



Low-Income Housing Tax Credit (LIHTC) Compliance Manual

Guidance manual for compliance with the applicable laws, rules, regulations, and policies that govern Low-Income Housing Tax Credit (LIHTC) properties

Reference guide for the Administration of LIHTC developments

SOUTH CAROLINA STATE HOUSING
FINANCE AND DEVELOPMENT AUTHORITY

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INTRODUCTION

The mission of the South Carolina State Housing Finance and Development Authority (“SC Housing”) is to create quality affordable housing opportunities for the citizens of South Carolina. We expect to create and maintain a positive work culture that reinforces our mission, encourages innovation, and is based on a spirit of cooperation and teamwork. We will work to improve customer service and enhance employee performance by constantly reviewing processes and using technology. SC Housing will strive to develop mutually supportive relationships that expand our ability to provide affordable housing while enhancing the value of investments. We will actively seek new and innovative ideas to improve affordable housing opportunities throughout the State.

Established under the Tax Reform Act of 1986 and codified as Section 42 of the Internal Revenue Code, the Low-Income Housing Tax Credit Program (LIHTC) was created by Congress to promote the development of affordable housing for low-income individuals and families. It replaced other federal tax incentives for the production of affordable rental housing. Rather than a direct federally-appropriated subsidy, low-income housing credits encourage investment of private capital by providing a tax credit to reduce an investor’s federal tax liability. These federal income tax credits provide the private housing development community with incentive to develop affordable housing by offsetting development acquisition, new construction, or substantial rehabilitation costs. The amount of tax credit received is based on the costs of the development and the number of qualified low-income units, and can be subtracted on a dollar-for-dollar basis from federal tax liability.

The Internal Revenue Service (IRS) of the Treasury Department is responsible for interpreting the statutes regulating the LIHTC and makes all determinations about the loss or recapture of tax credits. Regulations for the Low-Income Housing Tax Credit Program can be found under Section 42 of the Internal Revenue Code (IRC). These statutes require each state to designate a "housing credit agency" to allocate the tax credits. SC Housing was designated as the Housing Credit Agency to administer the Low-Income Housing Tax Credit program in South Carolina on August 12, 1987, by Executive Order 87-25. A 1990 amendment to Section 42 of the Internal Revenue Code also required that States begin monitoring LIHTC developments for compliance with program

rules. In August 1993, Congress passed the Omnibus Budget Reconciliation Act of 1993 which permanently extended the LIHTC Program.

SC Housing's procedures for Compliance Monitoring have been established to conform to all currently applicable federal statutes and regulations. Statutory or regulatory change may require that these procedures be revised from time to time.

PURPOSE OF THE MANUAL

This manual is designed to be a reference guide for the administration of LIHTC developments in compliance with the applicable laws, rules, regulations and policies that govern tax credit developments. The staff of SC Housing also uses the manual as a program guide for administering its compliance monitoring procedures. We hope it will be a useful source of information for Owners, developers, management companies, and on-site management personnel; however, this manual is to be used only as a supplement to existing laws and regulations. Questions may arise that can only be answered adequately by referring to the regulations themselves.

The laws and regulations governing the LIHTC program as well as the interpretation of these laws can and do change. Owners and managers should keep abreast of all changes in relevant federal and state law that may affect their properties. This may require on-going consultation with legal counsel, tax professionals and/or financial advisors regarding the Owner's participation in the LIHTC Program.

Section 1.42-5(g) states, "Compliance with the requirements of section 42 is the responsibility of the Owner of the building for which the credit is allowable." SC Housing's monitoring efforts do not relieve the property Owner from his duty to obey all program rules. In addition, SC Housing's obligation to monitor for compliance with the requirements of Section 42 does not make SC Housing (or its officers and employees) liable for an Owner's noncompliance.

OWNER RESPONSIBILITIES

Each property Owner or developer has chosen to participate in the LIHTC program to take advantage of the tax benefits it provides. In exchange for these tax benefits, the Owner must meet requirements that are designed to ensure that the housing development will benefit a targeted section of the low-income population. While it is recognized that an Owner will usually assign most or all of their compliance related tasks to a property manager or property management company, the Owner still remains ultimately responsible for the development's compliance. The Owner must ensure that the on-site management team also understands and complies with all federal and state rules, regulations and policies that govern LIHTC developments. Owner responsibilities include, but are not limited to:

Required Owner Submissions

1. **Progress Reports and Notice of Project Changes** – It is the responsibility of the Owner or developer to keep SC Housing informed throughout all phases of development, rent-up and operation. This includes the construction phase during which Owners are responsible for sending SC Housing progress reports, notice of the scheduled placed-in-service date(s), and notices of any change(s) in the development's costs, financing, syndication, unit types, and completion schedule. The Low-Income Housing Program Manual and the Qualified Allocation Plan (provided to developers who are interested in applying for tax credits) describe the required progress reports. Until all buildings in a development have placed-in-service, all progress reports should be directed to: **SC Housing's Tax Credit Development Staff**.
2. **Submission of IRS Form(s) 8609 with Part II Completed** – The Owner is required to promptly submit completed and signed copies of IRS Forms 8609 (acquisition/rehab properties will have two 8609's for each building) for each building (BIN) to: **SC Housing's Compliance Monitoring and Tax Credit Development Staff**.

The Owner must communicate the impact of the following elections made on the 8609's and other information provided on the completed forms to the organization tasked with day to day management of the development:

- A. **Physical address of the building with corresponding Building Identification Number (BIN)** – It is essential that the correct physical

structure, including the units contained in the building, is linked to the correct BIN for accurate compliance testing and reporting of noncompliance. Linking physical buildings and units to an incorrect BIN creates avoidable noncompliance issues.

- B. Placed in Service Date (Item 5)** – Used with Item 10a to determine the 1st year of the credit period
 - C. Multi-Building Election (Item 8b)** – The Owner can choose to make buildings part of a multi-building development or individual single building developments. Should this election be unanswered on the 8609, the default election is that all buildings are individual single building projects. Overall, this election significantly impacts how many of the LIHTC rules and requirements are applied. Some of the specific areas impacted are:
 - i. The placed in service date
 - ii. Whether buildings are considered to be individual projects or are collectively one multi-building project
 - iii. Whether the minimum set aside is calculated for each individual building or across all buildings included in the multi-building election
 - iv. The applicable income/gross rent limits [based on placed in service date or date(s)]
 - v. Whether income averaging, if elected, is calculated within one building or across all buildings included in the multi-building election
 - vi. Whether household moves between buildings are considered to be transfers or move-outs and move-ins and whether over-income households can move between buildings
 - vii. Whether support units (manager/maintenance units) can be approved since the employee is required to work full-time at the property where the support unit is located or the IRS may determine the unit is not reasonably required
 - D. Deferral Election (Item 10a)** – By electing to defer, the Owner can choose to postpone claiming credits and the 1st year of the credit period to the year after placing in service.
 - E. Minimum Set-Aside Election (Item 10c)** – In order to receive an allocation of tax credits, the Owner must commit a specific percentage of the development to serving a defined segment of the low-income population
- 3. Notification of Initial Ownership/Management Entities and Subsequent Changes in Management Entities** – Prior to placing buildings in service, the developer or Owner is required to provide full information for the Ownership and Management Entities (i.e. company, tax id number, mailing address, email address, contact person and telephone number) that will be

tasked with the oversight of and performance of the day to day operations of the development. All changes that subsequently occur in the management entity or contact information must be promptly submitted, using form “Current Owner and Management Information Form” (See Forms Section) to: **SC Housing, Compliance Monitoring Staff.**

Beginning January 1, 2020, the Qualified Allocation Plan requires properties placing in service to submit the following for staff who are tasked with qualifying households:

- A. Copies of LIHTC Certification(s), issued by an industry-recognized National LIHTC Compliance Trainer or Training Group, for onsite staff – OR --
 - B. Documentation of attendance at a SC Housing LIHTC Compliance Training Workshop
4. **Emphasys Certification Portal Super User Authorization Form** -- The Owner is responsible for designating 1 Super User per management company. All changes that subsequently occur in the management entity or Super User designation must be promptly reported. The request can be sent to: **SC Housing’s Compliance Monitoring Staff.**
5. **Annual Owner Certification of Continuing Compliance (AOC-1)** – It is the responsibility of the Owner to certify to SC Housing at least annually that, for the preceding 12-month period, the development met the requirements of Section 42 of the Internal Revenue Code. This requirement is satisfied by the completion of an Annual Owner’s Certification. The Owner or an authorized Owner’s representative must sign the AOC-1 under penalty of perjury.
- An AOC-1 must cover the preceding calendar year, or any portion of the preceding year for which tax credits were claimed. If a transfer of ownership occurred, the entire calendar year must be covered. The previous Owner must submit an AOC-1 for the portion of the calendar year prior to the transfer and the new Owner must submit an AOC-1 for the balance of the year after the transfer. Annual Owner’s Certifications are due on or before February 1st of each year, following the first year of the credit period.
6. **Notification to SC Housing of Building Disposition** – It is the Owner’s responsibility to request approval from SC Housing for any proposed sale of LIHTC building, sale of ownership interest or any other disposition in any such

building. This request for approval or notification of disposal should be directed to: **SC Housing’s Tax Credit Development Staff.**

SC Housing is required to notify the Internal Revenue Service of any sale or dispositions involving LIHTC buildings using IRS Form(s) 8823. The form identifies four categories of building dispositions, listed below:

- A. Sale** – Types of activities that would constitute a “sale” (which does not necessarily involve the seller receiving money) include:
 - i. Fee Title Sale of Building – Fee title passes from the seller to a whole new entity (buyer)
 - ii. Termination of Partnership

 - B. Foreclosure** – Foreclosure is the legal process reserved by a lender to terminate the borrower’s interest in a property after a loan has been defaulted. On foreclosure, the Owner is deemed to have made a sale of the property for the outstanding amount of the mortgage debt.
 - i. Deed of Property in Lieu of Foreclosure – The Owner voluntarily conveys the property to the mortgage holder to avoid foreclosure proceedings

 - C. Destruction** – Destruction is related to a building’s physical structure, and not to the ownership interest in the building. Since destruction affects the building in its entirety, i.e. the eligible basis is reduced to \$0. The destruction is considered to be permanent and the building is not expected to operate as a tax credit project. Violations of the physical inspection standards, or casualty loss that are temporary in nature should not be reported as destruction, which is permanent.

 - D. Other** – Any event, not listed above, which results in the disposition of a low-income housing credit unit, building, or property.
7. **Notification to SC Housing of Casualty Loss** – Casualty loss is defined as damage to LIHTC units and/or buildings that is sudden, unexpected and not progressive or gradual in nature. It also does not include damage that results from an Owner’s negligence.
- A. Casualty Loss -- Presidential Disaster Declaration** -- It is the Owner’s responsibility to notify SC Housing of any loss or damage that occurs to LIHTC units and/or buildings as a result of a presidentially declared natural disaster as soon as possible after the loss event. Included with

the notification, SC Housing requires that the Owner submit: a narrative detailing the damage; estimates for repair; a proposed schedule/work plan for restoring damage or loss, and; a plan for any displaced households. The damage/loss must be restored within twenty-five (25) months after the month of the presidential declaration. At that time, corrected or uncorrected, casualty loss will be reported to the Internal Revenue Service using IRS Forms 8823.

B. Casualty Loss -- Not Subject to a Presidential Disaster Declaration

– Owners are required to notify SC Housing of any loss or damage that occurs to LIHTC units and/or buildings as soon as possible following a loss event with: a narrative detailing the damage; estimates for repair; a proposed schedule/work plan for restoring damage/loss, and; a plan for any displaced households. The damage/loss must be restored within twenty-four (24) months from the end of the taxable year of the damage/loss event. At that time, corrected or uncorrected, casualty loss will be reported to the Internal Revenue Service using IRS Forms 8823.

8. **Payment of Compliance Monitoring Fees** – Property Owners must pay SC Housing annual compliance monitoring fees, which as of January 1, 2024, are seventy dollars (\$70) for each LIHTC unit in the development. Initial compliance monitoring fees must be paid within 30 days from the date on which the building(s) place-in-service. For each of the following years through the end of the extended use period, fees are due on or before the first day of February. SC Housing will assess a ten percent (10%) late fee of the total outstanding balance for payments received after thirty (30) days from the date due. The minimum late fee assessed will be fifty dollars (\$50). A fee will be assessed for any checks that are returned to SC Housing for any reason. SC Housing reserves the right to make future adjustments in the amount of the annual monitoring fee as it deems necessary to defray the cost of compliance monitoring.

SC Housing no longer generates invoices or billing statements. A courtesy letter will be mailed to the Owner by year-end as a reminder of the due date for submission of compliance monitoring fees. If payment is for more than one development or year, all applicable information must be listed on the method of payment submitted including the Project Identification Number (SC-XXXXX). Checks should be made payable to: S.C. State Housing Finance and Development Authority and should be mailed to: **SC State Housing, Attention: Compliance Monitoring, 300-C Outlet Pointe Blvd, Columbia, SC 29210.**

NOTE: Owners and developers should take note that participation in SC Housing programs requires a certification of good standing. The failure to pay monitoring fees will bar any further participation in all programs administered by SC Housing and may result in the issuance of IRS Forms 8823 to the Internal Revenue Service.

Ongoing Owner Responsibilities

1. **Due Diligence** -- Due diligence is defined (Black’s Law Dictionary [6th ed. 1990]) as: “Such measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent person under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.” Due diligence is demonstrated in many ways, including (but not limited to) establishing strong internal controls. Strong internal controls (policies and procedures), identify, measure and safeguard business operation and avoid material misstatements of LIHTC property compliance or financial information. Strong internal controls are generally evidenced by:
 - A. Separation of duties
 - B. Adequate supervision of employees
 - C. Management oversight and review (internal audits)
 - D. Third party verifications of tenant income
 - E. Independent audits
 - F. Timely recordkeeping

2. **Low-Income Occupancy** – During the application process, the Owner/Developer submitted a representation of the proposed development. The Owner is considered for an allocation of credits based on this representation of low-income housing units that meet federal rent and income-targeting requirements. If the development is awarded credits, the development delivered is expected to be as represented in the application process. The criteria outlined in a given year’s Qualified Allocation Plan plus any additional restrictions, elected by the Owner/Developer during the application process, become part of the monitoring process. Monitoring activities will include review and verification of the following:
 - A. **Building/Unit Breakdown**
 - i. Number of buildings (residential, nonresidential, commercial)
 - ii. Number of total units (by bedroom size)
 - iii. Number of LIHTC units (by bedroom size)

- iv. Number of market units (identified by bedroom size & BIN), if applicable
- v. Number of support units (identified by bedroom size & BIN), if applicable
- vi. Number of special targeting units (SRO/Transitional, Handicapped Equipped, Large Family, Older Persons, Deeper Income/Rent Restricted, etc.)

B. Minimum Set Aside Test (See “Key Concepts”) – The Minimum Set-Aside must be satisfied before the Owner can claim credits and must continue to be satisfied through the end of the extended use period. The Owner must be aware of the impact of the multi-building election 8b on IRS Form 8609 with regards to the minimum set-aside. Minimum Set-Asides that are currently available in South Carolina are:

- i. **20/50 Election** -- 20 percent (20%) or more of the residential units in the development are both: rent-restricted at or below the applicable 50 percent (50%) Gross Rents Limits and occupied by households whose income is at or below the applicable 50 percent (50%) Income Limits
- ii. **40/60 Election** --40 percent (40%) or more of the residential units in the development are both: rent-restricted at or below the applicable 60 percent (60%) Gross Rents Limits and occupied by household whose income is at or below the applicable 60 percent (60%) Income Limits
- iii. **60% Average Income Election** -- 100 percent (100%) or more of the residential units in the development are both: rent restricted at or below the designated unit rent limit and occupied by households whose average income designation (between 20% AMGI to 80% AMGI) is at or below 60 percent (60%) Income Limits

In order to be included in the LIHTC minimum set-aside, a unit must be:

- i. Suitable for occupancy based on the Uniform Physical Condition Standards or any other habitability standard adopted by SC Housing in the future
- ii. Occupied by a qualified low-income household or last occupied by a qualified household and be currently market-ready and available for rental
- iii. Appropriately rent-restricted both on a monthly and annual basis, if occupied
- iv. Used on a non-transient basis (except for SRO/transitional housing)

v. Available to the General Public

C. Targeted Applicable Fraction/1st Year Applicable Fraction (See “Key Concepts”) – The targeted applicable fraction elected in the application process is applied on a project basis. The 1st year applicable fraction, however, is calculated on a building basis and is “locked” in at the end of the first year of the credit period. The applicable fraction in subsequent years must not fall below the applicable fraction established at the end of the first year of the credit period.

