income [SSI], Disability Income, Pensions). *(See Chapter 5, Paragraph 5-6)*	• * EIV Income Report for Social Security benefits (mandatory) * • Award or benefit notification letters prepared and signed by authorizing agency.	• Current or recent check stubs with date, amount, and check number recorded by the owner. • Award *or benefit* letters or computer printout from court or public agency. • Most recent quarterly pension account statement.	• Telephone or in-person contact with income source, documented in file by the owner. • **NOTE:** For all oral verification, file documentation must include facts, time and date of contact, and name and title of third party.	• Copies of validated bank deposit slips or bank statements, with identification by bank.	• Notarized statement of income received other than wages.	• *It is mandatory that the EIV Income Report be used as third-party verification of the Social Security benefit income received (24 CFR 5.233).* • Checks or automatic bank deposit slips may not provide gross amounts of benefits if applicant has deductions made for Medicare Insurance. • Pay stubs for the most recent four to six weeks should be obtained. • Copying of U.S. Treasury checks is not permitted. • Award letters/printouts from court or public agency may be out of date; telephone verification of letter/printout is recommended.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Interest from sale of real property (e.g., contract for deed, installment sales contract, etc.) *(See chapter 5, Paragraph 5-7.G.7)*	• Verification form completed by an accountant, attorney, real estate broker, the buyer, or a financial institution which has copies of the amortization schedule from which interest income for the next 12 months can be obtained.	• Copy of the contract.	• Telephone or in-person contact with appropriate party, documented in file by the owner.	• Copy of the amortization schedule, with sufficient information for the owner to determine the amount of interest to be earned during the next 12 months. • **NOTE:** Copy of a check paid by the buyer to the applicant is not acceptable.	• Notarized statement of interest from sale of real property.	• Only the interest income is counted; the balance of the payment applied to the principal is merely a liquidation of the asset. • The owner must get enough information to compute the actual interest income for the next 12 months.

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[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Medical expenses. *(See Chapter 5, Paragraph 5-10.D)*	• Verification by a doctor, hospital or clinic, dentist, pharmacist, etc., of estimated medical costs to be incurred or regular payments expected to be made on outstanding bills which are not covered by insurance.	• Copies of income tax forms (Schedule A, IRS Form 1040) that itemize medical expenses, when the expenses are not expected to change over the next 12 months. • Receipts, or pay stubs, which indicate health insurance premium costs, or payments to a resident attendant. • Receipts or ticket stubs that verify transportation expenses directly related to medical expenses.	• Telephone or in-person contact with these sources, documented in file by the owner.	• Copies of cancelled checks that verify payments on outstanding medical bills that will continue for all or part of the next 12 months. • Cancelled checks which indicate health insurance premium costs, or payments to a resident attendant.	• Notarized statement or signed affidavit of transportation expenses directly related to medical treatment, if there is no other source of verification.	• Medical expenses are not allowable as deduction unless applicant is an elderly or disabled family. Status must be verified.
• Need for an assistive animal. *(See Chapter 3, Paragraph 3-29)*	• Letter from *appropriate third party unless the need is readily apparent or already known*.					• If the owner's policy is to verify this need, owner must implement policy consistently.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources: Third Party: Written [b and d]	Acceptable Sources: Third Party: *Provided by Applicant[a]*	Acceptable Sources: Third Party: Oral[c]	Acceptable Sources: *Provided by Applicant*	Acceptable Sources: Self-Declaration	Verification Tips
• Net Income for a business *(See Chapter 5, Paragraph 5-6.H).*	• Not applicable.	• Form 1040 with Schedule C, E, or F. • Financial Statement(s) of the business (audited or unaudited) including an accountant's calculation of straight-line depreciation expense if accelerated depreciation was used on the tax return or financial statement. • For rental property, copies of recent rent checks, lease and receipts for expenses, or IRS Schedule E.	• Not applicable.	• Any loan application listing income derived from business during the preceding 12 months.	• Notarized statement showing net income for a business.	
• Recurring contributions and gifts. *(See Chapter 5, Paragraph 5-6.G)*	• Notarized statement or affidavit signed by the person providing the assistance giving the purpose, dates, and value of gifts.	• Not applicable.	• Telephone or in-person contact with source documented in file by the owner.	• Not applicable.	• Notarized statement or affidavit signed by applicant stating purpose, dates, and value of gifts.	• Sporadic contributions and gifts are not counted as income.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Self-employment, tips, gratuities, etc. *(See Paragraph 5-5.C and Paragraph 5-6.H)*	• None available.	• Form 1040/1040A showing amount earned and employment period.	• None available.		• Notarized statement or affidavit signed by applicant showing amount earned and pay period.	

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources: Third Party[a] Written [b and d]	Third Party[a] *Provided by Applicant[a]	Third Party[a] Oral[c]	*Provided by Applicant	Self-Declaration	Verification Tips
• Social security number. *(See Chapter 3, Paragraph 3-31)*	• None required.		• None Required	• Original Social Security card • *Original document issued by a federal or state government agency which contains the name, SSN, and other identifying information of the individual* • Driver's license with SSN • Identification card issued by a medical insurance provider, or by an employer or trade union. • Earnings statements on payroll stubs • Bank statement • Form 1099 • Benefit award letter • Retirement benefit letter • Life insurance policy • Court records	• N/A	• Individuals who have applied for legalization under the Immigration Reform and Control Act of 1986 will be able to disclose their social security numbers but unable to supply cards for documentation. Social security numbers are assigned to these persons when they apply for amnesty. The cards go to DHS until the persons are granted temporary lawful resident status. Until that time, their acceptable documentation is a letter from the DHS indicating that social security numbers have been assigned.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources: Third Party[a] Written [b and d]	Third Party[a] *Provided by Applicant[a]	Third Party[a] Oral[c]	*Provided by Applicant	Self-Declaration	Verification Tips
• *Student Status (Section 8 only) (See Chapter 3, Paragraphs 3-13.A and 3-33.A)*	• *Enrolled full-time and/or part-time at an institution of higher education • Verification of independence from parents • Financial assistance received*				• *Signed declaration and certification of income from parents • Certification of income provided by parent or from persons not living in the unit with the student*	• *May also need to verify age; dependent children; marital status; tuition; veteran status and /or disability status.*
• *Student status (Section 221(d)(3) BMIR, Section 202 PAC, Section 202 PRAC and Section 811 PRAC) See Chapter 3, Paragraph 3-13.B and 3-33.B)*	• *Enrolled full-time and/or part-time at an institution of higher education • Verification of independence from parents • Financial assistance received*				• *Certification of income provided by parent or from persons not living in the unit with the student*	
• Unborn children.	• None required.		• None required.	• None required.	• Applicant/tenant self-certifies to pregnancy.	• Owner may not verify further than self-certification.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Unemployment compensation. *(See Chapter 5, Paragraphs 5-5.A, 5-6.J and Q)*	• *EIV Income Report (mandatory) * • Verification form completed by source.	• Copies of checks or records from agency provided by applicant stating payment amounts and dates. • Benefit notification letter signed by authorizing agency.	• Telephone or in-person contact with agency documented in a file by an owner.		• Notarized statement of unemployment compensation received.	• *It is mandatory that the EIV Income Report be used as third-party verification of employment and income (24 CFR 5.233).* • Frequency of payments and expected length of benefit term must be verified. • Income not expected to last full 12 months must be calculated based on 12 months and interim recertification completed when benefits stop.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Appendix 3: Acceptable Forms of Verification