3. Recordkeeping and Record Retention – Federal statutes and regulations require that property Owners keep records for each building within a development. SC Housing may stipulate how records are to be prepared and maintained. Records must be retained by the Owner for at least 6 years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least 6 years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building (a minimum of 21 years). If a building (or development) is sold or otherwise transferred, the new Owner should obtain from the previous Owner all information related to the first year of the credit period so that they will be able to substantiate all tax credits claimed.

These records must include, but are not limited to, the following:

- A.** Applications for residency for all low-income households and recertification applications/questionnaires
- B.** Tenant Income Certifications (TIC) for each affordable unit
- C.** Third-party income verifications (Employment Verification) and/or other supporting documentation for each Certification
- D.** Documentation showing that full-time students are eligible to live in a LIHTC development
- E.** Properly executed leases indicating the rent charged for each LIHTC unit
- F.** Documentation of applicable utility allowances and any supporting data from Placed in Service Date to current

- G. Next Available Unit / Vacant Unit Table
 - H. Documentation to demonstrate that supportive services are of a regular, ongoing nature, are for the benefit of the resident and are provided free of charge, if applicable
 - I. Records which show the character and use of any nonresidential portion of the development included the development's eligible basis under Section 42(d)
 - i. Tenant facilities that are available on a comparable basis to all tenants
 - ii. Facilities are reasonably required by the development
 - J. Copies of executed IRS Forms 8609, Schedule A and Forms 8586 or other documentation filed with the IRS for the purpose of claiming the credit
 - K. Copies of all Annual Owner Certifications
 - L. Documentation to demonstrate marketing efforts, waiting lists, tenant selection criteria
 - M. Resident demographic information
4. **Determining, verifying and certifying household eligibility (See "Qualifying Households")** – This compliance responsibility is covered in greater detail in the later section of this manual.
 5. **Following program rules concerning over-income units & vacant units (See "Key Concepts")**
 6. **Ensuring that the units are available for use by the general public (on a non-transient basis, except for SRO/transitional housing)**
 7. **Appropriately restricting Gross Rents (including utilizing appropriate utility allowances) for low-income units (See "Qualifying Households")** -- In order to demonstrate that a program unit is acceptably rent-restricted, the total sum of the net tenant contribution, plus any fees which are ongoing, non-optional and non-refundable, plus the utility allowance cannot exceed the applicable Gross Rent Limit.

8. **Entering resident certification and re-certification data into external web-based Compliance Monitoring software (Emphasys Certification Portal)** -- Once the Super User has been trained, all tenant data must be updated monthly in the Certification Portal by the 10th of the following month. For new properties, Owner must designate a Super User within 30 days of the placed in service date. For transferring ownership, Owner must designate a Super User within 30 days of transferring ownership.

9. **Implementing formalized procedures for providing VAWA protections**
– HUD released final regulations concerning the Violence Against Women Act (“VAWA”) 2016 and 2017 (Federal Register Vol.81, No. 221 and HUD Notice H-2017-05). The 2016 reauthorization broadens the scope of impacted housing programs to include the LIHTC Program. While VAWA is not monitored as a compliance issue, any adjudicated negative finding in a Fair Housing case, resulting from improperly providing VAWA protections, must be reported to the Internal Revenue Service.

10. **Providing defined supportive services on an ongoing basis (if applicable)** – Developments receiving preference during the allocation process for providing Tenant Supportive Services will be examined during each Compliance Monitoring Review to verify that services have been implemented and are being delivered at regularly established intervals as described in the Owner’s Supportive Services Plan and/or accompanying exhibits. The Owner shall be responsible for providing information pertaining to Supportive Service(s) upon request or notification of a Compliance Monitoring Review.
 - A. Current categories of supportive services include:
 - i. Family Supportive Services/Tenant Ownership
 - ii. Older Persons Supportive Services
 - iii. Homeless / At Risk Supportive Services

 - B. Supportive Services may be modified subsequently to better serve the resident population. In order for a substitute to be approved, the Owner must provide the following:
 - i. Description of the proposed substitutionary service(s)
 - ii. Frequency of delivery of proposed service(s)
 - iii. Justification for modification of existing supportive service(s)

11. **Maintenance of the development** – On February 26, 2019, the IRS included, in its final compliance monitoring rules (Federal Register Vol. 84, No.

38), the requirement that site, buildings, common areas and units in the development be suitable for occupancy and free from threats to health and safety at all times. It was required that State Housing Authorities' compliance monitoring procedures include physical inspections of the development, buildings and a random sample of the program units. Housing Authorities may use local codes, HUD's Uniform Physical Condition Standards or any other habitability standards when performing the physical inspections. Major violations of health, safety and building codes (which can include, but are not limited to, items such as impaired structural integrity, exposed wiring, inoperable plumbing, inoperable smoke detectors etc.) are reportable to the Service on the IRS Form 8823. However, patterns of minor health and safety issues, those that require correction but do not impair essential services and safeguards for tenants, are also reportable to the IRS. It is the Owner's responsibility to ensure that the site, common areas, buildings and units are regularly inspected and that routine and preventative maintenance is performed. On-site staff performing the periodic inspections of occupied units should also identify and address with the resident those behaviors that will place a unit in noncompliance (disconnection or disabling of smoke detectors, unsanitary conditions, blocked ingress/egress, extension cords, telephone cords or cable cords running across a hallway, etc.). After being vacated, vacant units must be returned, within a reasonable period of time, to a condition suitable for occupancy. Should any vacant unit require additional time over and above the normal "turn" time, documentation should be kept at the site explaining the reason for the delay.

NOTE: The Owner's multi-building election impacts, usually by increasing, the required minimum sample size for monitoring reviews.

12. **Reporting Noncompliance to the Compliance Monitoring Staff** – The Compliance Monitoring Staff should be notified immediately upon the Owner's discovery of any noncompliance with LIHTC requirements. Most noncompliance issues are correctable and SC Housing will work with Owners to remedy noncompliance within a reasonable amount of time.

KEY CONCEPTS

The following, while not intended to cover every concept pertinent to the LIHTC program, will provide an overview of basic terms used in this manual to outline compliance responsibilities:

1. **Annual Income** – As defined in 24 CFR § 5.609, annual income is:
All amounts, monetary or not, that are anticipated to go to or to be 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 all amounts anticipated to be received from a source outside the family during the 12-month period following admission or annual recertification effective date; including amounts derived (during the 12-month period) from assets to which any member of the family has access. Household income is calculated in a manner consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937.

There has been much discussion within the industry concerning the absolute literal application of the Section 8 methodology of determining income. However, the Low-Income Housing Tax Credit Program has consistently, from its inception, included a maximum income test as part of its determination of eligibility. Since there are instances where the Section 8 methodology does not capture maximum income, SC Housing reserves the right to be more restrictive in its income determination methodology.

Income should be anticipated for the twelve-month period following certification/re-certification using current circumstances and factoring in reasonably anticipated changes that are verifiable. Reasonably anticipated changes would be future raises, bonuses, written offers of employment, future receipt of approved benefits, etc. SC Housing does not consider unsecured resident estimates of future earnings on affidavits of unemployment to be income, since these amounts are not verifiable and are speculative at best.

While the definition in 24 CFR § 5.609 specifically uses the term “family”, care must be exercised in applying this term too literally. There is no requirement in the LIHTC Program that occupants of low-income units be related in any manner. The broader term “household”, or any individual or group of individuals who choose to occupy a unit, should be applied instead. Income includes amounts received by the household on a recurring, periodic basis.

2. **Applicable Fraction** – The applicable fraction is calculated on a building by building basis. Using the most basic definition, the applicable fraction is the smaller of a building’s unit fraction (the number of low-income units divided by the total number of all residential units) or the building’s floor space fraction (the low-income floor space divided by the total residential floor space), determined as of the close of the taxable year. The first-year application fraction is established at the end of the first year of the credit period (the first-year credits are claimed). The actual applicable fraction at the end of the taxable year is used in the calculation of the annual credit. The actual annual applicable fraction must always be equal to or greater than the 1st year fraction.
3. **Assets** – As defined in 24 CFR § 5.603(b) and § 5.609(b)(3), net family assets are the net cash value that would be derived, after deducting reasonable costs incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land, the value and the equity accounts in HUD homeownership programs. 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 therefore. 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 received important consideration not measurable in dollar terms.
4. **Building Identification Number (“BIN”)** – The Building Identification Number is the nine-digit, alpha-numeric designation, assigned during the allocation process to each building that receives an allocation of credits. This number is used to identify a specific low-income building for purposes of tracking, monitoring and reporting noncompliance, both internally and to the IRS.
5. **Compliance Period** – The compliance period is the fifteen (15) year period, beginning with the first taxable year of the credit period (i.e. either the year the

project placed in service or if deferred, the year after placing in service, as declared in Part II of the IRS Form 8609). During the compliance period, the property is required to comply with requirements of both Section 42 and additional state regulatory documents and requirements [Section 42(i)(1)].

6. **Credit Period** – Generally beginning in the year that a building is placed-in-service, unless deferred, the credit period is usually the consecutive ten (10) year period of time during which credits can be claimed. The Owner may elect to defer claiming credits until the next year after placing a building in service. By the end of the calendar year following placing-in-service, however, the Owner must have satisfied the minimum set-aside and must begin claiming credits.

7. **Due Diligence** -- Due diligence is defined (Black’s Law Dictionary [6th ed. 1990]) as: “Such measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent person under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.” Due diligence is demonstrated in many ways, including (but not limited to) establishing strong internal controls. Strong internal controls (policies and procedures) are used to identify, measure and safeguard business operations and avoid material misstatements of LIHTC property compliance or financial information. These strong internal controls are generally evidenced by:
 - A. Separation of duties
 - B. Adequate supervision of employees
 - C. Management oversight and review (internal audits)
 - D. Third party verifications of tenant income
 - E. Independent audits
 - F. Timely recordkeeping

8. **Educational Institution** – An educational facility is defined as one that maintains a regular faculty and curriculum and which has a regularly enrolled body of students in attendance at the place where its educational activities are regularly conducted. This includes institutions that also offer courses via an on-line learning environment.

9. **Electronic Signatures** – In June 2020, SC Housing implemented guidance related to electronic signatures, as outlined in federal law, and reiterated in HUD’s Notice H20-4, “Electronic Signature, Transmission and Storage – Guidance for Multifamily Assisted Housing Partners”, dated May 26, 2020. Although the LIHTC Program is not administered by HUD, the publication does a good job in explaining federal law as it pertains to the acceptable use of electronic methods. (See Exhibit Section for a full copy of the notice).

NOTE: Electronic Signatures are not acceptable for use in the HOME Program.

10. **Extended Use Period** – After January 1, 1990, in addition to the federal minimum compliance period of fifteen (15) years, developments that received LIHTC allocations also became subject to an extended use period of a minimum of fifteen (15) years, as stipulated by a recorded Agreement As To Restrictive Covenants (“Extended Use Agreement”). Often states extend this requirement to retain affordable housing stock for a longer period of time. SC Housing currently allows the Owner/Developer to elect fifteen (15) or twenty (20) years as the extended use period. During this period of time, there may be a relaxation of specific requirements, which are outlined in our “Year 15 Policy” found on our website; however, all other compliance requirements remain intact. Prior to making any changes to compliance procedures during the extended use period, the Owner should confirm the extended use requirements with SC Housing’s Compliance Monitoring.
11. **Fees** – Generally, fees for services that are charged to the resident must be included in the gross rent calculation if the fee is non-refundable or the service is not optional (i.e. a condition of occupancy). For the purposes of the LIHTC Program, a service is considered optional when it is not a condition of occupancy and a reasonable alternative exists. Separate fees should not be charged for the use of tenant facilities if the costs of those facilities are included in the eligible basis. Owners are responsible for physically maintaining LIHTC units in a manner that is suitable for occupancy at all times; therefore, collecting advance non-refundable fees for returning a low-income unit to a market ready condition after occupancy is prohibited (i.e. refurbishment fees, redecorating fees, administrative fees, etc.). A standardized fee schedule for routine damages must be provided to residents during initial lease-up and during any subsequent lease renewal. These fees must be based on actual costs and may only be charged for damages in excess of normal wear and tear. Any

charge for damages for durable items (i.e. carpets, stove, refrigerator, etc.) must be pro-rated, based on the amount of time the item was in service, prior to the damage. The Owner may charge an application fee which is limited to actual, out of pocket expenses associated with the management screening and eligibility determination processes. This one-time application fee will not be included in the gross rent computation. In addition, any fee which is refundable (such as the security deposit fee) will not be included in the rent calculation.

Costs for Pest Infestations (including bed bugs):

In order to satisfy the “Standard of Habitability” that exists in state law:

- Owners are required to provide extermination services, as necessary;
- Residents are required to keep the unit clean, and;
- Residents may be charged for damages only when causation for damages can be clearly established due to carelessness, misuse or neglect on the part of the resident.

Shifting cost of extermination to the resident is not acceptable unless the Owner can demonstrate that the infestation was caused by carelessness or neglect on the part of a resident(s)

Due to the resurgence of bed bugs, the Environmental Protection Agency (“EPA”) and The Department of Housing and Urban Development (“HUD”) published “Clarification to Housing Notice H 20 12-5 Guidelines on Addressing Infestations in HUD-Insured and Assisted Multifamily Housing” in April 2019. In a collaborative effort to aid in bed bug treatment and prevention in affordable housing, the document outlines and recommends an Integrated Pest Management (“IPM”) plan, which includes:

- Resident education regarding housekeeping, cleanliness, acceptable furniture inspection, unit inspection, and identification of bed bugs to help residents identify and understand the importance of prevention and reporting (See Exhibits Section for full copy).
- The implementation by the Owner of a regular, proactive inspection and extermination program

- 12. File Organization** – Documentation must be contained in the resident file which demonstrates household eligibility for the LIHTC Program. The LIHTC documentation requirements are not removed or subrogated by the existence of other funding sources and their programmatic requirements. In addition, other funding sources may prohibit external review of their documentation by non-program personnel. Due to this, LIHTC compliance files should be

maintained separately. It is strongly recommended that the Owner establish a standardized, consistent file set-up which allows Monitoring Officers to more easily follow the trail of documentation in the resident file. Examples of some of the recommended documentation can be found in the Forms Section. Below is the recommended file set-up:

Section I	Section II
<p>Leases /Lease Renewals /Lease Addendums/Fee Schedule (in descending order from current to initial)</p> <p>Section 8 Documentation which provides the assistance payment and the tenant paid portion *</p> <p>(* if Section 8 Housing Choice Voucher holder)</p>	<p>Certification and Supporting Documentation (in descending order from current to initial, separated by certification years)</p>
	<p>Current Tenant Income Certification</p>
	<p>Verifications:</p>
	<p>Certification of Zero Income (must include an applicant or resident disclosure outlining how reasonable basic living expenses are currently being paid)</p>
	<p>Earned and Benefit Income (written 3rd party or documentation demonstrating why 3rd party couldn't be obtained; clarification records placed on top of verification being clarified)</p>
	<p>Asset Income:</p>
	<p>Under \$5000 Asset Certification (if cash value of all household assets does not exceed \$5000)</p> <p>*** If unit is HOME-assisted, this certification may not be used -- all assets must be 3rd party verified</p>
	<p>3rd Party Verification(s) of Assets (if cash value of all household assets exceeds \$5000)</p>
	<p>Disposal of Assets (written 3rd party, if difference exceeds \$1000)</p>
	<p>Student Affidavit(s) for adult household members – AND, if applicable --</p>
	<p>Documentation demonstrating qualification of full-time student households using one of the five eligibility exemptions/provisions given under Item #13 below, "Full-Time Student" – OR --</p>
	<p>PT Student Status Verification, through the educational institution</p>
	<p>Application/Recertification Application</p>
<p>Next Available Unit Documentation, if applicable</p>	

	VAWA Acknowledgements
	Integrated Pest Management Acknowledgments

- 13. Financial aid** – The inclusion or exclusion of financial aid does not indicate LIHTC eligibility. The student status of the household must be evaluated for eligibility in accordance with the LIHTC Full-Time Student Rule (for more information, see Item 14 below, “Full-time Student”). If the household is comprised completely of Full-Time Students, one of the five LIHTC eligibility exemptions must be satisfied in order for the household to be eligible to occupy a LIHTC unit. The following section applies only to determining income for those households, containing a student or students, full or part-time, which have already been determined to be program eligible with regards to student status.
- A.** For students, in a household that does not receive Section 8 assistance (i.e. Project-based assistance or who are assisted through the Housing Choice Voucher program), financial aid is **excluded** from annual household income.
 - B.** For those students, attending on a full or part-time basis, who are in a household receiving Section 8 assistance:
 - i.** **Exclude** the financial aid if the student is living with their parent(s) and the student is not the Head, or Co-Head
 - ii.** **Exclude** the financial aid if the student is over the age of twenty-three (23) and has a dependent
 - iii.** For those students who are Section 8 assisted but who do not meet the exclusions 1 or 2 previously listed:
 - a.** 3rd party verify student status and amount of tuition
 - b.** 3rd party verify financial aid income (other than loans)
 - c.** **Include** in household income the amount of financial aid in excess of tuition
- 14. Full-time Student** – The definition of a full-time student consists of three criteria. If all are met, the individual is considered to be a full-time student. These criteria are:
- A.** Currently attending, has attended or will attend an educational institution on a full-time basis for five or more months during the calendar year of certification or recertification, including a full-time course load offered through an on-line learning environment. (NOTE: Months do not have to

be consecutive and the entire month must be included if students attend one day in the month)

- B. Attending, attended or will attend at the first grade level or higher (includes elementary, junior and senior high schools, colleges, universities, technical, trade and mechanical schools) , including a full-time course load offered through an on-line learning environment
- C. The individual is considered, by the educational institution, to be a full-time student

The student status of every household member, including minors but not including unborn children, must be considered when determining whether the household is comprised completely of full-time students. Unborn children cannot be used as a non-student in order to qualify an otherwise ineligible full-time student household. Unborn children may be included as household members only to determine household size and the applicable income limit. Should a household member, in an otherwise full-time student household, report a part-time student status, their status must be verified with the educational institution and re-verified every time there is an opportunity to add or delete classes.