Factor to be Verified	Acceptable Sources					Verification Tips
	Third Party[a]			*Provided by Applicant	Self-Declaration	
	Written [b and d]	*Provided by Applicant[a]	Oral[c]			
• Welfare payments (as-paid states only). *(See Chapter 5, Paragraph 5-6.K)*	• Verification form completed by welfare department indicating maximum amount family may receive. • Maximum shelter schedule by household size with ratable reduction schedule.		• Telephone or in-person contact with income source, documented in file by the owner.	• Maximum shelter allowance schedule with ratable reduction schedule provided by applicant.	• Notarized statement of welfare payments received.	• Actual welfare benefit amount not sufficient as proof of income in "as-paid" states or localities since income is defined as maximum shelter amount.
• Zero Income. *(See Chapter 9, Paragraph 9-11.D)*	• Not applicable.	• Not applicable.	• Not applicable.	• Not applicable.	• Applicant/Tenant self-certifies to zero income.	• Owners may require applicant/tenant to sign verification release of information forms for state, local, and federal benefits programs, as well as the HUD 9887 and HUD 9887-A. • Owners may require the tenant to reverify zero income status at least every 90 days.

[a]**NOTE**: Requests for verification from *a third party source* must be accompanied by a Consent to Release form *HUD-9887-A*.
[b]**NOTE**: If the original document is witnessed but is a document that should not be copied, the owner should record the type of document, any control or serial numbers, and the issuer. The owner should also initial and date this notation in the file.
[c]**NOTE**: For all oral verification, file documentation must include facts, time and date of contact, and name and title of the third party.
[d*]**NOTE:** For use of EIV Income Reports as third party verification of employment and income a current Consent for Release form HUD-9887 must be on file.*
[c*]**NOTE:** See examples and requirements found in Paragraph 5-13.B.1

Exhibit 5-1: Income Inclusions and Exclusions

24 CFR 5.609(b) and (c)

Examples included in parentheses have been added to the regulatory language for clarification.

INCOME INCLUSIONS

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a **periodic amount (e.g., Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action). See paragraph (13) under Income Exclusions for an exception to this paragraph;**

(5) Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, except as provided in paragraph (3) under Income Exclusions;

(6) Welfare Assistance.

(a) Welfare assistance received by the family.

(b) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities. the amount of welfare assistance income to be included as

income shall consist of:

(c) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(d) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regularr contributions or gifts received from organizations or from persons not residing in the dwelling; and

(8) All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided in paragraph (7) under Income Exclusions.

(9) For Section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.)*, from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph "financial assistance" does not include loan proceeds for the purpose of determining income. *(Note: This paragraph also does not apply to a student who is living with his/her parents who are applying for or receiving Section 8 assistance.)*

INCOME EXLCUSIONS:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children or foster adults (usually persons with disabilities unrelated to the tenant family, who are unable to live alone);

(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, except as provided in paragraph (5) under Income Inclusions;

(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;

(5) Income of a live-in aide, as defined in 24 CFR 5.403;

(6) The full amount of student financial assistance paid directly to the student or to the educational institution (see Income Inclusions (9), above, for students receiving Section 8 assistance);

(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm);

(8) (a) Amounts received under training programs funded by HUD (e.g., training received under Section 3);

(b) Amounts received by a person with a disability that are disregarded for a limited time for purposes of supplemental security income eligibility and benefits because they are set-aside for use under a Plan to Attain Self-Sufficiency (PASS);

(c) Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(d) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the project. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident-initiative coordination. No resident may receive more than one such stipend during the same period of time; or

(e) Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as a resident management staff person. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.

(9) Temporary, nonrecurring, or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era);

(11) Earnings in excess of $480 for each full-time student 18 years or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of $480 per adopted child;

(13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts;

(14) Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;

(15) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(16) Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the *Federal Register* and distributed to housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

The following is a list of income sources that qualify for that exclusion:

(a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 [b]);

(b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058) (employment through AmeriCorps, Volunteers in Service to America [VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);

(c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626[c])

(d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

(e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624[f]);

(f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552[b]; (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 [29 U.S.C. 2931], e.g., employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs, career intern programs, Americorps);

(g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L-94-540, 90 Stat. 2503-04);

(h) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);

(i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

(j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056[f]), e.g., Green Thumb, Senior Aides, Older American Community Service Employment Program;

(k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

(m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

(n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, including advanced earned income credit payments (26 U.S.C. 32[j]);

(o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

(p) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637[d]);

(q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

(r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and

(s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

Exhibit 5-2: Assets

NOTE: There is no asset limitation for participation in HUD assisted-housing programs. However, the definition of annual income includes net income from family assets.

A. Net Family Assets include the following:

1. Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in foreign countries are considered assets.

2. Revocable trusts. Include the cash value of any revocable trust available to the family. See discussion of trusts in paragraph 5-7 G.1.

3. Equity in rental property or other capital investments. Include the current fair market value less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.).

   NOTE: If the person's main business is real estate, then count any income as business income under paragraph 5-6 G of the chapter. Do not count it both as an asset and business income.

4. Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts. Interest or dividends earned are counted as income from assets even when the earnings are reinvested. The value of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after rent is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received. The tenant may request an interim recertification at any time thereafter that a decrease in stock value may result in a decrease in rent.

5. Individual retirement, 401K, and Keogh accounts. These are included when the holder has access to the funds, even though a penalty may be assessed. If the individual is making occasional withdrawals from the account, determine the amount of the asset by using the average balance for the previous six months. (Do not count withdrawals as income.)

Example – Withdrawals from a Keogh Account

Ly Pham has a Keogh account valued at $30,000. When she turns 70 years old, she begins drawing $2,000 a year. Continue to count the account as an asset. Use the guidance in paragraph 5-7 to determine the cash value and imputed income from the asset. Do not count the $2,000 she withdraws as income.

6. Retirement and pension funds.

a. While the person is employed. Include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs. Follow paragraph 5-7 G.4 of the chapter on determining the value of assets.

b. At retirement, termination of employment, or withdrawal. Periodic receipts from pension and retirement funds are counted as income. Lump-sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income, as provided below.