Generally, a household that is comprised completely of full-time students is not eligible to occupy a LIHTC program unit. There are, however, five exemptions to the student rule that will, if properly satisfied, qualify a full-time student household for the LIHTC program. Please note, however, that all exemptions must be carefully verified and thoroughly documented. All documentation must be available for review in the resident's eligibility file.

Student status eligibility is never “grandfathered” in. Applications and Recertification Questionnaires must ask about current student statuses and any future changes to student statuses. A previously LIHTC-eligible full-time student household becomes immediately ineligible when none of the following five exemptions listed can be satisfied:

- A. **Households, comprised of a single individual who is a full-time student, may be eligible if the student is:**
 - i. **Currently receiving Title IV of the Social Security Act (Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services)** – The Personal Responsibility and Work Opportunity Act of 1996 replaced the Aid to Family with Dependent Children program (“AFDC”) with the Temporary

Assistance to Needy Families Program (“TANF”). While the code specifically addresses only AFDC, SC Housing has recognized TANF as a substitute. Other forms of assistance, other than TANF, will not qualify a full-time student household under this exemption. SC Housing requires documentation in the resident file to demonstrate that the exemption has been satisfied (i.e. a Department of Social Services household benefit printout showing receipt of TANF).

- ii. **An individual previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or part E of title IV of the Social Security Act**– Applies to eligibility determinations made after 07/30/08 (i.e. the enactment date of the Housing and Economic Recovery Act of 2008). Until the IRS releases additional guidance, SC Housing will view previous placement as being placed at any time in the past, regardless of the length of time since placement. SC Housing requires documentation in the resident file to demonstrate that this exemption has been satisfied (i.e. written documentation from the placement agency).
- iii. **Currently enrolled in a job training program under the Job Training Partnership Act (JTPA) or under other similar Federal, State or other local program** – The Workforce Investment Act of 1998 repealed the federally funded JTPA; however, there are other federal, state and local programs which are considered to be comparable. In order to determine if a program is considered comparable, it must receive federal, state or local funding and the program’s intent and mission statement must be carefully compared with that of the JTPA program which reads:

It is the purpose of this Act to establish programs to prepare youths and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased education and occupational skill, and decreased welfare dependence, thereby improving the quality of the workforce and enhancing the productivity and competitiveness of the Nation.

SC Housing requires documentation in the resident file to demonstrate that this exemption has been satisfied (i.e. proof of participation, the program’s intent and mission statement, etc.).

B. Households, comprised entirely of full-time students, may be eligible if the students are:

- i. **Single parents with children and such parents are not dependents (as defined in Section 152, determined without regard to subsections (b)(1), (b)(2) and (d)(1)(B) of the Internal Revenue Code) of another individual and such children are not dependents (as so defined) of another individual other than a parent of such children** – H.R. 3648, the Mortgage Forgiveness Debt Act of 2007, effective December 20, 2007, amends this exemption by allowing full-time student households comprised of a single parent with children to qualify for the LIHTC Program, even if the absent parent claims the children as a dependent for tax purposes. SC Housing requires documentation in the resident file to demonstrate that this exemption has been satisfied (i.e. copy of tax return showing the status of the child/children for tax purposes).
- ii. **Married and entitled to file a joint tax return** – Per recent guidance by the Service, a married couple who is entitled to file a joint tax return, but has not filed one, will still satisfy this exemption. SC Housing requires documentation to be contained in the resident file demonstrating that this eligibility provision has been satisfied (i.e. copy of a joint tax return and marriage certificate).

15. Gross Rent Floor Election – The LIHTC program creates a gross rent “floor” for projects that received an initial allocation of credits after 1989 ensuring that the Maximum Allowable Rent would never decrease below this limit. Pursuant to Revenue Procedure 94-57, the Internal Revenue Service will treat the gross rent floor in Section 42(g)(2)(A) of the Code as taking effect on the date SC Housing initially allocated* credits to the property, unless the Owner designates the date the property places in service as the date on which the gross rent floor will take effect for such property.

(*If the property is financed with tax-exempt bonds as defined by Section 42(h)(4)(B), the Service will treat the gross rent floor as taking effect on the date SC Housing initially issues a determination letter unless the Owner designates that the placed-in-service date should be used.)

16. **Housing and Economic Recovery Act of 2008 (HERA)** – On July 30, 2008, Congress enacted sweeping legislative changes to the LIHTC and Tax-Exempt Bond programs intended to alleviate some of the financial hardships being experienced by investors, developers and Owners. The specific impact of the legislation on compliance concepts will be discussed in various sections of this manual.
17. **Household Composition** – As a general rule, a “household” consists of individuals who choose to reside together in a unit, including temporarily absent members. A household may consist of unrelated members.
- A. For LIHTC purposes, all occupants are considered in the household size for determining the applicable income limit, except for the following:
- i. **Live-in Aides/Attendants** – For persons with disabilities, near-elderly or elderly persons, a live-in attendant lives is an individual who is determined essential to the care and well-being of the resident in order to allow them to live independently.

The live-in aide/attendant must:

- Be deemed necessary by a health care provider; and,
- Live in the unit only to provide necessary supportive services.

The live-in aide/attendant cannot:

- Be either obligated for the support of the resident or be financially dependent on the resident.

The live-in aide/attendant must sign documentation acknowledging that:

- They do not have rights of survivorship;
- Should the resident vacate the unit for any reason, they must also vacate the unit; and,
- The Owner has the right to evict if they violate any provisions of the lease.

While a relative may be considered to be a live-in aide/attendant, the spouse or minor children of the individual requiring care may never be live-in aides/attendants.

The income of a live-in aide is not included in the household’s income. Documentation to support the satisfaction of these conditions must be present in the resident file or the income of the

live-in aide will be added to household income as of the date of the live-in aide's initial occupancy.

- ii. **Foster Children/Adults** – Foster children are in the legal guardianship or custody of a State, County, or private adoption or foster care agency, yet are cared for by foster parents in their own homes under a foster care arrangement with the custodial agency. A foster adult is usually an adult with a disability who is unrelated to the household and who is unable to live alone.
- iii. **Guests** – A guest is a visitor, temporarily staying in the unit with the consent of the household
- iv. **Permanently absent household members** – A permanently absent household member is an individual no longer lives in the unit and there is no reasonably expected date of return

B. When determining family size for income limits, the Owner must include the following individuals who are not living in the unit:

- i. Children temporarily absent due to placement in a foster home
- ii. Children in joint custody arrangements who are present in the household more than 50% or more of the time

If disputed, a determination should be made as to which parent claimed the children as dependents for purposes of filing a federal income tax return

- iii. Children who are away at school but who live with the family during school recesses
- iv. Unborn children of pregnant women (as self-certified by the woman)
- v. Children who are in the process of being adopted
- vi. Military personnel, out of town or country, with a spouse or dependent still living in the household
- vii. A family member, in the hospital or a rehabilitation facility for periods of limited or fixed duration
- viii. For persons permanently confined to a hospital or nursing home, the household may decide if such persons are included when determining household size for income limits.

If including the permanently confined person as a member is chosen, the Owner must also include income and asset income received by the confined person when calculating household income.

C. **Changes to Household Composition** – If additions to or deletions from the household are contemplated, the resident must be required, through the use of appropriate lease provisions, to inform the Owner or Owner’s representative of the proposed change.

i. **Additions to the household** – Due diligence must be demonstrated by accurately determining initial household eligibility and by implementing strong policies and procedures to deter manipulation of these requirements. Additions of adult household members during the initial certification period should be avoided. However, the Owner must develop and implement clearly-defined procedures which address the few, valid circumstances when the addition of household members is permissible during this period of time. Failure to demonstrate sufficient due diligence will result in the additional household member’s income being included in certified income at the time of move-in.

All income associated with the new household member which is not expressly excluded by regulation, must be verified and added to the existing certification. The effective date of the existing certification does not change. The new total household income must be compared to the applicable income limit at the time of addition, based on the new household size. If household income exceeds 140% of the applicable income limit, the Next Available Unit Rule will be triggered [IRC §42(g) (2) (D)].

Additional household members may continue to be added as long as one member of the initially certified household remains in the unit. Through a combination of additions and deletions (discussed below), once no member of the initially certified household remains, the household must be qualified as a completely new move-in. All initial eligibility criteria must be met.

ii. **Deletions from the household** – According to guidance from the IRS, deletions from households do not require adjustment to the existing certification. Instead, this household change may be addressed at the time of annual recertification. If the decrease in household size causes household income to exceed 140% of the income limit in effect at the time of annual recertification, the Next Available Unit will be triggered.

18. Income Limits & Gross Rent Limits – In order for a household to be considered income qualified, total gross household income must be at or below the income limit, adjusted for household size, that is consistent with the elected minimum set-aside (i.e. 20/50, 40/60 or 60% Average Income). In addition, in order to be considered appropriately rent restricted, the gross rent charged cannot exceed the Maximum Allowable Rent limit that corresponds with the minimum set aside election and the bedroom size. For Average Income units, the gross rent cannot exceed the rent limit that corresponds with the unit’s income designation (i.e. 20, 30, 40, 50, 60, 70, and 80%).

A. Income Limits -- The Department of Housing & Urban Development (“HUD”) annually publishes median income information for South Carolina by county or metropolitan statistical area (“MSA”). In 2006, HUD changed the source data used in their methodology for determining area median gross incomes (“AMGIs”) – a change which would have resulted in decreased 2007 median gross income limits in certain areas. Since these decreases were due to the change in methodology and not necessarily reflective of genuine decreases in area median family income levels in these areas, HUD implemented a “Hold Harmless” policy that froze the limits at the previous level in these impacted areas. Hold Harmless Impacted Projects are those developments which are located within these impacted areas and that had placed in service prior to 01/01/09. Enacted 07/30/08, the Housing and Economic Recovery Act of 2008 (HERA) sought to ease some of the financial impact of the frozen limits for LIHTC and Multi-Family Tax Exempt Bond (TEB) developments. The Act created one new higher income limit set (HERA “Special”) for use at impacted LIHTC and Multi-Family Tax Exempt Bond developments and made another, existing but previously unavailable, income limit set available for use at eligible LIHTC projects, National Non-Metropolitan Median Gross Income (“NNMGI”). In addition, HERA created its own hold harmless policy for all LIHTC and TEB projects by legislating that Area Median Gross Incomes for the LIHTC and Tax-Exempt Bond projects would not decrease from the previous year’s limits.

In 2009, HUD released a separate income limit data set, specifically for use in the LIHTC and TEB Programs. The income/rent limit data set, referred to as Multi-Family Tax Subsidy Projects (“MTSPs”), incorporates the changes legislated by HERA. Included within the MTSPs Data Set are two sub-sets:

- Impacted MTSPs for LIHTC and TEB projects which were placed in service prior to 01/01/09 and which are located in areas impacted by the HUD Hold Harmless Policy, and;
- Non-Impacted MTSPs, for LIHTC and TEB projects which placed in service on or after 01/01/09 or located in an area not impacted by HUD's policy.

In 2010, although HUD discontinued its policy of holding income limits frozen, the HERA Hold Harmless Policy remained. As a result, it has become increasingly difficult to determine which income and gross rent limit should be used at any given project. Using a process of elimination, the Owner must determine which income/gross rent limits the project is eligible to use. The project may then use the highest of all income/gross limit sets for which it is eligible.

Note: Family sizes in excess of 8 persons are calculated by adding 8% of the four-person income limit for each additional family member. That is, a 9-person limit should be 140% of the 4-person limit; the 10-person limit should be 148%.

When making determinations about applicable income/gross rent limits, the following must be considered:

- i. **Elections made on IRS Forms 8609, Part II, Line 8b (Multi-Building Election)**
 - a. "No" Election by the Owner -- Each building becomes a separate "project" and appropriate income/gross rent limits will have to be determined for each building using the building's placed in service date and physical location.
 - b. "Yes" Election by the Owner -- The date the 1st building placed in service becomes the placed in service date for all buildings designated as being within the multi-building project and is the date used to determine the applicable Income/Gross Rent Limits for all included buildings. If there is a leasing office at the project, it becomes the physical location for all included buildings. If not, the physical location of the 1st building to place in service will be used.
- ii. **Placed in Service Date**
 - a. Projects, placed in service prior to 01/01/09, in impacted areas, are eligible to use the Impacted MTSPs income/gross rent limits (HERA "Special") and the property may use the highest income/rent limit achieved

as being occupied by 1 person. All other bedroom sizes are treated as being occupied by 1.5 persons per bedroom. The table below indicates the income limit associated with each bedroom size (br. size x 1.5):

Unit Size	Begin calculation using the Income Limit for:
0 Bedroom	1.0 Person
1 Bedroom	1.5 Persons
2 Bedroom	3.0 Persons
3 Bedroom	4.5 Persons
4 Bedroom	6.0 Persons

All low-income units must be appropriately rent-restricted. Rent restriction is demonstrated when the gross rent received for a unit does not exceed 30 percent (30%) of the monthly income limit minus the established Utility Allowance. Per guidance released by the IRS, rent restriction must be evaluated on both a monthly and an annual basis.

To calculate monthly gross rents, use the income limit applicable to the bedroom size and divide by 12 and multiply the result by 30%. **ALWAYS ROUND DOWN RESULTS.**

EXAMPLE:

	Income limit	Formula	0 BR Rent	1 BR Rent	2 BR Rent
1 Per	19,380	(0 BR = 1 Per) USE 1 Person limit ÷ 12, × 30% = (round ↓ result)	\$484		
2 Per	22,140	(1 BR= 1.5 Per) Use 1 Person + 2 Per, ÷ 2, ÷ 12, × 30% = (round ↓ result)		\$519	
3 Per	27,660	(2 BR= 3 Per) Use 3 Person limit ÷ 12, × 30% = (round ↓ result)			\$691

- 19. Minimum Set-Aside** – When applying for an allocation of tax credits, the developer is required to choose a minimum set-aside. Once the developer

chooses a set-aside, this choice is irrevocable and must be maintained at all times during the compliance period. Set-asides obligate the property Owner to commit a certain percentage of the dwelling units in the development for occupancy by households of a specified income level. Depending on the Multi-Building Election made on IRS Forms 8609, Line 8b, the minimum set-aside is tested either across all buildings within the development (“Yes” to Multi-Building Election) or within one building (“No” to Multi-Building Election). It is calculated using the unit fraction only.