(1) If benefits will be received in a lump sum, include the lump-sum receipt in net family assets.

(2) If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.

(3) If the individual initially receives a lump-sum benefit followed by periodic payments, count the lump-sum benefit as an asset as provided in the example below and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.

NOTE: This paragraph and the example below assume that the lump-sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump-sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.

Example – Retirement Benefits as Lump-Sum and Periodic Payments

Upon retirement, Eleanor Reilly received a lump-sum payment of $15,000. She will also receive periodic pension payments of $350 a month.

The lump-sum amount of $15,000 is generally treated as an asset. In this instance, however, Eleanor spent $5,000 of the lump sum on a trip following her retirement. The remaining $10,000 she placed in her mutual fund with other savings. The entire mutual fund will be counted as an asset.

The owner has verified that Eleanor is now not able to withdraw the balance from her pension. Therefore, the owner will count the $350 monthly pension payment as annual income and will not list the pension account as an asset.

7. Cash value of life insurance policies available to the individual before death (e.g., the surrender value of a whole life policy or a universal life policy). It would not include a value for term insurance, which has no cash value to the individual before death.

8. Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. Personal jewelry is NOT considered an asset.

9. Lump-sum receipts or one-time receipts. (See paragraph 5-6 **P** for additional information on what is counted as a lump-sum receipt and how to treat lump-sum receipts.) These include inheritances, capital gains, one-time lottery winnings, victim's restitution, settlements on insurance claims (including health and accident insurance, worker's compensation, and personal or property losses), and any other amounts that are not intended as periodic payments.

10. A mortgage or deed of trust held by an applicant.

    a. Payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset.

    b. This combined figure needs to be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)

    c. To count the actual income for this asset, use the interest portion due, based on the amortization schedule, for the 12-month period following the certification.

    d. To count the imputed income for this asset, determine the asset value **as of the effective date of the certification**. Since this amount will continually be reduced by the principal portion paid during the previous year, the owner will have to determine this amount at each annual recertification. See the following example:

Example – Deed of Trust and Imputed Income

Computation of imputed income:
An elderly tenant sells her home and holds the mortgage for the buyer. The cash value of the mortgage is $60,000. The combined payment of principal and interest expected to be received for the upcoming year is $5,000. The amortization schedule breaks that payment into $2,000 in principal and $3,000 in interest. In completing the asset income calculation, the cash value of the asset is $60,000, and the projected annual income from that asset is $3,000. **The imputed income would be calculated by multiplying the cash value of $60,000 by the 2% imputed passbook rate.** Each subsequent year, the cash value of the asset should be reduced by the principal portion paid. In this example, it would be reduced to $58,000 in the following year ($60,000 – $2,000 principal payment = $58,000). **When calculating the imputed income for the following year, the owner would multiply the cash value of $58,000 by the 2% passbook savings rate.**

Regulatory References

(These references are current as of the date of publication. Readers should refer to the latest edition of the Code of Federal Regulations.)

24 CFR part 5.603 defines net family assets as follows:

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and the equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. . . . . In determining net family assets, owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

B. Net family assets **DO NOT** include the following:

IMPORTANT: The owner does not compute income from any assets in this paragraph.

1. Personal property (clothing, furniture, cars, wedding ring, other jewelry that is not held as an investment, vehicles specially equipped for persons with disabilities).

2. Interests in Indian trust land.

3. Term life insurance policies (i.e., where there is no cash value).

4. Equity in the cooperative unit in which the family lives.

5. Assets that are part of an active business. "Business" does NOT include rental of properties that are held as investments unless such properties are the applicant's or tenant's main occupation.

Example – Assets that are Part of an Active Business

- Laura and Lester Hines own a copier and courier service. None of the equipment that they use in their business is counted as an asset (e.g., the copiers, the FAX machines, the bicycles).
- Alice Washington rents out the home that she and her husband lived in for 42 years. This home is not an active business asset. Therefore, it is considered an asset and the owner must determine the annual income that Alice receives from it.

6. Assets that are NOT effectively owned by the applicant. Assets are not effectively owned when they are held in an individual's name, but (a) the assets and any income they earn accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.

   NOTE: Nonrevocable trusts (i.e., irrevocable trusts) are not covered by this paragraph. See information on nonrevocable trusts in paragraph 5-7 G.1.

Example – Assets not Effectively Owned by the Applicant

Net family assets do not include assets held pursuant to a power of attorney because one party is not competent to manage the assets, or assets held in a joint account solely to facilitate access to assets in the event of an emergency.

Example: Alexander Cumbow and his daughter, Emily Bornscheuer, have a bank account with both names on the account. Emily's name is on that account for the convenience of her father in case an emergency arises that would result in Emily handling payments for her father. Emily has not contributed to this asset, does not receive interest income from it, nor does she pay taxes on the interest earned. Therefore, Emily does not own this account. If Emily applies for assisted housing, the owner should not count this account as her asset. This asset belongs to Alexander and would be counted entirely as the father's asset should he apply for assisted housing.

7. Assets that are not accessible to the applicant and provide no income to the applicant. Nonrevocable trusts are not covered under this paragraph. See information on nonrevocable trusts in paragraph 5-7 G.1.

Example

A battered spouse owns a house with her husband. Because of the domestic situation, she receives no income from the asset and cannot convert the asset to cash.

Utility Allowance Procedures for LIHTC Properties

Background

Low-Income Housing Tax Credit (LIHTC) property owners must include the cost of all Resident-paid utilities to a third-party utility provider based on Resident usage in the gross rent charged to Residents. To do this, Owners must obtain a utility cost allowance for all buildings in their LIHTC property. The applicable utility allowance must then be deducted from the applicable Maximum Tax Credit Rent Limit to determine the maximum rent that can be paid by a Resident.

FOR NEW PROJECT APPLICANTS

Commission allocation policies allow for new 9% and 4% LIHTC project applicants to seek points for using either an Energy Consumption Model or an Actual Usage Estimate model for calculating the project's utility allowance amounts. (available for review on our website, at http://www.wshfc.org/mhcf/index.htm, under both 9% Housing Credit and Bond/Tax Credit Policies).

A. ENERGY CONSUMPTION MODEL:

Applicants wishing to use the Energy Consumption Model must submit documentation of the proposed qualified third party engineer and the plan for using the model. The third party engineer must be approved by the Commission prior to submitting the application. Their plan must identify the utilities to be modeled (electricity, natural gas, water, wastewater), the platform of the model, and the methodology to be used in the model. Regardless of what utilities are covered under the energy consumption model, the total utility allowance amounts for the project must include all utility costs borne by the Residents. At a minimum, the energy consumption model must address electricity. Applicants are encouraged to use the energy consumption model for natural gas (if applicable), water and wastewater, though this is not required to receive points.