Vacant-Never Rented units are considered to have no “character” and are not counted toward satisfying the minimum set-aside. When a program-qualified household initially occupies a unit (one that is suitable for occupancy, available to the general public, used on a non-transient basis and appropriately rent-restricted), the unit assumes “character” and is counted toward satisfying the minimum set-aside.

Tax credits cannot be claimed until the minimum set-aside test has been satisfied. For properties allocated 1991 and later, the Owner only has until the end of the second calendar year, after placing in service, to meet the minimum set-aside and begin claiming credits. Failure to initially meet the test in the timeframes specified permanently disqualifies the Project from claiming credits. If the set-aside is subsequently violated at any time throughout the compliance period, all credits previously claimed are subject to recapture. The LIHTC set-asides are as follows:

- A. 20/50 Test** – 20 percent (20%) or more of the residential units in the development are both: rent-restricted at or below the applicable 50 percent (50%) Gross Rents Limits and occupied by individuals whose income is at or below the applicable 50 percent (50%) Income Limits
- B. 40/60 Test** – 40 percent (40%) or more of the residential units in the development are both: rent-restricted at or below the applicable 60 percent (60%) Gross Rents Limits and occupied by individuals whose income is at or below the applicable 60 percent (60%) Income Limits
- C. Average Income Test** – The Consolidated Appropriations Act of 2018 established Average Income as an addition Minimum Set-Aside for developments making the set-aside election after March 23, 2018. Forty percent (40%) of the residential units in the development are both: rent-restricted at or below the Owner’s unit designation and the average of unit income designations cannot exceed the sixty percent (60%) Income Limits. If the Owner elected not to make buildings part of a

multi-building development, the minimum set-aside must be satisfied within each building.

For developments in which all buildings are part of a multi-building property, SC Housing will consider the set aside to be met if forty percent (40%) of the units across all buildings have an average income of sixty percent (60%) or less. Should individual units be determined to have compliance issues, SC Housing will not consider the minimum set-aside to be violated as long as forty percent (40%) of the remaining units in the development have an average income of sixty percent (60%) or less.

Projects electing to use the Average Income set aside must comply with the following:

- Market-rate units are prohibited
- The average income of any bedroom type must not exceed 60% of area median income
- Unit designation may be floating. However, a change to a unit designation must be approved by the SC Housing Development Department. Federal guidance provides the five instances below where unit designation changes will be permitted:
 - Federally permitted
 - HFA permitted
 - Certain Laws (ADA, VAWA, Fair Housing, etc.)
 - Tenant Movement
- Restoring compliance
- For projects with more than one building, owners must select that each building is part of a multiple building set-aside on the IRS form(s) 8609
- Income bands must be in multiples of 10, from 20% to 80%
- The minimum number of units that must be low income is 40/60 of the total units
- Recertification waiver is not allowed even though the property is 100% LIHTC
- For Units designated as 20%, 30%, 40%, 50%, or 60 AMI:
 - If household income exceeds 140% - * 60% AMI Limit at recertification
- For Units designated as 70% AMI:

- If household income exceeds 140% - *70% AMI Limit at recertification
- For Units designated as 80% AMI:
 - If household income exceeds 140% - *80% AMI Limit at recertification

If a household income has increased above 140% of the current set-aside limit, the next available unit of comparable or smaller size must be rented to a household at the lower set-aside until the appropriate unit mix is restored. If the household income decreases, it is acceptable to move the unit to the lower set-aside if a slot is available, but is not mandatory.

For average income, the percent shown is the average AMI among the units' designations

For an original minimum set-aside (40% at 60% or 20% at 50%), at least 20% of the units must be affordable to and occupied by households at the AMI shown.

Compliance Monitoring fees are \$70 per LIHTC unit annually, plus an additional \$50 per unit annually for projects using the average income minimum set-aside. All compliance monitoring fees must be paid to the Authority within thirty (30) days of the date on which the first building is placed in service and on or before the first day of February of each succeeding year throughout the remainder of the fifteen (15) year compliance period and any extended use period. The Authority will assess a ten percent (10%) late fee of the total outstanding balance for payments received after thirty (30) days from the date due.

20. **Next Available Unit Rule** -- The Next Available Unit Rule states that if the income of the occupants of a low-income unit increases above 140% of the current applicable income limit, the unit will continue to be treated as a low-income unit if:
- A. The occupants initially met the income limitation
 - B. The unit remains appropriately rent-restricted

- C. All available units of comparable or smaller size within the building, which become vacant subsequent to this determination, are leased to households with qualifying incomes until the building's applicable fraction has been restored, not including the over-income unit.

The Next Available Unit is no longer triggered if, at subsequent recertifications, the household's income decreases below 140% of the applicable income limit or the income limits increase so that the household's income no longer exceeds 140% of the applicable income limit.

The Next Available Unit rule will not be considered to be triggered for Average Income Units at 20, 30, 40, 50 and 60% until household income exceeds the 60% Income Limits. For 70 and 80% units, the NAU is triggered when household income exceeds 140% of the unit's income designation (either 70 or 80%).

21. **Qualified Contracts** – As per Section 42(h)(6)(E)(ii) of the Code, the termination of the extended use agreement shall not be construed to permit before the close of the 3-year period following the termination of the extended use period either the eviction or the termination of tenancy (other than for good cause) of an existing low-income tenant residing in the building or the increase in the gross rent above the maximum allowed under the Code with respect to such low-income unit. The owner is required, at the end of each calendar year of the 3-year period, to provide a certification and a certified rent roll to the Authority. In addition, a certification from the owner must be provided that states that these requirements have been met. Should the current owner sell the development during the 3-year period the new owner will be required to submit the annual certification to the Authority.

It should be understood that the development is still subject to compliance monitoring during the 3-year period and therefore must continue to pay the annual compliance monitoring fees when due. The Authority will continue to monitor the development for compliance with Section 42 and will investigate and respond to any tenant complaint received during the 3-year period.

22. **Sources of Program Requirements (Regulating Documents)** – Low Income Housing Tax Credit properties are to be operated in compliance with Section 42 of the Internal Revenue Service, IRS Regulations found in 26 CFR Section 1.42, IRS Revenue Rulings and Revenue Procedures, HUD's

Occupancy Handbook 4350.3, additional program rules prescribed by SC Housing, representations in a development's application and provisions included in the Agreement as to Restrictive Covenants.

- 23. Standardized Forms** – Per guidance issued by the IRS, State agencies may determine how documents are maintained and may mandate the use of standardized forms to document an Owner's compliance with the requirements under Treasury Regulation Section 1.42-5. SC Housing recommends the use of the National Council of State Housing Agencies' ("NCSHA") Best Practices Forms. Forms cited in this manual can be found at www.schousing.com under the **Development** section on the **How Developments are Monitored for Compliance** page.
- 24. Support Unit (Resident Manager/Maintenance /Courtesy Officer Unit)** – Support units may only be included in a LIHTC development in one of the ways indicated below:
- A. A program unit is occupied by a qualified household** -- The manager or maintenance personnel is income qualified, pays the same amount of rent charged to other qualified residents (or free or reduced rent recognized as in-kind income as required by the Internal Revenue Code) and meets any other occupancy guidelines adopted by the development.
 - B. Support Unit is designated during application process** -- The Owner designates a support unit in the application process, which is then treated as a common area of the property (non-income producing). This unit is not considered when calculating the applicable fraction. The manager or maintenance personnel or courtesy officer does not have to be income qualified but they do have to be considered a full-time employee of the development. Charging rent or reduced rent for the support unit may lead the IRS to determine that the unit is not reasonably required by the development.
 - C. Support Unit is approved by SC Housing subsequent to the application process** -- If neither A or B apply, the Director of Compliance Monitoring must formally approve the support unit before the Owner may remove a program unit. When submitting the request for approval, documentation must also be included which demonstrates the need for a support unit (i.e. incident reports, crime trend reports, etc.) Once designated either in the application process or through approval,

Support Units cannot change in size and may not be moved between BINs.

- 25. Tenant Income Certification Form** – When properly executed, the Tenant Income Certification is the document which summarizes the programmatic eligibility of the household, both initially and on an ongoing basis. Certifications are required for all LIHTC units. SC Housing recommends the use of the NCSHA’s Best Practices Tenant Income Certification but will accept other LIHTC compliant Tenant Income Certification forms. Through the utilization of a Memorandum of Understanding with Rural Housing Services (“RHS”), SC Housing will also accept that agency’s form 3560-8 as the LIHTC Certification. Since this form does not contain student statuses for all household members, student affidavits must be completed by all adult household members. The HUD Forms 50058 and 50059 may not be used as the LIHTC Certification form.
- 26. Transfers** – Household moves between units can be considered either a move-out/move-in or a unit swap.
- A. Moves within a building** – Household moves within a building will be treated in the same way for single building projects and multi-building projects.
- i. 100% LIHTC Project** – Units swap statuses. If a household moves from a qualified tax credit unit into a vacant never rented unit, the vacant never rented unit becomes a qualified tax credit unit and the formerly qualified tax credit unit becomes a vacant never rented unit. If the LIHTC household’s income exceeds 140%, the OI status moves with the household into new unit. The Next Available Unit Rule, previously invoked, must continue to be satisfied using the new unit as the basis for comparison of comparable or smaller size. Recertification is not necessary and the effective and move in dates remain unchanged. The certification should be appropriately revised (single strike-through any changed info, new information added and the resident/owner representative must initial all changes) to reflect the new unit information. Documentation in the file must also indicate the date of the transfer. To avoid potential confusion, it is recommended that a copy of all original household eligibility documentation be made and retained as a move-out file under the original unit number. Any change to household composition during a

certification year should be handled as outlined in Item 17.C. above, titled, “Changes to Household Composition”.

- ii. **Mixed Use Project (LIHTC w/Market Units)** – Units swap statuses. If a household moves from a qualified tax credit unit into a vacant never rented unit, the vacant never rented unit becomes a qualified tax credit unit and the formerly qualified tax credit unit becomes a vacant never rented unit. If a household moves from a qualified tax credit unit into a market unit, the market unit becomes a qualified tax credit unit and the formerly qualified tax credit unit becomes a market unit. The potential impact of unit swaps on the building’s applicable fraction (due to possible decreases in LIHTC floor space/square footage) must be closely monitored to prevent any decreases below the building’s 1st year Applicable Fraction. If the LIHTC household’s income exceeds 140%, the OI status moves with the household into new unit. The Next Available Unit Rule, previously invoked, must continue to be satisfied using the new unit as the basis for comparison of comparable or smaller size. Recertification is not necessary and the effective and move in dates remain unchanged. The certification should be appropriately revised (single strike-through any changed info, new information added and the resident/owner representative must initial all changes) to reflect the new unit information. Documentation in the file must also indicate the date of the transfer. To avoid potential confusion, it is recommended that a copy of all original household eligibility documentation be made and retained as a move-out file under the original unit number. Any change to household composition during a certification year should be handled as outlined in Item 17.C. above, titled, “Changes to Household Composition”.

B. Moves between buildings

- i. **“No” on IRS Forms 8609, Part II, Line 8b, Multi-Building Election (each building is a separate project)** – Any move from one building (project) to another building (project) is always a move-out and a move-in, even on 100% LIHTC developments. The household must meet all initial eligibility requirements. A new full certification with all supporting documentation and new lease agreement is required. The certification will reference a new move-in date and effective date.

- ii. **“Yes” on IRS Forms 8609, Part II, Line 8b, Multi-Building Election (multiple designated buildings comprise one project):**
 - a. **100% LIHTC Developments** – Move is considered to be a transfer. May transfer if the household exceeds the current income limit but may not transfer if household income exceeds 140%. The OI status moves with household into new unit. Recertification is not necessary and the effective and move-in dates remain unchanged. The certification should be appropriately revised (single strike-through any changed info, new information added and the resident/owner representative must initial all changes) to reflect the new unit information. Documentation in the file must also indicate the date of the transfer. To avoid potential confusion, it is recommended that a copy of all original household eligibility documentation be made and retained as a move-out file under the original unit number.
 - b. **Mixed Use Developments (LIHTC w/Market Units)** – IRS guidance is any move from one building to another building will be considered to be a move-out and a move-in. The household must meet all initial eligibility requirements. A new full certification with all supporting documentation and new lease agreement is required. The certification will reference a new move-in date and effective date. The exception is if a qualified household were to move from a qualified tax credit unit into a vacant never rented unit. In this instance, the vacant never rented unit becomes a qualified tax credit unit and the formerly qualified tax credit unit becomes a vacant never rented unit.

** NOTE: Once the 1st year applicable fraction has been established, market units may not be moved from one BIN to another.

27. **Utility Allowance** – The following text is taken directly from the IRS “Guide for Completing Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition”, revised January 2011:

A utility allowance is an estimate of the monthly cost of a resident’s utilities, other than telephone, cable and internet, which are not included in the rent.

To calculate the maximum amount of rent that can be charged for a low-income unit, the utility allowance must be subtracted from the Gross Rent Limit applicable to the property and the specific unit type (BR size). Documentation to support Utility Allowances from the placed in service date to most current must be retained at the site and be available for review when requested. Determining the applicable Utility Allowance is dependent on the development's funding sources and whether rental assistance is received for any unit/building.

- A. Rural Housing Services Utility Allowance** -- If a building or any unit in a building receives assistance from Rural Housing Services ("RHS"), then the utility allowance approved during the annual RHS budget process must be used for all units. This also applies to units with HUD Project-based assistance or units that are occupied by Housing Choice Voucher holders.
- B. HUD Project-based Utility Allowance** -- For developments where HUD regulates the rent and utility allowances and where neither any building nor any unit receives RHS housing assistance, the approved HUD project-based utility allowance must be used. This also applies to units occupied by Housing Choice Voucher holders.
- C. Public Housing Authority Utility Allowance** -- If a building is neither RHS-assisted nor HUD-regulated and no resident receives RHS assistance, the Public Housing Authority's ("PHA") allowance may be used for all program units. The PHA allowance must be used for units occupied by Housing Choice Voucher holders. The PHA allowances must be obtained annually. If unchanged, documentation must be received from the PHA which states that there was no change. If allowances do change, the new utility allowances must be used to compute gross rents within ninety (90) days from the effective date of the utility allowance.
- D. Explicit written approval must be obtained from SC Housing prior to the implementation of any Utility Allowance methodology indicated below:**
 - i.** If neither any building nor any residents are subject to 26.A-B above, then the local PHA allowance may be applied to all program units. However, if an estimate is obtained for any unit

from a utility company, that estimate must be applied as the utility allowance for all similar units in the building.

- a. **Utility Company Estimate** -- The utility allowance estimate may be obtained by any interested party to include residents, an Owner, a manager or SC Housing. If an estimate is obtained, the utility company must be located in the same geographic location for a unit which is of similar size and construction. If utilities are deregulated, the interested party is required to obtain an estimate from only one utility company even if multiple utility companies can provide the same utility service. However, the utility company must offer utility services to the building in order for that utility company's rates to be used in calculating the utility allowance. The estimate should include all component deregulating charges for providing the utility service. Utility allowance estimates must be obtained annually and any changed utility allowance estimate must be used to compute gross rents within 90 days from the date of the utility company's correspondence. Notices of Utility Allowance changes must be provided to the residents at the beginning of the 90-day period.
- b. **HUD Utility Schedule Model** -- Under Treasury Regulation § 1.42-10(b) (4) (i) (D), a building owner may calculate a utility allowance using the "HUD Utility Schedule Model", found on HUD's website. The building owner must review the basis on which utility allowances have been established at least once per year. Utility rates used for the HUD Utility Schedule Model must be no older than the rates in place 60 days prior to the date the utility allowance is calculated. SC Housing's approval date begins the 90-day period after which the new utility allowance must be used to compute gross rents. Notices of Utility Allowance changes must be provided to the residents at the beginning of the 90-day period.
- c. **Energy Consumption Model** -- A building owner may retain the services of a contractor to calculate a utility allowance using an energy and water and sewage consumption analysis model. The contractor must be a properly licensed engineer or a qualified professional. A qualified professional must be approved by the state housing credit agency having jurisdiction over the building

and must not be related to the building owner within the meaning of IRC §§ 267(b) or 707(b). The energy consumption model must take into account specific factors including, but not limited to: the unit size; building orientation; design and materials; mechanical systems; appliances and characteristics of the building location. The data used to compute the estimate is limited to the building's consumption data for a 12-month period ending no earlier than 60 days prior to the date the utility allowance calculation. For newly constructed or renovated buildings with less than 12 months of consumption data, consumption data for the 12-month period for similarly sized and constructed units in the geographical location in which the building is located will be used. If the applicable utility allowance for a unit changes, the new utility allowance must be used to compute gross rents within 90 days from SC Housing approval. Utility Allowances must be provided to the residents at the beginning of the 90-day period.