B. ACTUAL USAGE ESTIMATE MODEL:

Applicants wishing to use the Actual Usage Estimate Model must submit documentation of Resident utility usage and the completed Actual Usage Model forms from the Commission's website (http://www.wshfc.org/managers/ManualTaxCreditIndex.htm#O). If the applicant is using a third party engineer to complete the analysis, the engineer must be approved by the Commission prior to submitting the application. Regardless of what utilities are covered under the actual usage model, the total utility allowance amounts for the project must include all utility costs borne by the Residents. At a minimum, the actual usage model must address electricity. Applicants are encouraged to use the model for natural gas (if applicable), water and wastewater, though this is not required to receive points.

The utility allowance amounts resulting from either of the above models may be used in the development of the application, but are not required. If a project is selected to receive a LIHTC allocation, the applicant will be expected to use the results of the energy consumption or actual usage estimate model for project underwriting. **Note: The models and resulting utility allowance calculations submitted as part of a LIHTC application will not be formally reviewed or approved by Commission staff at the time of application.** The applicant must submit proposed

utility allowance amounts resulting from the energy consumption or actual usage estimate model for review and approval by Commission staff, in accordance with this Appendix, between 90 and 120 days before the expected Placed-in-Service date for the first project building (for new construction) or the start of the initial credit period for acquisition and rehabilitation projects.

Projects Excluded from Submitting Alternate Method Utility Allowance Requests

Properties meeting any of the following conditions are not eligible to submit energy consumption, HUD Utility Schedule model or actual usage-based utility allowance estimates:

1. Properties with uncorrected noncompliance issues as determined by the Commission.
2. HUD and RD regulated properties. These properties are required to use estimates provided or approved by HUD or RD.

Note that these prohibitions apply to new projects as well as existing properties.

Benefits of Using More Accurate Utility Allowances

Utility allowances published by a Public Housing Authority (PHA) might not reflect actual usage at individual LIHTC properties. PHA allowances base costs on a portfolio average of utility usage at typically older, energy-inefficient properties. As a result, Owners may need to reduce rents due to inflated utility allowances. In some cases, this can result in potential negative cash flow issues that affect the long-term viability of their LIHTC property.
Any change of utility allowance method used at a property must be approved by Commission staff prior to implementation.

Available Utility Allowance Methods

For the following four methods, WSHFC does not require a separate utility allowance review or review fee prior to implementation. Utility allowance schedules/documentation for these methods should be included in the annual report package submitted yearly for each covered property.

1. **Rural Housing Service Properties**. Buildings receiving assistance from RHS must use the allowances provided by RHS for all rent restricted units in the building.

2. **HUD Regulated Properties**. Buildings that receive HUD rental assistance or are required to have rents and utility allowances reviewed regularly by HUD must use the HUD provided utility allowance for all rent restricted units. If buildings are restricted by both HUD and RHS, the RHS numbers are used for those buildings.

3. **Local Utility Company Estimate.** An Owner may obtain an estimate in writing from the local utility company that offers services to that building. The estimate must be provided on the utility company's letterhead, be dated and signed by a representative of the utility company, reference the property, include each size unit at the property, and document that

the estimate is based on 12 months of usage at the current utility rates, including any applicable taxes and fees. *If the utility company does not have data on unit sizes*, the Owner may provide the bedroom size for each unit to the utility company for use in developing the estimates.

4. **Public Housing Authority Estimates.** This is the most common utility allowance Method used by LIHTC properties. Most PHAs in Washington publish estimates that are readily available. Links to PHA utility allowance schedules are available on the WSHFC website at http://www.wshfc.org/managers/utility.htm.

For the following methods, the Commission requires a review fee to be paid *prior* to review and approval of the proposed method. **Once the initial utility allowance estimate has been reviewed by the Commission, there is no fee associated with subsequent yearly adjustments based on utility rate changes.** If a third party is used to produce the estimates, the party must be approved by the Commission prior to engagement.

5. **Owner Estimate, Similar Buildings.** This is no longer a separate method and is included within the Actual Usage Estimate and Energy Consumption Model methods.

6. **Actual Usage Estimate**. An Owner may propose utility allowances for each building in a property based on average actual usage data and local utility company rates for the building(s). Using average usage data (kilowatts, therms, or gallons) provided by the local utility company for each unit, the Owner may calculate an average utility estimate for each unit size. The Owner must use data from a minimum number of units of each bedroom size to develop the utility allowance for that unit size (see Attachment C for details). If the project includes multiple buildings, the Owner must use consumption data from units in each building. Owners with less than 12 months of consumption data may use data from a similar building until 12 months of consumption data is available. At that point, the Owner must submit a request to the Commission to change the utility allowance estimate based on actual usage at that building or to use another method.

Owners intending to use this method are expected to carefully review ***Attachment C - Actual Usage Estimate Guidance*** at the end of this Appendix and complete ***Attachment D – Utility Allowance Spreadsheet***. Note: If the utility rates vary by season please contact the Commission for an alternate *Utility Allowance Spreadsheet*.

7. **HUD Utility Schedule Model.** An Owner may calculate a utility allowance using the HUD Utility Schedule Model, found at http://www.huduser.gov/portal/resources/utilallowance.html. Owners who use this model will need to document the source and content of all factors entered into the model. This estimate may be produced by the Owner or a licensed, professional third party.

8. **Energy Consumption Model.** An Owner may provide a utility allowance estimate using an energy and water sewage consumption analysis model. The model must take into account factors including unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The utility estimate should also take into account property type, climate and degree-day variables by region in the State and local

utility rates. This estimate **must be calculated by an independent licensed engineer or other qualified third party approved by the Commission**.

Alternately, the third party may base the model on the characteristics of a property with existing buildings of similar size and construction in the geographic area of the building(s). To use a similar building model, the Owner or third party must document that the two buildings have substantively similar characteristics.

Submitting Alternate Utility Allowance Model Requests on Newly Placed-In-Service (PIS) Properties

Owners must use Methods 1, 2, or 4 (as applicable) until the Commission has approved the use of an alternate method.

How to Change or Update a Utility Allowance

- A request to switch to Methods 1, 2, 3 or 4 should be submitted via email to the Portfolio Analyst assigned to monitor the property. This request can come from the property Owner or property Manager.

- All alternate utility allowances derived by Methods 3, 6, 7 or 8 must be updated within 12 months of the previous utility allowance effective date, to account for current utility rates. If there has been no change in rates, the Owner must provide documentation of no change. Utility allowances based on PHA schedules must be implemented within 90 days of the PHA's effective date.

- A request to use **Methods 6, 7, or 8 must be submitted via email to our third-party utility allowance consultant, ArchEcology, LLC, at uasubmissions@archecology.com**.