- E. Sub-metering** – Some buildings in qualified low-income housing projects are sub-metered. Sub-metering measures tenants' actual utility consumption and residents pay for the utilities they use. A sub-metering system typically includes a master meter, which is owned or controlled by the utility supplying the electrical, gas, or water service with overall consumption billed to the building owner. In a sub-metered system, building owners (or their agents) use unit-based meters to measure utility consumption and prepare a bill for each residential unit based on actual consumption. The building owners (or their agents) retain records of resident utility consumption, and residents receive documentation of utility costs as specified in the lease.

Notice 2009-44 clarifies that, effective on or after 01/01/09, for purposes of Treasury Regulation § 1.42-10(a), utility costs paid by a tenant based on actual consumption in a sub-metered rent restricted unit are treated as paid directly by the tenant and not by or through the Owner of the building. For RHS buildings, buildings with RHS tenant assistance, HUD-regulated buildings and rent-restricted units in other buildings occupied by tenants receiving HUD rental assistance, the applicable RHS or HUD rules apply. The regulation states that for all other rent-restricted units in other buildings:

- *The utility rates charged to tenants in each sub-metered rent restricted unit must be limited to the utility company rates incurred by the building owners (or their agents)*
- *If building owners charge tenants a reasonable fee for the administrative costs of sub-metering, then the fee will not be considered gross rent. The fee must not exceed an aggregate amount per unit of \$5.00 per month.*
- *If the costs for sewerage are based on the tenant's actual water consumption determined with a sub-metering system and the sewerage costs are on a combined water and sewerage bill, then the tenants' sewerage costs are treated as paid directly by the tenants for the purposes of the utility allowance regulations.*

F. **Ratio Utility Billing System (“RUBS”)** – Unlike a sub-metering system in which there are unit sub-meters which measure actual resident consumption, ratio utility billing systems use a formula to divide the total utility costs for the development among the individual units. The formula uses criteria such as number of occupants, square footage, bedroom size, etc. to assign a portion of the utility costs to each unit. Although IRS Notice 2009-44 allowed the inclusion of sub-metered utility costs since they are based on actual tenant usage in the Utility Allowance, the utility costs based on the ratio utility billing system may not be included in the Utility Allowance. Instead, these are considered to be recurring, non-refundable fees that are a condition of occupancy and therefore must be included in the calculation of Gross Rent. These fees must be reflected on the Tenant Income Certification. If they fluctuate, documentation must be kept in the resident's file reflecting the actual amounts paid in order to determine that the appropriate rent restriction is in place at all times.

28. **Vacant Unit Rule** – Tax Credits may still be claimed on units vacated by qualified low-income households as long as the unit is suitable for occupancy and reasonable marketing attempts are continuing to re-occupy the vacant tax credit units with households having a qualifying income before any units of comparable size or smaller (in comparison to the vacant LIHTC unit) in the project are rented to non-qualifying households.

29. **Zero Income Applicants/Tenants** – All contributions to the household, monetary or not, from a source outside of the household are considered to be income, with the exceptions of food and child care paid directly to the

childcare provider. Program regulations require that all income from all income sources be disclosed, verified and included on the Tenant Income Certification. Even if receiving rental assistance, households with zero income or with income insufficient to cover reasonable basic living expenses are required to provide a statement outlining how these basic living expenses are currently being paid. If gift or recurring contributions are disclosed, verifications must be obtained for these contributions and this income must be included in certified income.

QUALIFYING THE HOUSEHOLD

Within this area of ongoing Owner Responsibilities, federal and state programmatic requirements involve the qualification of households for program units. To ensure that the requirements are satisfied, it is essential that the Owner implement a systematic and consistently-applied procedure for qualifying households. This procedure must include the following processes, to be completed in the order given: conducting an interview, obtaining an application for occupancy, verifying income and calculating anticipated annual income. Once these steps have been completed, a determination of household eligibility can be made. Only after this determination is made, may the Owner certify the household as program eligible and grant legal occupancy by executing a lease agreement.

1. **Interview Process** – During the prospective applicant’s initial visit to the development, management should explain the LIHTC Program, its benefits and the programmatic requirements to determine household eligibility, both initially and annually. Management should explain the requirement for full disclosure by the household of all anticipated income and asset information for all household members (including temporarily absent members) and verification of information. It is strongly recommended that all adult household members be present during this process, unless unavoidable circumstances exist. It is helpful to explain that all information provided is confidential and will be handled accordingly. When educated and properly prepared at move-in, most residents will not object to the subsequent requirement to again disclose during the recertification process. The following should be discussed:
 - A. **Household composition:** Current and anticipated future household member(s), temporarily absent household member(s), permanently

absent household member(s), live-in attendants, foster adults/children

- B. **Student statuses for all household members:** LIHTC Full-Time Student rules and eligibility provision(s)
 - C. **Income:** Household earned and unearned income sources, including child support, maintenance and/or alimony and documentation requirements
 - D. **Assets and Asset Income:** Preliminary explanation of assets, inclusions and exclusions, asset income and documentation requirements
 - E. **Applicable Income and Gross Rents:** Provide and discuss the applicable income and gross limits for the property
 - F. **Tenant Selection Criteria:** Provide a copy of the property's Tenant Selection Plan. Although the use of Tenant Selection Plans and waiting lists/waiting list procedures are not mandated by the LIHTC Program regulations, it is strongly recommended that Owners establish and consistently apply reasonable and equitable screening criteria and wait list procedures that are compliant with Fair Housing law.
 - G. **VAWA Protections and procedures:** HUD released final regulations concerning the Violence Against Women Act ("VAWA") in 2016 and 2017 (Federal Register Vol.81, No. 221 and HUD Notice H-2017-05). The 2016 reauthorization broadens the scope of impacted housing programs to include the LIHTC Program. While VAWA is not monitored as a compliance issue, any adjudicated, negative fair housing finding, including any that result from improperly providing VAWA protections, must be reported to the Internal Revenue Service.
2. **Application Process** – As stated in the Owner's Recordkeeping and Record Retention responsibilities, an application for residency is required for each program unit. Ideally, once the interview has been conducted, the applicant(s) should complete the application. The form should be simple but thorough, capturing sufficient information with clarity to enable management to proceed with verification processes. Questions that can be answered with either "yes" or "no" are recommended and open-ended questions should be

avoided. Questions on the application that typically cause confusion should be explained (i.e. assets, temporarily absent household members, etc.).

Applicant(s)/Resident(s) must complete their own application. In rare instances, when they are unable to do so, the applicant(s)/resident(s) may choose another individual, independent of management, to complete the application on their behalf. The application should be documented to this effect and the applicant(s) must signify their agreement with the disclosed information. One of the “checks and balances” built into the LIHTC Program is for the applicant(s) to independently disclose household eligibility information and for management to independently verify the information disclosed. This process discourages fraud and manipulation of the determination of eligibility.

Whenever possible, management should review the application, at the time submitted, with all adult applicant(s). Any information that is missing should be obtained and any unclear information should be clarified. Please note that any change to the application must be made and initialed by the applicant, not management. Contact information for verification sources and releases of information should be obtained. The applicant(s)/ should be asked to voluntarily disclose household demographic information. However, housing may not be denied solely because the household declined to disclose demographic information.

At a minimum, the application for residency should include:

- A.** The legal name, age, relationship to head of household for each household member and whether any changes to household composition are anticipated within the twelve (12) month period following certification.
If the applicant voluntarily discloses a pregnancy, the unborn child may be counted as a household member for income-qualification purposes. No verification of the disclosed pregnancy is allowable.
- B.** The student status of all household members, past and current, and if any changes are anticipated within the 12-month period following certification
- C.** Disclosure as to whether the household is assisted through a Section 8 Housing Choice Voucher

- D. All sources and amounts of current income, earned and unearned, for all household members (including financial aid, if applicable) and if any changes to household income are anticipated within the twelve (12) month period following certification
 - E. All currently held household assets and amounts of income anticipated to be generated by assets and if any changes to assets are anticipated within the twelve (12) month period following certification
 - F. All assets disposed of for less than fair market value by any household member during the twenty-four (24) months preceding application
 - G. Signature and signature dates of all household members 18 and older
3. **The Verification Process** – Owners are required to verify information collected in the application process in order to make a determination of household eligibility
- A. **Requirements for Verifications** – In order to be valid, verifications must be appropriately dated, properly completed by the verifying source, legible and unaltered.

The verification form itself must state the reason for the request; contain a signed and dated consent authorizing a release of information; provide a section for the information being verified; and provide space for full mailing address, the verifying person's signature, signature date, printed name, title and phone number. Please note that even if verifications are faxed, they must still contain full contact information (i.e. name of employer, mailing address and phone number). Once returned by the verifying source, no alterations may be made to the verification. Missing or unclear information must be clarified with the verifying party and the conversation documented on a separate record in the resident's file.

It is strongly recommended that an income summary worksheet be included in the resident file which shows detailed calculations for each income source. Calculator tape may also be attached to verifications showing calculations, taking care not to obscure pertinent information. This greatly expedites the monitoring process by allowing Monitoring Officer to quickly identify the source of any income variances. Verifications are valid for one hundred twenty (120) days from the date

of the verifying party's signature. In the case of computer printouts, the 120-day period begins on the date that the report is printed, not the effective date listed on the printout.

- B. Information to be Third-Party Verified** – The Owner is required to verify: all regular sources of income; income derived from household assets with a combined cash value greater than \$5000; disposal of assets for less than fair market value; student status, through the educational facility; foster status for adults and children, through the state or local agency; the need for a live-in attendant, through the healthcare practitioner. Additional information that impacts program eligibility, while not specifically listed above, may also require verification.
- C. Methods of Verification** – HUD's Occupancy Handbook 4350.3 REV-1 Chg. 4 outlines three methods of verification. They are, in descending order of acceptability: third-party verification, review of documents, and family certification.
- 1. Third-Party Verification** – Third-party verifications are sent directly to and from the verifying source. After signing the appropriate release of information, the applicant or resident has no further participation in the completion of the verification. The applicant or resident must not transport the verification to the employer. The following describes the methods for obtaining third-party verifications:
- a. Written** – The Owner must obtain written third-party verification whenever possible. The Owner must use an acceptable Income Verification form.

For Housing Choice Voucher holders, the verification requirement is satisfied if the Public Housing Authority ("PHA") provides the building owner with a statement that declares that the gross annual income of the residents in the unit does not exceed the stated applicable income limit under Section 42(g) of the Internal Revenue Code. The Income Verification Form for Section 8, Form IVS8, may be used (See Forms Section). The income of Housing Choice Voucher holders may also be verified using the appropriate verification forms.

If the household has no income, the Zero Income Affidavit will be the only verification possible.

- b. **Verbal** – A verbal verification is acceptable to SC Housing only as a last resort when written verification is not possible prior to move-in. To document the file, a record of the conversation must be completed and placed in the applicant’s file by management. The record must contain all information that would ordinarily be found on a written verification, including: the third-party’s name, position and contact information; information reported by the third party; name of the person who conducted the telephone interview; and the date and time of the phone call. A written, third-party verification, confirming the verbal verification, must be obtained within ten (10) working days.
 - c. **Electronic** – Per HUD’s Occupancy Handbook 4350.3 REV-1 Chg. 4, the Owner may now obtain third-party verification by facsimile, e-mail, or Internet, if adequate effort is made to ensure that the sender is a valid third-party source.
 - i. **Facsimile** – In order to be considered acceptable verifications, faxes must be completely legible, date-stamped and must include the signature, signature date, name, job title, fax and phone numbers of the person making the verification. Due to record retention requirements, faxes received on thermal paper should immediately be copied to plain white bond.
 - ii. **E-mail** – Electronic mail must contain the name of an appropriate individual and firm to be considered reliable.
 - iii. **Internet** – Computer generated internet site printouts are considered third-party verifications if the Owner is able to view web-based information on the computer screen. A printout should contain pertinent information including information that identifies the transmission source.
2. **Review of Documents** – If third-party verification is not available, Owners must document the applicant or resident’s file to explain why third-party verification is not available and attempt(s) can be demonstrated. The documentation must include:

- A written record in the file explaining why third-party verification was not possible or a copy of the date-stamped original request that was sent to the third-party; **and**
- Written notes or documentation indicating follow-up efforts to reach the third-party to obtain verification AND a written record to the file indicating that the request has been outstanding for two (2) weeks or more without a response from the third party. The Owner may then use a review of documents submitted by the applicant or resident as a verification method.

Copies of the documentation reviewed must be placed in the applicant or resident's file. In order for the documentation to be considered acceptable and valid, the documents copied for the file must be unaltered originals, be current (dated within 120 days prior to the effective date of the certification) and contain sufficient information and/or cover a sufficient period of time to anticipate income with accuracy.

Effective 01/01/2024, current, consecutive pay stubs that cover a period of six (6) to eight (8) weeks are required to document employment income. Actual paychecks are not considered acceptable or valid employment verifications since only net income, after deductions, is shown. The pay stubs must be within 120 days from ending pay period.

3. **Family Certification** – As a last resort, when all other methods of verification prove unsuccessful a notarized resident self-affidavit may be used as a verification. Notarized resident self-affidavits may also be used to supplement another method of verification.

- D. **Application of Verification Methods for Specific Income Types** – Since few household income scenarios are “textbook”, questions may arise about acceptable alternatives when management encounters roadblocks in the verification process. The purpose of the verification methods outlined is to give management the ability to move beyond obstacles, without compromising the validity of the determination of household eligibility. (See Exhibit Section for alternative verifications for specific eligibility items). Please keep in mind that SC Housing will specify where our policies are more restrictive than those published by HUD. The following specific income types will illustrate practical

applications of the procedure outlined. The methods are given in descending order of preference and the applicant or resident's file must be documented, as previously outlined in "Review of Documents", prior to moving to the next method of verification.

Additionally, due to confidentiality concerns, HUD has restricted the review of the EIV to only HUD-authorized staff persons. SC Housing's LIHTC Compliance Monitoring staff persons will not review any resident file which contains the EIV Form.

1. Employment

- a. 3rd Party – The Employment Verification Form is to be completed by the employer or the same information contained in a statement from the employer on company letterhead or an offer of employment.
- b. Review of Documents –The preferred 2nd party verification methodology is for the Owner to obtain the resident's most current, consecutive check stubs that cover a six (6) to eight (8) period of time, or; a copy of the most recent income tax returns signed by the applicant which provides the amount of income, including income from tips and gratuities, or; a copy of the resident's most recent W-2 forms. Should an applicant be relocating from out of state, the most recent tax return and a verification of termination of employment must be obtained.

2. Self-employment

- a. An accountant's or bookkeeper's statement of anticipated net income and salaries distributed to household members for the 12-month period following certification/recertification
- b. Financial statement(s) of the business plus a notarized affidavit from the resident forecasting the anticipated net income for the 12-month period following certification
- c. The resident's most recent income tax return, with the appropriate IRS schedules plus a notarized affidavit from the resident forecasting the anticipated net income for the 12-month period following certification

3. Social Security, Pensions, Supplemental Security Income (SSI), Disability

- a. A Social Security or pension award or benefit notification letter, prepared and signed by the authorizing agency. The Social Security letter is considered valid until a new award or benefit letter is generated by the Social Security Administration, typically in the late fall of each year. Pensions that are noted as unchanging life-time benefits are valid until a new award or benefit letter is generated. In cases where pensions are subject to a cost of living adjustment (“COLA”), please follow additional documentation requirements outlined in Item b.
 - b. Since SSI benefits and some pension benefits are subject to change, documentation for these sources are valid for 120 days from the printing date. If the documentation is not dated within 120 days prior to the effective date of certification, the most recent award or benefit notification letter should still be obtained and a notarized resident affidavit that confirms the amount in the award or benefit letter also obtained.
4. **Unemployment Compensation**
- a. Printout from the unemployment office, dated within 120 days prior to the certification/recertification effective date, stating payment dates and amounts
5. **Alimony or Child Support**
- a. **Court ordered Alimony/Child Support:**
 - i. A copy of the complete separation or maintenance agreement, divorce decree, or support order and any subsequent modifications, stating the amount and frequency of payment should be obtained.
 - ii. If the document in item (i) above is not dated within 120 days prior to the effective date of the certification, copies of the complete court documentation should still be obtained. In addition, it is necessary to obtain one other document, such as the family court printout or a notarized resident affidavit, which confirms the amount and frequency of payment in the decree.
 - iii. If a copy of the separation or maintenance agreement or divorce decree is not available or the applicant or resident must pay to obtain a copy of the decree, documentation in item ii may be used. The file must be documented to this effect.

b. **Voluntary Alimony/Child Support:**

- i. If the support is voluntary (not court-ordered), a notarized affidavit should be obtained from the person providing the support that provides: the amount; frequency of pay; and which indicates if the support will continue during the 12-month period following certification/recertification.

6. **Recurring Gifts and Contributions**

- a. A notarized affidavit, from the person providing the recurring gift or contribution, that states the purpose, amount, frequency and that indicates if the assistance will continue during the 12-month period following certification
- b. A letter from a bank, attorney or trustee providing the same information outlined in Item a. above.

E. **Calculation of Anticipated Annual Household Income** – As defined in 24 CFR § 5.609, annual income is:

All amounts, monetary or not, which go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and which are not specifically excluded.

Owners must project or estimate the annual income that the household expects to receive in the 12-month period following certification. Generally, the Owner must use current circumstances to anticipate income. If information is available about reasonably anticipated changes that are expected to occur during the 12-month period, this information should be factored into anticipated 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. Note that if the calculation of annual income using the year to date information disagrees with the anticipated income calculated based on rate of pay given, management should use the higher of the two.

1. **Income Inclusions:** For a listing of income inclusions, please see Exhibit Section.
2. **Income Exclusions:** For a listing of income exclusions, please see Exhibit Section.

3. Annualization factors:

If income is given:	Multiply by the following to annualize:
Hourly (Full-time)	2080 hours
Weekly	52 weeks
Bi-Weekly	26 weeks
Semi-Monthly	24 periods
Monthly	12 months
Bi-Monthly	6 periods
Quarterly	4 periods

4. Example of annualizing income:

On the Employment Verification, the employer indicates that the resident/applicant earns \$10.00 per hour, works 35-40 per week, 52 weeks per year. A raise of \$.50 per hour will occur on 11/15/2021 which is 6 weeks from the effective date of the certification, 10/01/2021. No additional raises, overtime, bonuses, commissions, no loss of pay, etc. are anticipated.

	Rate	Frequency	# of hours	# of pay periods	Subtotals
Base	\$ 10.00	Hourly	40	52	20,800
Raise	\$.50	Hourly	40	46	920
OT	\$				
Other	\$				
Loss of Pay (-)	\$				
Total					\$ 21,720

F. Whose Income is Counted – Just as there are certain types of income, listed above, that are included and excluded, the incomes associated with certain household members are either included, partially included or excluded, as follows:

1. **Adults** – Count all the income (earned income, benefit income, income from held or disposed of household assets, financial aid if applicable) of the head, spouse or co-head, and all other adult members of the family with the exception of foster adults and live-in aides. They are not considered household members for program purposes; therefore, their incomes are excluded. Persons under the age of 18, who have entered into a lease under state law, are treated as adults (emancipated minors). Their annual income must be counted if they are the head of household, spouse, or co-head. If they are residing with a family as a member other than the head, spouse or co-head, they would be considered a dependent and their income handled as described in paragraph 2.

2. **Dependents** – A dependent is a family member who is under 18 years of age, or over 18 and a full-time student. The head of household, spouse, and co-head can never be dependents. Some income of dependents is counted and some is not.
 - a. Earned income of minors (family members under 18) is not counted
 - b. Up to a maximum of \$480 per year of the earned income is included in annual income for full-time students, aged 18 and older, who are not the head, spouse or co-head. Income in excess of \$480 should be excluded.
 - c. The total amount of benefit income of minors and full-time students 18 and older (who are not the head, spouse or cohead) is counted in annual income
 - d. See Section, “Key Concepts – Financial Aid”, to determine instances where student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) is included in annual income.

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 **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.

- e. 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
- f. Adoption assistance payments in excess of \$480 are not counted

3. **Temporarily Absent Family Members** – If the temporarily absent individual is the head of household, spouse or co-head and there is a reasonable date of return, the person should be included, as part of the household and associated income should be counted. In the case of active military, the person should be included as a part of the household and income counted if: they are the head of household, spouse, co-head; or if the person on active military duty has a spouse or dependent living in the unit

4. **Permanently Confined Family Members** – An individual permanently confined to a nursing home or hospital may not be named as head of household, spouse or co-head but may continue to be a household member at the family's discretion. If included as a household member, all associated income must also be included.

G. **Calculating Specific Income Types**

1. **Alimony or Child Support** – Owners must count alimony or child support amounts awarded by the court (do not include court fees) unless the applicant can provide documentation to demonstrate that no payments have been made for the last six (6) months 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. For sporadic payments or when legal efforts have not been made, the full court ordered amount, minus fees, should be included in annual income.

2. **Regular Cash Contributions and Gifts** – Owners must count as income any regular contributions and gifts from persons not living in the unit. This does not include groceries and/or contributions

paid directly to the childcare provider. Temporary, nonrecurring, or sporadic income is not included in annual income.

3. **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. In addition to net income, Owners must count any salaries or other amounts distributed to family members from the business. 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.
4. **Periodic Social Security Payments** – Count the gross amount, before any deduction of periodic Social Security payments, including 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.
5. **Adjustments for Prior Overpayment of Benefits** – If an agency is reducing a family’s benefits to adjust for a prior overpayment, count only the amount that is actually being provided after the adjustment.
6. **Periodic Payments from Long-Term Care Insurance, Pensions, Annuities, and Disability or Death Benefits** – The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. 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.
 - a. If the tenant is receiving long-term care insurance payments, any payments in excess of \$180 per day must be counted toward annual income.
 - b. If a Federal government pension fund, or any portion thereof, is paid directly to a former spouse pursuant to the terms of a court decree of divorce, annulment or legal separation, it is not counted as annual income. The pension funds paid to the former spouse are counted as income for the applicant or tenant receiving such funds.

7. **Resident Service Stipends** – Resident service stipends are generally modest amounts of money received by residents for performing services such as hall monitoring, fire patrol, lawn maintenance, and resident management. If the stipend exceeds \$200 per month, the entire amount of the stipend must be included. If the stipend is \$200 or less per month, none of the stipend is included in annual income.

8. **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.

9. **Lump Sum Payments Counted as Income** – Generally, lump sum amounts received by a household, such as inheritances, insurance settlements, or proceeds from the sale of property are considered to be assets, not income. Typically, the differentiating factor is whether amounts are received as lump sums or as periodic payments.
 - a. When social security or SSI benefit income is paid in a lump sum as a result of deferred (delayed) periodic payments, that amount is excluded from annual income and included in household assets.
 - b. Settlement payments from claim disputes over welfare, unemployment, or similar benefits may be counted as assets.
 - c. Lump sum payments caused by delays in processing periodic payments for unemployment or welfare assistance are included as income.

- H. **Income from Assets** – An asset is an item of value that can be converted into cash. This is a hypothetical conversion only. At no time is the household required to convert held assets into cash. Household assets include the assets of ALL household members, including minors. Necessary personal property is not counted as an asset.

Assets may or may not earn actual income (e.g., interest, dividends, etc.), depending on how, or if, the assets are invested. The applicant(s)

or resident(s) must disclose the market value of assets and all associated income generated by the assets held by all household members. Once the market value of assets is converted to a combined cash value, if the combined cash value of household assets is \$5,000 or less, third-party verification of income derived from assets is not required. In these instances, the ACTUAL income derived from assets, as disclosed by the household, will be transferred to the household certification.

Owners need to verify the applicant/resident disclosure of household assets only if the information does not appear to agree with other information reported by the applicant/resident. However, when the combined cash value of household assets exceeds \$5000, third-party verification is required. In addition to third party verification, when cash value exceeds \$5,000, the Owner must also impute income on the combined cash value of household assets by multiplying the total cash value by the Passbook Savings Rate. The higher of these two calculations, ACTUAL or IMPUTED income, will be transferred to the household certification as income derived from assets.

Effective 01/01/2024, per HUD's Notice H 2023-10, the Passbook Savings Rate was set at 0.40 percent.

1. **Cash Value of an Asset** – Cash value of an asset is the market value minus reasonable expenses (e.g., penalties for premature withdrawal, broker fees, legal fees and settlement costs for real estate transactions) that would be incurred in selling or converting the asset to cash. Note that the family is NOT required to convert the assets to cash. This conversion to cash is done as a hypothetical calculation only in order to determine income from assets.
2. **Ownership of Assets** – It is possible for multiple individuals to own an asset. Determine the percentage of ownership by household members and prorate the asset accordingly. Assume equal ownership if no percentage is specified or provided by state or local law. 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 household, and (b) that other person is

responsible for income taxes incurred on income generated by assets.

3. Treatment of Specific Assets

- a. Cash held in savings and checking accounts, safe deposit boxes, homes, etc.** – For savings accounts, the cash value is the current balance. Income is calculated by multiplying the current balance by the Annual Percentage Rate.

SC Housing is treating cash cards as savings accounts and the cash value would be the current balance.

For checking accounts, the cash value is the average balance for the last six months. If the monthly balance is a negative amount, the average must include the negative amount, not zero. If the six-months average results in a negative balance, zero will be used as the amount. Income is calculated by multiplying the six-month average balance by the Annual Percentage Rate.

Many management companies are requiring bank statements for household assets with a combined cash value of \$5000 or less for applicants and residents and including all deposits as household income. This practice is a problematic since the program requires that the gross amount, not net, of any income be periodic, on-going and appropriately verified prior to adding it to household income. Sporadic and non-recurring gift income, loans and any repayment of loans between individuals are not considered income.

Note that assets held in foreign countries are considered assets.

- b. Trusts** – Trusts are legal arrangements 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. Trusts can be revocable or nonrevocable, depending on whether the principal of the

trust is accessible. The beneficiary frequently will be unable to touch any of the trust funds until a specified date or event (i.e., the beneficiary's 21st birthday or the grantor's death). In some instances, the beneficiary may receive the investment income but not be able to withdraw the principal. The basis for determining how to treat a trust relies on access to the principal and/or the income from the account.

- i. A revocable trust is a trust that can be accessed and may be amended or ended (revoked) by the creator of the trust. If any member of the household has the right to withdraw the funds in the account (has access), the trust is considered to be a household asset. Include the cash value (the amount, after conversion costs, that the household would receive if they withdrew all that could be withdrawn) of any revocable trust available to the family in total household net assets. In addition, include, in actual income derived from assets, the interest accrued on the trust, even if it is reinvested in the trust.
 - ii. A nonrevocable trust is a trust that cannot be accessed by the creator once created. If no household member has access to either the principal or the income generated by the trust, it is not considered to be a currently held asset. If only the income is available to a household member, include the income but do not include the cash value of the trust in total household net assets until the principal is accessible.
 - iii. A special needs trust is a trust that is created under state laws, often by family members for disabled persons who are not able to make financial decisions for themselves. Generally, the beneficiary does not have access to the principal of the trust. In those instances where the beneficiary does not have access to the principal or the income, the trust is not considered to be a currently held asset. If the interest is paid to the beneficiary regularly, the payments are included in actual income derived from assets but do not include the cash value of the trust in total household net assets until the principal is accessible.
- c. **Equity in rental property or other capital investments** – Include the current fair market value of real estate minus (a)

any unpaid balance on any loans secured by the property (i.e. pre-existing mortgage, etc.) and (b) reasonable costs that would be incurred in selling the asset.

- d. **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 they are reinvested. Although the value of these assets is variable, the value is fixed on the date of assessment by management.
- e. **Annuities** -- An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals. Annuities can be fixed (interest is accrued at a fixed rate), variable (earnings/losses are based on market fluctuation) or hybrid (combination of fixed and variable features) annuities. The basis for determining how to treat an annuity relies on access to the balance of the annuity and whether periodic payments are being received. If the holder does not have the right to withdraw the balance, the annuity is not considered to be a currently held asset. Once payments are being made to the holder regularly, the payments are included in income but the cash value of the annuity should not be included in total household net assets. If the holder has the right to withdraw the balance, even if penalties would be assessed, the cash value of the annuity is included with household net assets and the interest earned is included in actual income derived from assets, even though they are reinvested.
- f. **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. Once benefits are being received through periodic payment, count payments as income. Do not count any remaining amounts in the account as an asset.
- g. **Retirement and pension funds**
 - i. While the person is employed, include only amounts the family can withdraw without retiring or terminating employment, minus any penalties or transaction costs.

- ii. At retirement, termination of employment, count periodic receipts as income. Do not include the cash value of any remaining amounts in the account in household net assets. Lump-sum receipts should be included in total household net assets. If the individual initially receives a lump-sum benefit followed by periodic payments, count the lump-sum receipt as an asset and the periodic payments as income. In subsequent years, count only the periodic payments as income. Do not count the remaining balance as an asset.
- h. **Cash value of life insurance policies available to the individual before death** – Count the surrender value of a whole life policy or a universal life policy.

Assets would not include a value for term life insurance, which has no cash value to the individual before death.

- i. **A mortgage or deed of trust held by applicant** – Occasionally, when an individual sells a piece of real estate, the seller may loan money to the purchaser through a mortgage of sale or deed of trust. This may be referred to as a “contract sale”.
 - i. 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.
 - ii. This combined figure needs to be separated into the principal (cash value) and interest portions (income from the asset) of the payment. The amortization schedule should be used to determine the breakdown.

4. **Asset Exclusions**

- a. **Personal property** -- Clothing, furniture, cars, wedding ring, other jewelry that is not held as an investment, vehicles specially equipped for person with disabilities are not considered assets.
- b. **Interests in Indian trust land**
- c. **Term life insurance policies (i.e., where there is no cash value)**
- d. **Equity in the cooperative in which the family lives**
- e. **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 resident's main occupation

- f. **Assets that are not effectively owned by the applicant** – Assets that are 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 household, and (b) that other person is responsible for income taxes incurred on income generated by the assets
- g. **Assets that are not accessible to the resident/applicant and provide no income to the resident/applicant**

- 5. **Assets disposed of for less than fair market value** – Applicants and residents 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 twenty-four (24) months preceding certification and recertification. The amount counted as an asset is the difference between the cash value and the amount actually received. This amount should be added to the cash value of all other household assets for a period of 24 months following the disposal. The rule applies only when the fair market value of all assets disposed of exceeds the gross amount received by more than \$1000. Assets, disposed of as a result of foreclosure, bankruptcy, divorce or separation are not considered disposed of for less than fair market value. Assets placed in nonrevocable trusts are considered to be assets disposed of for less than fair market value unless the assets were placed in trust were received through settlements or judgments.

- 4. **The Certification and Leasing Processes** -- After all of the income and asset information has been obtained, verified and computed, a final determination of household eligibility must be made. At that time, if eligible, the household must be certified and a lease agreement executed. Management must prepare a Tenant Income Certification. This form is a legal document which, when properly executed, satisfies the income certification of the Code. The complete certification form must be executed by all household members 18 and older prior to move-in.

- A. Initial Certification** – No one may live in a LIHTC program unit unless he/she is certified. There are no permissible exceptions to this rule.
1. All adult household members (including full-time students, over the age 18 and who are not the Head, Co-Head nor Spouse) must sign the Tenant Income Certification (TIC) using their legal names
 2. Generally, the actual date of move-in will be the effective date of the TIC. Please be aware that this may not be true when other funding sources are present or when acquisition/rehabilitation and re-syndication rules apply.
 3. The TIC must be executed (signed by all parties) on or before the date of move-in
 4. The TIC must also be executed (signed and dated) by the Owner or Owner’s representative
- B. Annual Recertification** – Generally, Owners must verify the income of residents occupying low-income units at least annually and complete a certification for continuing household eligibility. If certification is not completed within 365 days of the previous certification date, SC Housing may report this to the IRS as noncompliance.
1. **Recertification Waiver** – The Housing and Economic Recovery Act of 2008 (“HERA”), enacted on July 30, 2008, made provision for 100% LIHTC developments to utilize an “annual recertification waiver”. Prior to discontinuing the full recertification process, the Owner must request approval from SC Housing to use the waiver. Failure to obtain prior written approval will result in findings of noncompliance. With SC Housing approval, the waiver allows the discontinuation of annual income verifications only. All other LIHTC requirements still apply.
- Please note that the HERA recertification waiver applies only to the LIHTC Program and does not apply other programs, including the Tax-Exempt Bond Program.
- a. In order to be eligible to utilize this exemption, SC Housing requires that developments be:
 - i. “In compliance” (i.e. no outstanding noncompliance issues, monitoring fees, submissions of AOCs, or

submissions of resident data through the Emphasys Certification Portal).