  - This request must come from the property Owner. The initial request submission must include the following:
    1. *Owner Utility Estimate Checklist* (see Attachment A to this Appendix).
    2. *Owner Certification of Utility Estimate* (see Attachment B to this Appendix).
    3. All supporting documentation

    Note: All final estimate amounts must be rounded UP to the next whole dollar.

- The Check for the review fee (see **Review Fees** section below) should be mailed to the AMC Division Manager at WSHFC,1000 2nd Avenue, Suite 2700, Seattle, WA 98104. The check should clearly state property name, property OID, and 'Utility Review Fee' on the payment stub.

- Once a property has been approved for an alternate allowance (Method 6, 7 or 8), a switch back to the local PHA allowance (Method 4) can only be made at the 12 month anniversary

date for the allowance. Should an Owner wish to later switch back to the alternate utility method they would need to start the approval process over and pay a new review fee. Changes back to an alternate utility allowances are not allowed for five (5) years.

- If the Owner is using a third party to calculate the estimate (Actual Usage, HUD Utility Schedule Model, Energy Consumption method), **the Commission must approve the third party in advance of the Owner submitting the estimate request**. To obtain approval, the third party must:

    1. Submit a response to the Commission's Request for Qualifications – Energy Modeling Consultants (RFQ), available on our website at: http://www.wshfc.org/energy/rfqEnergyConsultingModeling.pdf; or
    2. Have already submitted a response to the RFQ and be included on the Commission's Approved Roster of Energy Modeling Consultants.

- In all situations, the Owner must provide sufficient documentation to Commission staff, in the manner required by staff, to support calculations.

- **All utility usage data and utility rates used to calculate the estimate must be no more than 60 days old when submitted to the Commission for review.** This requirement is part of the IRS utility allowance legislation and cannot be waived.

- When changing or updating utility allowances based on Methods 6, 7, or 8, the Owner must make the proposed amounts available to Residents for comment **90 days before implementation** (i.e., the effective date of the proposed rates and any resulting change in rents). Information must also be submitted to the Commission 90 days prior to the implementation date.

    - Note: If a Resident notice is not issued 90 days before the proposed effective date for an initial submission, the initial effective date may be delayed until the 90 day period has expired. If a Resident notice is not issued 90 days before the anniversary date of a UA renewal and the UA decreases (allowing for a rent increase), the rent increase may not be implemented until the 90 day period and Resident notice of rent increase have expired. If the UA increases (requiring a rent decrease if charging maximum rent), the corresponding rent decrease must be instituted by the UA anniversary date. If a delay in the UA submission causes any Resident to pay rent in excess of the Tax Credit maximum rent limit this will constitute material noncompliance (Federal and/or State depending on the income set-asides affected) and the Owner will be required to reimburse residents for any overage.

Example Timeline:
Better Housing Group recently implemented major energy efficiencies at Happy Valley Apartments. Now BHG wants to change their utility allowance estimate for the property from the local PHA estimate to an energy consumption model estimate. They want to make the new utility allowance effective as of January 1, 2016. In August 2015, BHG contacts WSHFC staff requesting approval of their proposed third party vendor, Energy Savers Inc. BHG submits the

required documentation and WSHFC approves ESI to complete the energy consumption estimate for BHG.

ESI completes their analysis in September 2015, applying the most current utility company rates to their usage estimates. BHG issues a written notice to all Happy Valley residents on October 1, 2015, notifying them of the revised utility allowance amounts with the effective date of January 1, 2016.

On October 1, 2015, BHG submits all required documents and a check for required fees to WSHFC's Asset Management & Compliance Division Manager. WSHFC reviews the utility estimate change proposal and returns approval to BHG in writing prior to November 2, 2015. BHG's new utility allowance estimate will be in place from January 1, 2016 through December 31, 2016. BHG will need to issue any applicable rent change notices as required by state law.

During September 2016 (and every year thereafter), BHG reviews the estimate – if local utility company rates have changed, BHG must apply the new rates to the usage estimate and reissue a 90 day notice to their residents as of 10/1/2016. The adjusted utility allowance then becomes effective January 1, 2017. At the time BHG issues the 90 day notice to their residents, they must also send a copy of the notice with the revised utility allowance amounts to WSHFC for review and approval. However, once the initial usage estimate has been reviewed by WSHFC, there is no fee associated with subsequent yearly adjustments based on utility company rate changes.

Review Fees

For initial review and approval of Methods 6, 7 and 8, the Commission requires Owners to pay a non-refundable fee of $3 per low-income unit in the project, or $100, whichever is greater. **ArchEcology will not begin the review process until payment from the Owner is received by the Commission.** As previously noted, no fees will be required in subsequent years to process annual renewals using the same method. ***Fees are subject to change without prior notice.***

Approvals, Denials and Denial Review

Owners who submit complete and accurate information will receive a notice from ArchEcology on behalf of the Commission approving the Owner's utility allowance within 30 days of receipt. Questions or requests for additional information will be emailed by ArchEcology to the Owner and Property Manager within 30 days of request submission. Owners who do not receive an approval letter or email request within 30 days should contact ArchEcology. Non-receipt of an approval letter or email request is not considered evidence of Commission/ArchEcology approval.

Residents have the right to question approved utility estimates. Residents who do not believe the estimate represents appropriate utility usage must submit copies of their bills to their Resident Manager for review.

If the Commission/ArchEcology denies the Owner's request, the Owner will receive an email from either the Commission or ArchEcology describing the reason for denial. The Owner must then

submit the most current local Public Housing Authority estimates for the project within 30 days of denial and implement any changes based on those allowances within 90 days.

Commission staff may deny a request to use a specific utility allowance for the following reasons:

1. The project is excluded from applying for any conditions described in ***Projects Excluded*** paragraph (or otherwise discovered at the time of our review) at beginning of this Appendix.
2. ArchEcology determines that information submitted is incomplete or insufficient to accurately determine allowances.

The Owner may request a review of any denial by the Division Manager. The decision of the Division Manager will be final and not subject to further appeal.

Failure to use the Commission approved or mandated utility estimate at a property may result in material noncompliance reportable to the IRS. In the case of either Federal or State noncompliance, the Commission may impose additional requirements or restrictions on the Owner prior to approving any new LIHTC allocations or bond issuances.

Changes to these Procedures

These procedures are subject to change at any time by the Commission based on staff experience and/or Commissioner guidance. These procedures may also be suspended or amended based on additional IRS clarification, guidance or changes to regulations.

The following associated Attachments are available on our website on the *Tax Credit Compliance Manual* web page, under the *Appendix O* section:

A. *WSHFC Owner Utility Estimate Checklist* (Methods 6-8)

B. *WSHFC Owner Certification of Utility Estimate* (Methods 6-8)

C. Actual Usage Estimate Guidance (Method 6 only)

D. *Utility Allowance Spreadsheet* (Method 6 only – Excel file)

Attachment A

WSHFC Owner Utility Estimate Checklist – Methods 6-8

(To be completed and included with submission)

Property Name: _____ **OID #:** _____

Email to ArchEcology:

☐ Cover letter from authorized signer requesting approval of proposed rates (initial submission only). Letter needs to outline Method used, proposed UA effective date, and when property is anticipated to start leasing up if it is under construction.