- ii. Without any other funding source(s) that requires annual certification
- iii. Comprised of only 100% LIHTC buildings, even if the Owner elected not to make buildings part of a multi-building project on IRS Forms 8609, Line 8b.

b. Utilizing the exemption

- i. Effective 10/01/2021, a full recertification must be performed on the anniversary of the initial certification which includes a recertification questionnaire/application and income verifications.
- ii. In subsequent years, the household must complete a recertification questionnaire/application which contains household composition, total household income and student statuses for all household members

Student status is never grandfathered in and will continue to be an eligibility factor and may have to be 3rd party verified.

- iii. Disclosed household eligibility information must be summarized on a Tenant Income Certification annually
- iv. If disclosed household income exceeds 140% of the current applicable income limit, the Next Available Unit Rule is triggered and must be continually satisfied.

c. Rescinding the Recert Waiver

- i. SC Housing has the right to rescind any previously approved recertification waiver if the following are found:
 - Multiple file issues (such as habitual expired recerts, poor document/documentations, etc.)
 - Poor internal controls (significant risk of error)
 - The tenant data through the Emphasys Certification Portal is not being updated on a continuous basis

If the recertification waiver is denied, the Owner must wait until the next cyclic file review has been completed. Only if all findings are resolved and none of the above issues were identified during the review will a recertification waiver be considered.

2. **Over-income Residents at Recertification** – If the income of a household qualified when such resident(s) initially occupied a program unit in the development, an increase in the household income of up to one hundred forty percent (140%) of the current applicable limit (adjusted for household size) will not result in disqualification. At annual recertification, in the event that the household's income increases to a level greater than 140% of the applicable limit, all units of comparable or smaller size which become vacant in the building must be leased to a qualified low-income household until the applicable fraction for the building has been restored. The over-income unit may still be counted as a program unit as long as it remains rent-restricted and the next available unit rule is followed. To calculate 140% of the income limit, multiply the current income limit, for the household size, applicable at the time of income determination by 1.4.
- C. **Lease** – All LIHTC units must be under lease, however, legal occupancy (execution of the Lease) cannot take place prior to the execution of the Tenant Income Certification (summary of eligibility). To demonstrate non-transient use, leases must be properly executed with an initial minimum term of at least six months (except for SRO's and transitional housing). The lease agreement should contain the following:
1. Beginning and ending date of the agreement
 2. Legal Names of all household members; all household members, aged 18 and older, must be listed as leaseholders and must sign the agreement, except for full-time students who are dependents of the household (not the Head, Co-Head or Spouse)
 3. To demonstrate appropriate rent-restriction, the lease must reflect the rental rate and all other applicable recurring, non-optional fees
 4. Signatures of all Leaseholders and an authorized Owner's Representative
 5. In addition, Owners should include the following provisions to provide the basis for termination of Lease in the event of LIHTC ineligible or fraudulent households
 - a. Provisions stating that intentional misrepresentation of household size or income or any other attempt to mislead

- the Owner as to the tenant's qualifications to occupy a low-income unit will result in the termination of lease
- b.** Provisions stating that failure to recertify will result in the termination of lease
 - c.** Provisions stating that any change in the household composition and/or student status must be immediately reported to the Owner/management agent
 - d.** Provisions addressing termination of lease for ineligible student households
 - e.** Provisions that prohibit subletting or assignment of lease
 - f.** Provision stating that the Owner, the Owner's representative, staff of SC Housing and representatives of the Internal Revenue Service reserve the right to enter the unit to inspect the physical condition of such unit
 - g.** If the unit will be occupied by more than one adult, all adult residents should be leaseholders and should sign the lease with the exception of dependent full-time students who are not the head, co-head or spouse

COMPLIANCE MONITORING ACTIVITIES

This section briefly describes SC Housing’s Compliance Monitoring activities. These monitoring procedures may be modified as SC Housing deems necessary, or as required by the Internal Revenue Service, IRS regulations, Revenue Rulings, and Revenue Procedures.

1. **Compliance Monitoring Briefings** -- Owners, managers and any other personnel who are directly involved in the management of a housing development and do not have previous experience with the LIHTC Program may be required to attend a basic, educational Monitoring briefing or obtain a LIHTC Certification from a national accredited LIHTC training firm before SC Housing releases IRS Forms 8609s allocating the place-in-service tax credits. SC Housing also reserves the right to require management personnel to attend briefings at any time during the compliance period if the development’s compliance efforts are deemed deficient or if staff changes occur. Monitoring Officers will also conduct briefings upon request and will periodically hold briefings/training sessions at various locations throughout the State. The purpose of the briefings is to provide instruction on the following:
 - A. Federal regulations for determining eligibility of low-income residents
 - B. SC Housing procedures for determining eligibility of low-income residents
 - C. Specific information which must be obtained from a prospective resident through the rental application
 - D. Income and Rent Limits
 - E. Income Verifications
 - F. Asset and Income from asset Verifications
 - G. Annual Recertifications

- H. SC Housing Required Forms and/or Documentation
 - I. External Compliance Monitoring Module – Emphasys’ Certification Portal
 - J. Such other topics, which SC Housing or the representatives of the development may deem necessary to ensure the proper management of the development as a successful LIHTC participant
2. **File Reviews and On-Site Building Inspections** – In order to meet its monitoring obligations to the IRS, SC Housing inspects a percentage of the State’s LIHTC developments each year. These periodic inspections include a record review and inspections of the outside, inside, and a sample of occupied and vacant units. Residents chosen for a record review will be selected at random by Monitoring Officers at the time of review. On-site physical inspections include inspecting the outside, inside (common areas), and dwelling units for compliance with applicable National Standards for the Physical Inspection (“NSPIRE”). SC Housing also reserves the right, under the provisions of Section 42 of the Internal Revenue Code and Regulation 1.42-5 to perform record reviews and/or unit inspections of LIHTC developments at any time during the compliance period. Property Owners will be notified in writing prior to the arrival of the Monitoring Officer. On-site management staff must notify residents, in writing, at least 24 hours before the scheduled review that their units may receive an inspection. An Owner (or Owner’s representative) must be present to ensure access to records and units selected for inspection. After completing the review, the Monitoring Officer will prepare a formal report of their findings. The general monitoring review process involves the following:
- A. **Notification of Review** -- Notification to the Owner or Owner’s representative occurs approximately 15 days prior to the review date. As part of this notification, the Owner is provided with a detailed list of required documentation which must be submitted in advance to enable the performance of the review. Failure to provide this information in the timeframe given is considered noncompliance.
- (NOTE: Due to the annually increasing monitoring portfolio, Monitoring Officers are required to prepare their annual review schedule at the beginning of each year. Due to this, they have little ability to offer flexibility in the scheduling or re-scheduling of reviews.)

- B. Work Area** -- On the day of the review, the Monitoring Officer will arrive at the property. A work area should be selected and prepared in advance for the Monitoring Officer, preferably in a quiet location, ideally removed from front door traffic and interruptions. If no such area is available at the development, arrangements should be made in advance with the Monitoring Officer to arrange for an alternate work area.
- C. Entrance Conference** -- Once the Monitoring Officer has organized their review documentation and set-up any equipment, they will conduct an entrance conference with staff. Included in this entrance conference will be an overview of the review processes and the order in which they will be performed. Since Monitoring Officers are prohibited from communicating the review sample to the Owner prior to the day of the review, this information will be communicated to staff during the entrance conference. This will allow staff to pull the keys and resident files for the selected units. Staff will be asked to sign an “Acknowledgement of Entrance Conference” form.
- D. Physical Inspection** -- The physical inspection is performed. It is requested that maintenance personnel be present during the entrance conference since guidance about the physical inspection guidance will be given.
- i.** Monitoring Officers must be accompanied at all times while performing the physical inspection. The review may be terminated if the Monitoring Officer is repeatedly left unaccompanied. The outside and inside areas will be inspected as the physical inspection of the unit interiors progresses. Outside and inside are inspected prior to the units selected within the building. Deficiencies will be identified during the inspection process.
 - ii.** Site staff will gain access, enter the unit and all interior rooms first. Units will not be entered, no alternative unit selected, if the following conditions are found:
 - a.** Any unit that cannot be accessed, due to missing keys for exterior locks /resident exterior lock changes/chain locks
 - b.** Units that cannot be accessed, due to resident refusal of or objection to entry
 - c.** Units that cannot be accessed fully, due to locked interior doors
 - d.** Units that contain unsupervised, minor child(ren)
 - e.** Units that contain unrestrained animals

- f. Any unit, occupied or vacant, with health and safety issues that threaten the life, health or safety of the Monitoring Officer (natural gas leaks, heavy mold concentrations, compromised structural integrity of floors, walls, etc.)
 - g. Any unit that has confirmed report(s) of bed bug infestation
 - h. Units that contain visible drugs or drug paraphernalia
 - i. Units that contain visible, unsecured weapons
 - j. Units without essential services (i.e. electrical, water, sewer, etc.)
- E. **Record Review** – Once the physical inspection is completed, the resident files and any other relevant documentation will be reviewed. Since concentration and focus is required to perform this task, it is requested that the Monitoring Officer be interrupted as infrequently as possible. If the Monitoring Officer needs additional assistance or information from staff, they will request it.
- F. **Exit Conference** -- At the conclusion of the file review, an exit conference will be performed. During this conference, physical and file deficiencies will be identified. Recommended corrective action will be discussed and time frames, for the submission of corrective action, will be established. Staff will be asked to sign an Acknowledgment of Exit Conference Form indicating that an exit conference was performed. SC Housing reserves the right to modify the preliminary findings, solely at their discretion, if deemed necessary.
3. **Review Reports (Findings Letters and IRS Forms 8823)** – SC Housing will provide a final written report with scoring of any noncompliance identified, via E-mail or Certified Mail, to the Owner or its designated representative. Without prior written permission to release, SC Housing will not release the Findings Letters to any individual or group other than the Owner’s Contact on record. If the review reveals no noncompliance, SC Housing will notify the Owner that no evidence of noncompliance was identified.

If the review indicates that a LIHTC development is not in compliance with program rules, the Monitoring Officer will issue a detailed discrepancy report for the Owner. Some noncompliance situations are correctable. Others are not. If the noncompliance issues are correctable, the Owner will be allowed a period of time (“cure period”) in which to correct the discrepancies. Curing deficiencies usually involves obtaining missing documentation or making repairs to the outside, inside and/or dwelling units. Physical deficiencies,

which threaten the health and safety of residents, must be corrected in 24 hours, as indicated by the Monitoring Officer at the time of review. Other problems must be corrected within a reasonable period of time, which cannot exceed 30 days. The Owner must respond to SC Housing's findings and address all identified noncompliance individually and indicate the manner in which the corrections were made.

SC Housing may grant an extension beyond the 30-day correction period only for judicially caused delays in the eviction of non-qualified residents or other circumstances beyond the Owner's control. Timely responses to monitoring reviews are critical to ensure that noncompliance is corrected and the Owner/Management Company remains in good standing with SC Housing.

All reportable noncompliance must be submitted to the IRS within 45 days of the end of the correction period, whether corrected or not. Noncompliance is reported on the IRS Form 8823 generated as corrected or not corrected, based on the status at the end of the cure period. For a period of three years after the generation and filing of an uncorrected 8823, if documentation is submitted evidencing correction, SC Housing will submit an IRS Form 8823 showing correction of previously reported noncompliance.

Any change in the applicable fraction or the eligible basis which results in a decrease in the qualified basis of the development under Section 42(c)(1)(A) is noncompliance and must be reported to the Service. LIHTC buildings (or any interest therein), which are sold or otherwise transferred by the Owner, must also be reported to the Service.

All decisions concerning whether audits will be performed and whether previously claimed tax credits will be recaptured due to noncompliance are made solely by the IRS. SC Housing does not make recommendations to the IRS and does not otherwise participate in making decisions about audits and recapture of tax credits.

SC Housing is required to retain its inspection reports, Annual Owner's Certifications and other monitoring records for a period of 3 years from the end of the calendar year in which SC Housing received the certifications or generated the reports. Records of noncompliance are retained for a period of 6 years beyond the date when SC Housing files a Form 8823 with the Service.

Though SC Housing currently performs all of its own monitoring duties, it may subcontract monitoring work to outside agents. If, in the future, SC Housing does subcontract its monitoring duties, it will notify a development's Owner that a contracted compliance monitoring agent is assigned to monitor the property.

- 4. Reporting Permanent Noncompliance** – Owners who intend to remove buildings from the LIHTC Program should notify SC Housing immediately. Permanent noncompliance must be reported to the IRS as described above. All decisions as to whether or not previously claimed tax credits are subject to recapture as a result of permanent noncompliance would be made by the Service and not SC Housing.

NOTE: SC Housing's compliance monitoring procedures are designed to test a sampling of resident records and dwelling units for compliance. A successful management review and inspection does not mean that the development has completely satisfied all of the program rules since undetected noncompliance may still exist. Property Owners are completely and solely responsible for keeping their developments in compliance with the law and SC Housing is not responsible if they fail to do so.

EXHIBITS



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of:	Notice:	H 20-4
MF Regional and Satellite Directors	Issued:	May 26, 2020
MF Asset Management Division Directors	Expires:	This notice remains in effect until amended, revoked, or superseded.
Rural Services (RHS) Directors		
Contract Administrators		
MF Owners and Management Agents		

Subject: Electronic Signature, Transmission and Storage - Guidance for Multifamily Assisted Housing Industry Partners

Contents:

- I. Purpose.
- II. Applicability.
- III. Background.
- IV. Definitions.
- V. Electronic Signature.
- VI. Electronic Transmission.
- VII. Electronic Storage.
- VIII. Regulatory Restrictions.
- IX. Accessibility of Electronic Media.
- X. Paperwork Reduction Act.
- XI. Contact Information.

I. Purpose.

This Notice provides guidance to HUD multifamily assisted housing industry partners on electronic signatures, electronic transmission, and electronic storage of documents and forms required by HUD's Office of Asset Management and Portfolio Oversight (OAMPO) in the Office of Multifamily Housing Programs. For purposes of this Notice, "industry partners" include:

- Owners of HUD multifamily assisted housing properties;
- Management agents and service providers, and
- HUD and Contract Administrator (CA) staff.

With the issuance of this Notice, OAMPO permits, but does not require, industry partners to use electronic signatures. The Notice also permits industry partners to electronically transmit and electronically store files. Industry partners choosing to use electronic signatures, electronic transmission, and/or storage of electronic documents must do so in compliance with federal, state, and local laws.

Owners and management agents (O/A) adopting the terms of this Notice must provide applicants and tenants the option to utilize wet (i.e. original) signatures and paper documents upon request. When feasible, industry partners, applicants, and tenants should have the option of providing signatures and documents in wet or paper form.

This Notice does not change the nature or use of required documents as all such guidance remains the same. For example, an O/A may accept a tenant's notarized statement or signed affidavit regarding the veracity of information submitted, if the information cannot be verified by another acceptable verification method. However, the document may be submitted in paper form or signed and/or transmitted to the O/A electronically.

Except for regulatory requirements, references to original signatures, original documents, the transmission or submission of documents, and file maintenance in established HUD assisted housing guidance may be interpreted and implemented through electronic means. Note that in the case of wet (i.e. original) signatures, the acceptable electronic equivalent must meet the criteria set forth in Section V of this Notice. Section VIII provides the regulatory requirements for wet signatures and use of paper documents. These requirements supersede the guidance in this program Notice and must be followed.