☐ For Methods #6 and #8, (renewals only) copy of Commission approval letter that shows usage factors.

☐ *WSHFC Owner Certification of Utility Estimate* including the proposed utility averages, by bedroom size and building. The averages must include a breakdown of numbers by utility type and a comparison of proposed numbers to current PHA numbers, as well as previous year utility allowances for the property.

☐ Copy of current utility company rate schedule.

☐ Copy of current utility bill for a vacant unit at the property or at another property within the same city to determine any applicable local taxes or fees assessed in addition to the utility company rates. If this is not available, then provide alternate documentation of the same.

☐ For Method #6, Actual Usage Estimate (initial submission only), a completed Utility Allowance Spreadsheet (Excel file) (see our website)) including all units in the project, with actual monthly usage and billing data for all continuously occupied units.

☐ For Method #6, (initial submission only) copies of actual usage data from the applicable utility company(ies) for each continuously occupied unit in the project, covering the most recent 12-month period. If utility company data is not available, indicate so in the Owner cover letter and explain how information was collected and summarized.

☐ For Method #8, (initial submission only) a certification from the previously approved Qualified Professional explaining their analysis and findings. The analysis must explain how they addressed each required component as outlined in this Appendix and in Section 1.42-10 of the Code.

☐ For Method #7, include the source and copies of back-up documentation for all factors entered into the HUD Utility Schedule Model. Also include a printed copy of all inputs into the model.

☐ Copy of the notice to residents showing the date notice of proposed utility allowance change was posted for viewing/comment.

Mail to the Commission (Attention: AMC Division Manager):

☐ Processing Fee of $3 per low-income unit in the project, with a minimum fee of $100 per project. Check should have a clear notation of property name, property OID, and 'Utility Review Fee' on payment stub.

Attachment B

WSHFC Owner Certification of Utility Estimate

(To be completed and included with submission)

Property Name: _____ **OID #:** _____ **Effective Date:** _____

I, _____ , certify that the documentation provided in this submission is complete and accurate regarding actual utility costs associated with the above named project. I understand that the Commission or the Commission's Designee may require additional information to substantiate the estimates provided herein. I also certify to the following:

1. I am the authorized signer for the above named project.
2. I certify that there is not a Rural Development or HUD contract at the property that requires that agency to review and approve the utility allowance.
3. I am proposing to use the following alternate utility allowance method (check one):
   ☐ Method 6, Actual Usage ☐ Method 7, HUD Model ☐ Method 8, Energy Model
4. I have personally reviewed the documentation provided for this estimate and believe it to be accurate.
5. I acknowledge that if the proposed methodology is not approved, I must implement appropriate Public Housing Authority utility allowance amounts for the property.
6. If this is a newly constructed property, I certify that the utility company(ies) used to calculate the estimate are those that will be servicing the property. Should a utility provider change, I will notify the Commission immediately.
7. Estimates are based only on utilities that are sub-metered to residents where residents receive a monthly bill specific to usage in their unit.
8. *(For Method 6, Actual Usage only)* The estimate includes only continuously occupied units (50 or more weeks) in the most recent 12-month period (data is current within two months of submission).
9. *(For Method 6, Actual Usage only)* All units in the project are listed on the enclosed spreadsheet. Any units not included in the estimate have the reason listed on the spreadsheet.

Based on submitted documentation, I certify that the correct monthly average utility estimates for the above named project are as follows:

Utility Type	Unit Type	PHA Allowance	Current Allowance	Proposed Allowance

_____ _____

Printed Name Signature

_____ _____

Title Date

ATTACHMENT C
Actual Usage Estimate Guidance

1. **Consumption Data**

When requesting to use Method 6 – Owner Estimate, Actual Usage Data, Owners must provide **actual utility company usage data** to support the proposed annual utility estimate for a particular project. The Owner must obtain copies of actual usage data/summaries from the utility company for units that were continuously occupied for the most recent full 12-month period. "Continuously occupied," for purposes of this estimate, includes all units that were occupied during the 12-month period for at least 50 of the 52 weeks.

If the Owner can document that the utility company will not provide copies of actual usage, copies of utility bills received directly from Residents are acceptable.

In order to use this method, the owner must provide actual usage data for at least 50% of the units for each unit bedroom size (after vacancies are taken out), with an overall minimum of 25% for each unit type. For example, if a property had 100 2-bedroom units and 100 3-bedroom units and 25 units of each size were vacant for more than 2 weeks, the sample would need to include at least 38 units of each type (100 – 25 = 75 / 2 = 37.5, rounded up to 38). If this minimum sample size cannot be obtained, a different utility allowance method must be used.

2. **Average Consumption by Unit Size**

The Owner must itemize monthly utility consumption and bills by unit in a spreadsheet (Attachment D) and calculate monthly averages by unit size. The Owner then develops the annual utility allowance for each unit size by taking an average of the monthly utility consumption (kilowatts, therms or gallons) and applying current utility rates to the consumption estimates for each unit size. In subsequent years, the Owner continues to use the approved consumption estimates and applies current rates to those estimates.

All units with the same number of bedrooms should be included in one average, regardless of the square footage (i.e., all one-bedroom units in one average). If a project has significant variances in square footage among a single bedroom size, e.g., 5 one-bedroom units at 500 square feet, and 5 one-bedroom units at 800 square feet, the Owner should contact ArchEcology to discuss the calculation methodology.

3. **Similar or Multiple Buildings**

Properties with similar type buildings may calculate one average for each bedroom type encompassing all buildings. Properties with different building types (townhouses vs. multi-story buildings for instance), with different heat sources, or built to significantly different building codes must calculate separate averages for each building type and each utility source.

4. **Accuracy**

For any units not included in the average, the Owner must submit the reason for exclusion – e.g., the units were not continuously occupied for the previous 12-month period.
The Owner must certify that all data and calculated estimates are complete and accurate. The Owner must also certify that all units included in the average are separately metered and billed to the Resident for that utility source. For example, water usage may not be billed to the Resident unless the unit is separately metered and billed directly to the Resident for their specific unit.

Actual Usage Data (Method #6) Spreadsheet Directions

General Instructions (see Appendix O in Compliance Procedures Manual for further directions):

- Itemize monthly usage by unit and calculate average by bedroom size.
- Only include units continuously occupied at least 50 of the 52 weeks during the 12-month period in the average.
- Averages must include the total average monthly cost to resident for the utility (including all taxes and fees) and the average kilowatts/usage per month.
- Units with the same number of bedrooms should all be included in one average, unless there is an extreme difference in square footage.
- Properties with similar type buildings may calculate one average for each bedroom type encompassing all buildings.
- Properties with different building types (townhouses vs. multi-story buildings for instance) or with different heat sources (electric vs. gas for instance) must calculate separate average for each building type and each utility source.
- For any unit not included in the average, the owner must submit the reason for exclusion - such as that the units were not continuously occupied for at least 50 of the 52 weeks during the 12-month period.
- Use a different file for each type of utility.
- There are three spreadsheets to complete (yellow tabs) and a sample of each spreadsheet for your reference (blue tabs).

Monthly Bills – Complete this spreadsheet first:

- Fill in the information in the yellow areas at the top (this information will auto fill to the usage spreadsheet). Replace "Month 1", "Month 2", etc with the month and year the data is for.
- Decide how to divide units into groups to average in accordance with the instructions above. Insert or delete rows on the template to accommodate the size of the groups between the blue rows to use the existing average formulas. Important: Insert/delete the same number of rows on the Usage spreadsheet to keep unit types grouped together and the average calculations intact as the unit information will auto fill onto that spreadsheet.
- Enter the unit number, number of bedrooms and square footage for units in each group that were occupied at **least 50 of the 52 weeks during the 12-month period** (this information will auto fill to the usage spreadsheet so you only have to do this once). Note units that were vacant for more than 2 weeks in the "Comments" column – they will not used to calculate the averages. Also note any other units not included and why they were not included.
- Enter the cost per month for the utility in the columns marked with the applicable months for those units occupied at least 50 weeks during the 12-month period. If the utility is billed on a bi-monthly basis, then fill in the cost for the months the billings were received and leave the columns where no bills were received blank.
- The average column (colored in blue) will calculate the monthly average for each unit.
- The average for each group will calculate (blue row) and appear in the Comment column. Insert the unit size before the "Average =".

Usage – Complete this spreadsheet second:

- The top seven rows and the unit information will be filled in with the information entered on the Monthly Bills spreadsheet.
- Enter the usage for the utility (kilowatt hours or therms for example) in the yellow columns marked with the applicable months for those units occupied at least 50 weeks during the 12-month period. If the utility is billed on a bi-monthly basis, then fill in the cost for the months the billings were received and leave the columns where no bills were received blank.
- The average column (colored in blue) will calculate the monthly average for each unit.
- The average for each group will calculate (blue row) and appear in the Comment column. Insert the unit size before the "Average =".

Apply Rates to Usage – Complete this spreadsheet last:

- Fill in the information in the yellow areas. Some of the information will come from the Monthly Bills and Usage spreadsheet and the rest will come from the utility provider's rate sheet. Note: you may need to contact the utility provide to inquire about applicable taxes.
- The utility allowance will round up to the next whole dollar.
- Compare the utility cost calculated with the average billings. These numbers should be close unless there has been a rate change in the prior 12 months, or an upcoming rate change was factored into the utility cost calculation. If these numbers are significantly different, provide documentation of any rate changes.

Explanation of Washington State Housing Finance Commission's Special-Needs Housing Commitments

(Verify with your property's Regulatory Agreement [RA])

Special Needs Commitment	Definition	Initial Lease-Up	Re-Leasing of Units	Table 1 Special-Needs Commitment Codes*
Elderly	a. 55 or older b. 62 or older c. RD or HUD Definition	a. Age 55, one person per household b. 62 and older only, all residents c. Elderly or Disabled per agreement	Same rules as initial lease-up	No code necessary. Note that the Elderly Commitment can be paired with any other Special-Needs Commitment because Elderly covers 100% of the project.
Disabled	One qualifying resident per Household. Disabled resident may occupy a Market rate unit. (No double-counting D and L).	Disabled only	30-day rule when below threshold	**(D)** 10% or 20% Disabled set-aside
Large Household	3 or more BR's; 4 or more individuals, not necessarily related. (No double-counting D and L.)	Large Household only	30-day rule when below threshold	**(L)** 10% or 20% Large Household set-aside
Farmworker	For definitions and additional explanations, see ***Farm Work Household Initial Certification*** **and** ***Farm Work Reference*** forms on our website at http://www.wshfc.org/managers/forms-RC.htm Farmworker properties are required to complete a ***Farm Work Move-In Report***. Form is available from our website at http://www.wshfc.org/managers/forms-tc.htm#farm.	Farmworker only	30-day rule when below threshold	**(F)** 75% or More Farmworker set-aside **(FL)** 75% or more Farmworker property with Large Household set-aside **(FD)** 100% Farmworker property with Disabled set-aside (Properties with OID number 01-and prior only - check Regulatory Agreement) **(FH)** 75% or more Farmworker property with Homeless set-aside
Transitional	Section 42 Code rules for Transitional. See **Tax Credit Compliance Manual** ***Glossary*** for definition. Properties with Transitional/Homeless units must complete a ***Homeless/Transitional Report.*** Form is available at: http://www.wshfc.org/managers/forms-tc.htm	Transitional only	Transitional only	**(T)** Transitional Building **(TD)** 75% or more Transitional property with Disabled set-aside **(TL)** 75% or more Transitional property with Large Household set-aside
Homeless	Commission's set-aside. See **Tax Credit Compliance Manual** ***Glossary*** for definition. Properties with Transitional/Homeless units must complete a ***Homeless/Transitional Report*** (see above).	Homeless only	Homeless only	**(H)** 10% or 20% or 75% Homeless set-aside **(HD)** 75% or more Homeless property with Disabled set-aside **(HL)** 75% or more Homeless property with Large Household set-aside

* More information is available in ***Chapter 3-Washington State Requirements,*** and in ***Appendix A-Glossary*** of the **Tax Credit Manual** at http://www.wshfc.org/managers/ManualTaxCreditIndex.htm

Note that all Special-Needs Commitments (with the exception of Transitional) are considered to be "once qualified, always qualified," as long as at least one member of the originally qualified household continues to reside in the unit.

If your property does not have enough households to meet "D", "L" or "F" Commitments at the end of the reporting period, you must complete a ***Vacancy Report*** with your annual report materials. This form is available on our web site at: http://www.wshfc.org/managers/forms-tc.htm#vacancy

Income Averaging Guidelines

Preface

The guidelines contained in this Appendix are based on the Commission's best understanding of current IRS regulations concerning this federal election. These guidelines will change when/if the IRS issues additional guidance or new regulations pertaining to Income Averaging. This guidance is not intended to provide, and should not be relied on for, any tax, legal or accounting advice. Owners should consult their own tax, legal, accounting and other advisors prior to choosing Income Averaging as their project's federal election.

Background

The Consolidated Appropriations Act of 2018 signed into law on March 23, 2018, established Income Averaging (IA) as a third federal election (minimum set-aside) for tax credit projects. This new election allows projects to designate units as low as 20%, and as high as 80% of Area Median Income (AMI), as long as the average AMI of all project units, as defined in line 8b on IRS Form 8609, is at or below 60% of AMI.

Projects Ineligible for Income Averaging

- Any mixed income (i.e., project with both affordable and market-rate units) project
- Any currently existing project considering a tax credit resyndication (though IA can be chosen as a federal election to be effective **after** the initial Regulatory Agreement has expired)

Statutory Requirements

- An Owner electing IA must commit to having at least 40% of the units in the project affordable to eligible households whose income does not exceed 60% of AMI.
- IA applies to the designated income and rent levels of the units, not the incomes of individual resident households. The designations must be in 10% increments, up to 80% of AMI, i.e., 20% AMI, 30% AMI, 40% AMI, 50% AMI, 60% AMI, 70% AMI, or 80% AMI.
- IA applies to both income and rent limits. If a unit has a designated limit of 20% of AMI, the maximum rent level that may be charged to a household is the commensurate 20% of AMI rent limit.
- The minimum set-aside election is irrevocable once made on IRS Form 8609. Therefore, existing developments are not eligible to change their minimum set-aside/income election to income averaging.
- Income Averaging can be chosen as a federal election at resyndication, **but it is not effective until** the term of the first Regulatory Agreement has expired.

- The 30% of AMI income and rent level under the tax credit program for purposes of IA **is not the same** as the federal Extremely Low-Income and rent restriction under the National Housing Trust Fund. The tax credit 30% unit designation is calculated as a percentage of the 50% AMI.

Income Averaging Must Apply at the Project Level

- Owners electing IA must choose this election for all sites at a multi-site project, regardless of how many Regulatory Agreements are executed.
- Owners electing IA as the minimum set-aside for projects with more than one building must elect to treat each building as part of one multiple building project by selecting "yes" on line 8b of the IRS Form 8609. Owners must also attach a list showing all buildings at the property within one project.
- Selecting "yes" under 8b on the 8609 and including all buildings as part on the same project means that IA applies across the entire project rather than building by building.
- If credits are claimed prior to the issuance of 8609s by the Commission, Owners must provide a memo from the tax advisor who completed the Owner's tax return which confirms the elections that will be made on the 8609 forms submitted to the IRS (once they are issued by the Commission). Specifically, the memo must address how question 8b will be completed on each 8609 and what will be shown on the accompanying 8b election schedule.

Meeting the IA Election in the First Credit Year

If a project elects Income Averaging, it must rent a minimum of 40% of the units to eligible households whose applicable income set-asides average at or below 60% of AMI. The Commission's understanding is that any project meeting this requirement will have satisfied the minimum set-aside in the first year and the project will remain a qualified tax credit project.

Assigning AMI Set-Asides to Units

- The Commission does not require Owners to pre-assign a specific AMI to each unit in the Regulatory Agreement for an IA project.
- Owners may regularly modify AMI assignments across the project as long as the project-wide AMI average is maintained at or below 60% of AMI.
- Unit designations may not be changed to a higher designation during a qualified household's lease term unless the designation is made to correct previous noncompliance concerning the household's income qualification.
- The Commission does not require that Owners reassign households to a different AMI based on household income at the time of recertification.
- If the Owner makes additional low income set-aside commitments as part of their tax credit application, then those units must be rented at the prescribed AMI for the duration of the regulatory period.

Examples:
The tax credit application for Greenview Apartments notes a total of 100 units at the project. The application commits to setting aside 50% of the units for households at or below 30% of AMI. During the regulatory period, Greenview Apartments must continuously rent 50 units (50% of the total units) at or below 30% of AMI. The remaining 50 units can be rented at any combination of set-asides that, when combined with all the 30% units, does not cause the project-wide set-aside average to exceed 60% of AMI.

The tax credit application for Happy Valley Apartments notes a total of 72 units at the project. The application commits to setting aside 40% of the units for households at or below 60% of AMI. During the regulatory period, Happy Valley Apartments must continuously rent 29 units (40% of the total units) at or below 60% of AMI. The remaining 50 units can be rented at any combination of set-asides that, when combined with all the 60% units, do not cause the project-wide set-aside average to exceed 60% of AMI.

Unit Parity
Income set-asides should be reasonably distributed among all buildings, bedroom sizes and unit types at an IA project. Assigning a specific income set-aside to all units of a particular bedroom size does not constitute equitable distribution and may constitute a Fair Housing violation.

Maintaining the Project-Wide Average

The Commission expects tax credit project Owners and their agents to monitor their IA projects continuously throughout the year to ensure that the project-wide set-aside average never exceeds 60% of AMI.

As with other federal elections, the Commission will perform the minimum set-aside test for IA as of 12/31 each year. If the project fails the minimum set-aside as of 12/31, the Commission will report this as noncompliance to the IRS.

Compliance

Owners must annually complete the Commission's Income Averaging Worksheet and submit it with each IA project's annual report materials. The worksheet is available in the Reports section of the Commission's website. The worksheet must note the set-asides assigned to each unit (as of 12/31 of the reporting year) and must result in a project-wide AMI average at or below 60%. If the project is a 4% tax credit development, the worksheet must also show that the project is meeting its minimum **bond** set-aside as well.

The Owner must check the appropriate IA checkbox(es) in the Owner's Annual Certification form that is submitted with the Annual Report.

The Owner must use the tax credit income/rent limit set which applies to their property. Tax credit limits can be found on the Commission's website. HUD establishes tax credit income

limits at 20%, 30%, 40%, 50%,60%, 70% and 80% of AMI. The Commission then uses HUD-derived formulas to calculate all commensurate rent limits at each set-aside level.

Note that the Commission retains the right to request more or different documentation from the Owner in order to satisfy our monitoring requirements and ensure a tax credit project is in compliance with both federal and state regulations.

Noncompliance

If the Commission determines the project has one or more over-income households or households that have been overcharged rent, those instances of noncompliance will continue to be reported to the IRS under the Commission's current rules (see Chapter 7 of the Tax Credit Compliance Manual on our website).

In an IA project, any out-of-compliance household, **regardless of their AMI level**, is subject to reporting to the IRS. This is because all income set-asides in an IA project are considered federal set-asides; therefore, all income- or rent-related noncompliance is considered federal-level noncompliance.

Over-income households or rent overcharging may or may not impact the project-wide AMI average. The Commission will not report income- or rent-related noncompliance as a violation of the Federal Election **unless** such noncompliance causes a failure of the minimum set-aside test.

Changes to these Guidelines

These procedures are subject to change at any time by the Commission based on staff experience and/or Commissioner guidance. These procedures may also be suspended or amended based on additional IRS clarification, guidance or changes to regulations.