II. Applicability.

A. Multifamily Housing Programs.

This Notice is applicable to the following assisted multifamily housing programs and pertains to all applicants, assisted tenants, and industry partners working with these programs:

- Project-based Section 8 programs under the United States Housing Act of 1937 (42 U.S.C. 1437) as follows:
 - New Construction;
 - State Agency Financed;
 - Substantial Rehabilitation;
 - Supportive Housing for the Elderly with project-based Section 8 (Section 202/8);
 - Rural Housing Service (RHS) Section 515/8;
 - Loan Management Set-Aside (LMSA);
 - Property Disposition Set-Aside (PDSA); and
 - Rental Assistance Demonstration Project-based Rental Assistance (RAD/PBRA).
- Other programs:
 - Section 202 Senior Preservation Rental Assistance Contracts (SPRAC);
 - Section 202/162 Project Assistance Contract (PAC);
 - Section 202 Project Rental Assistance Contract (PRAC);
 - Section 811 PRAC;

- Rent Supplement;
- Section 236 (including RAP); and
- Section 221(d)(3)/(d)(5) Below-Market Interest Rate (BMIR).

The guidance in this Notice does not apply to unassisted properties with a Section 221(d)(4) mortgage, the HOME program, or to Public and Indian Housing (PIH) programs.

If guidance is provided by another federal or state agency, such direction may not circumvent the guidance provided in this Notice when the property is operating under any of the eligible programs listed above. If there is conflicting guidance, O/A should refer to HUD Handbook 4350.3, REV-1, Occupancy Requirements of Subsidized Multifamily Housing Programs, Chapter 1, for further information.

B. Impacted Documents.

This Notice pertains to all HUD forms and O/A created documents related to OAMPO's asset management, Section 8 contract renewal, and occupancy policies. Any such forms and documents that comply with HUD guidelines may be signed, transmitted, and stored electronically. Types of forms and documents other than official HUD forms include, but are not limited to, the following:

- Documents transmitted among O/A, HUD, CA, and other service providers;
- Documents submitted by and provided to applicants or tenants;
- Documents submitted to and from third-party verifiers to O/A; and
- Documents used for other HUD Multifamily Housing business purposes.

While not required by HUD, note that some state and local laws or entities may require the use of wet signatures on some forms, such as:

- HUD-50059, "Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures";
- HUD-9887 "Document Package for Applicant's/Tenant's Consent" and
- Leases and lease addenda.

O/A are urged to consult with their legal counsel and obtain necessary information about state and local requirements for these types of documents.

III. Background.

The use of electronic signatures in transactions involving federal organizations is primarily governed by one or more of the following laws (“E-Transaction Laws”):^{1 2}

- A. [Electronic Signatures in Global and National Commerce Act](#) (E-SIGN) (15 U.S.C. § 7001 et. seq., effective October 1, 2000). E-SIGN promotes the use of electronic contract formation, signatures, and recordkeeping in private commerce by establishing legal equivalence between contracts written on paper and contracts in electronic form, pen-and-ink signatures and electronic signatures, and other legally required written documents and the same information in electronic form.

E-SIGN supersedes all statutes or federal agency rules containing paper-based requirements that might otherwise discourage the use of electronic signatures and records in consumer, commercial, or business transactions between two or more private parties.

In such situations, all contracting parties agree to the use of electronic methods. E-SIGN generally preserves an agency’s existing authority to specify standards and formats for records filed with the agency E-SIGN, Section 104(a)).

- B. [The Uniform Electronic Transactions Act](#) (UETA), approved by the National Conference of Commissioners on Uniform State Laws (NCCUSL) on July 23, 1999 and has been adopted by 47 states, the District of Columbia, and the U.S. Virgin Islands as of November 2010. The three states that have not adopted the UETA (New York, Illinois, and Washington) have all adopted similar laws making electronic signatures legally enforceable. UETA provides that when a law requires either a record to be in writing or include a signature, an electronic record or an electronic signature can satisfy that requirement, so long as the parties to the transaction have agreed to proceed electronically.
- C. Government Paperwork Elimination Act (GPEA) (44 U.S.C. § 3504, enacted in 1998) applies to governmental transactions and other transactions involving certain federal organizations. GPEA requires Federal agencies to allow individuals or entities that deal with those agencies the option to submit information or transact with the agency electronically, when practicable, and to maintain records electronically, when practicable. The Act specifically states that electronic records and their related electronic signatures are not to be denied legal effect, validity, or enforceability merely because they are in

¹Appendix II to OMB Circular A-130, Implementation of the Government Paperwork Elimination Act, November 2000, available at

https://obamawhitehouse.archives.gov/omb/circulars_a130_a130appendix_ii

²“Use of Electronic Signatures in Federal Organization Transactions”, January 25, 2013, Federal CIO Council <https://docplayer.net/6709446-Use-of-electronic-signatures-in-federal-organization-transactions-version-1-0-january-25-2013.html>.

electronic form and encourages Federal government use of a range of electronic signature alternatives.³

IV. Definitions.

- A. Digital signatures are encrypted data produced by a mathematical process applied to a record using a hash algorithm and public key cryptography. Digital signatures are considered the most “secure” type of electronic signature. They include a certificate of authority to ensure the validity of the signatory (the signature’s author and owner). Digital signatures are sometimes used as an electronic signature, as part of a process to authenticate a person or device, and to verify the integrity of the record.^{4 5}

Digitized Signature is a digital image of a handwritten signature. The image can be as simple as a scanned image of an ink-based signature handwritten on paper. In some cases, the image is created by the signer using a special computer input device, such as a digital pen and pad, to write out his or her name in a manner that is captured and stored digitally. A digital image of a handwritten signature is sometimes used as an electronic signature.⁶

- B. Electronic Record means a contract or other record created, generated, sent, communicated, received, or stored by electronic means.⁷

³ The Office of Management and Budget’s (OMB) Implementation of the Government Paperwork Elimination Act https://obamawhitehouse.archives.gov/omb/fedreg_gpea2/

⁴ “Use of Electronic Signatures in Federal Organization Transactions”, January 25, 2013 , Federal CIO Council
<https://docplayer.net/6709446-Use-of-electronic-signatures-in-federal-organization-transactions-version-1-0-january-25-2013.html>

⁵ Electronic Signatures in Global and National Commerce Act (E-SIGN) (15 U.S.C. § 7001 et. seq., effective October 1, 2000)
<https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter96&edition=prelim>

⁶ “Use of Electronic Signatures in Federal Organization Transactions”, January 25, 2013 , Federal CIO Council
<https://docplayer.net/6709446-Use-of-electronic-signatures-in-federal-organization-transactions-version-1-0-january-25-2013.html>

⁷ Electronic Signatures in Global and National Commerce Act (E-SIGN)(15 U.S.C. § 7001 et. seq., effective October 1, 2000)
<https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter96&edition=prelim>

- C. Electronic signature means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record. In a paper environment, a common form of signature is one's handwritten name. In an electronic environment, commonly used forms of signature include typed names, digitized images of one's handwritten name, Personal Identification Numbers (PIN), clicking an "I Agree" button on a website, or a digital signature.⁸
- D. Personally Identifiable Information (PII) "refers to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual.... To determine whether information is PII, [an] agency shall perform an assessment of specific risk that an individual can be identified using the information with other information that is linked or linkable to the individual. In performing this assessment, it is important to recognize that information that is not PII can become PII whenever additional information becomes available, in any medium or from any source, that would make it possible to identify an individual." Some examples of PII include name, date of birth (DOB), email address, mailing address, medical history, family relationships, vehicle identifiers including license plates, unique names, birth certificate, license, telephone and/or other specific reference numbers and/or any information that can directly identify an individual.⁹
- E. Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.¹⁰
- F. Sensitive Personally Identifiable Information (sensitive PII) is a higher risk subset of PII. Sensitive PII is PII that, if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Such general data as social security numbers, bank account, or passport information, credit and/or debit card numbers, driver's license numbers, and healthcare or medical insurance related information is considered sensitive PII.¹¹

⁸ "Use of Electronic Signatures in Federal Organization Transactions", January 25, 2013, Federal CIO Council <https://docplayer.net/6709446-Use-of-electronic-signatures-in-federal-organization-transactions-version-1-0-january-25-2013.html>

⁹ Office of Management and Budget (OMB) Memorandum-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information", January 3, 2017 www.osec.doc.gov/opog/privacy/Memorandums/OMB_M-17-12.pdf

¹⁰ Electronic Signatures in Global and National Commerce Act (E-SIGN)(15 U.S.C. § 7001 et. seq., effective October 1, 2000) <https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter96&edition=prelim>

¹¹ **HUD Breach Notification Response Team (HBNRT) Privacy Breach Standard Operating Procedures, Section 3.3**, <https://www.hud.gov/sites/documents/31502cioh.pdf>

G. Signature, whether electronic or on paper (“wet”), is the means by which a person indicates an intent to associate himself/herself with a document in a manner that has legal significance. It constitutes legally binding evidence of the signer’s intention regarding a document.¹²

H. Wet signatures are created when a person physically marks a document. In some cultures, this is done by writing a name in a stylized, cursive format (or even a simple “X”) on a piece of paper. The word “wet” implies that the signature requires time to dry, as it was made with ink.¹³ (Much of HUD’s policy guidance refers to “original signatures”, which have the same meaning as wet signatures.)

V. Electronic Signatures.

A. Introduction.

Much of the information in this Section V is taken directly from “[Use of Electronic Signatures in Federal Organization Transactions](#)“, guidance issued by the Federal Chief Information Officer (CIO) Council in January 2013. Industry partners are encouraged to download and review this document along with this program Notice. It provides greater discussion and detail on the items discussed in this Section.

The E-Transaction Laws, (see Section III of this Notice), essentially answers the basic question “if the law requires a ‘signature’, how can an electronic transaction satisfy that requirement”? This is done by what is referred to as the “functional equivalence approach”. This approach considers the purposes and functions of the traditional paper-based requirement for a signature and specifies how those purposes or functions can be fulfilled in an electronic context. This section sets forth the following requirements for a signing process that will satisfy requirements and guidance in all three E-Transaction Laws:

- Electronic form of signature;
- Intent to sign;
- Association of signature to the record;
- Identification and authentication of the signer; and
- Integrity of the signed record.

The “technology neutrality” principle holds that the law should not discriminate among

¹² “Use of Electronic Signatures in Federal Organization Transactions”, January 25, 2013 , Federal CIO Council

<https://docplayer.net/6709446-Use-of-electronic-signatures-in-federal-organization-transactions-version-1-0-january-25-2013.html>.

¹³ “The Difference Between Wet, Digital & Electronic Signatures”

<https://www.laserfiche.com/ecmblog/whats-the-difference-between-wet-digital-and-electronic-signatures/>

different forms of technology, provided that they meet the five requirements listed above.

B. Electronic Form of Signature.

In a paper-based transaction, the most used form of signature is a person's name, written with ink and in his or her own handwriting (i.e., a wet signature). To comply with requirements set forth in the Fair Housing Amendments Act and Section 504 of the Rehabilitation Act, use of alternative methods (e.g., signature stamps) may also be acceptable, as long as such use complies with legal requirements.

The E-Transaction laws similarly recognize that electronic signatures can take many forms and can be created by many different technologies, as long as the signing process satisfies the other requirements identified above and further described below. Examples of commonly used electronic forms of signature include:

1. Symbols such as:

- A typed name (e.g., typed at the end of an e-mail message by the sender or typed into a signature block on a website form by a party);
- A digitized image of a handwritten signature that is attached to an electronic record;
- A shared secret (e.g., a secret code, password or PIN) used by a person to sign the electronic record. ("Shared" means that the secret is known both to the user and to the system);
- A unique biometrics-based identifier (e.g., a fingerprint, voice print or a retinal scan); or
- A digital signature.

2. Sounds such as:

- A sound recording of a person's voice expressing consent;
- Processes such as using a mouse to click a button (such as clicking an "I Agree" button); and
- Using a private key and applicable software to apply a "digital signature" or scanning and applying a fingerprint.

This is not an exhaustive list, but it illustrates the variety of options available for use as an electronic form of signature. As technology advances, future methods may be adopted.

C. Intent to Sign.

In electronic transactions, merely applying a person's name, a digital signature, or any other sound, symbol, or process to an electronic record does not necessarily qualify it as a legally binding signature. For an electronic form of signature to be legally effective as an electronic signature, it must be executed or adopted by the signer with an intent to sign. Intent is the critical component of any legally binding signature. The existence of intent to sign is determined by what a signer would have reasonably believed under the circumstances when

the electronic form of signature was applied, assuming that he or she was not being coerced. Designing a signature process that establishes the intent to sign can be done through a variety of methods that provide a clear and conspicuous indication that a signature is being created and that it will be legally binding. It is important that the record, and/or process by which a person applies an electronic form of signature to the record, be designed to indicate the means by which the signer can indicate his or her intent to sign the record.

Following are some examples:

- “By signing below, I agree to the foregoing contract terms”;
- “By checking this box, I agree to the terms of use”;
- “Click to agree”;
- “By signing below, I attest that the information provided is true and agree to allow the O/A or HUD to verify such information”, and
- “I hereby certify that...”.

D. Association of Signature to the Record.

In a paper-based transaction, a document is typically signed by writing one’s name directly on the document to be signed. Writing one’s name on a blank sheet of paper, for example, will not qualify as a signature for any specific document. By its very nature, signing a document requires putting the signature directly on the document. The same requirement is carried over to electronic records.

The E-Transaction laws require that the electronic form of signature be made a part of the record being signed. Specifically, in order to be legally significant, the signature must be attached to or logically associated with the record being signed. “Association” means:

- The process must be clear to the signer as to exactly what it is that he or she is signing;
- The signer must have an opportunity to review the record before signing it and to clearly understand the parameters of the record he or she is signing; and
- The electronic form of the signature applied by the signer must be linked to the record being signed.

The association must be done in a manner that allows someone to later determine that the record has been signed. The data constituting the electronic form of signature must be stored in a way that permanently associates it with the electronic record that was signed.

E. Identification and Authentication of the Signer.

By definition, a signature must be the act of a specific signer. If the alleged signer denies signing, the signature will usually be unenforceable, unless there is proof that the alleged signer did sign. If it is ever necessary to prove the validity of an electronic signature in court, it will be necessary to prove “who” signed. Meeting this burden of proof requires establishing a link between an identified person and the signature.

While authentication of the signer's identity is an important part of the signing process, it may or may not be the electronic form of signature that provides proof of identity. As long as the overall signing process addresses identity and authentication, it is acceptable.

The E-Transaction laws do not require the use of any method to identify or authenticate a party as long as the method selected satisfies the requirement that it be as reliable as appropriate for the purpose in question. It does not need to be part of the same step or process that indicates the signer's intent as long as the person's identity and intent can be reliably correlated to the record he or she is signing.

F. Integrity of the Signed Record.

The usability, admissibility, and provability of a signed electronic record requires that procedures be undertaken to ensure the continuing integrity of both the electronic record and its electronic signature, following completion of the signing process. It is a matter of providing appropriate data security for both the record and the signature.

Data integrity is concerned with the accuracy and completeness of electronic information communicated over the Internet or stored in an electronic system. Data integrity ensures that no unauthorized alterations are made to such information either intentionally or accidentally. Ensuring integrity requires guarding against information modification or destruction for the full retention period of the record.

Industry partners utilizing e-signatures must ensure that documents signed electronically cannot be altered. If changes to the document are made, the electronic process must be designed to provide an "audit trail", showing all alterations, the date and time they were made, and the identity of the person who made them.

G. Requirements for Systems with Digital Signatures.

As explained above in Section IV.A, a digital signature varies from other electronic forms of signature, as it is "Encrypted data produced by a mathematical process applied to a record using a hash algorithm and public key cryptography". Any computer system or application that uses a username and password or multi-factor authentication would contain digital signatures. A digital signature is a way to ensure that an electronic document or record is authentic. Authentic means that you know who created the document and you know that it has not been altered in any way since that person created it. A username and password are the most common form of authentication.

In their work with HUD programs, many industry partners likely use computer systems or applications that contain digital signatures. For these digital signatures to be considered a legal form of electronic signature, the system or application must conform to the National Institute of Standards and Technology (NIST) Federal Information Processing Standards (FIPS) Digital Signature Standard 186-4 and other Federal Government digital signature regulations and guidance. Compliant software programs will contain a security feature that ensures that the digital signature is unique and protected and that only the "owner" of the

signature maintains control of its use.^{14 15}

VI. Electronic Transmission.

A. Owner/Agent Documents.

This Notice permits electronic transmission of HUD-approved or required documents when local, state, or federal law permits. It does not provide guidance on documents required by lenders, state or local government agencies, or other private concerns.

Note: Relevant program files or information can be transferred in a format that is acceptable to both parties, whether that is electronic or paper.

1. Documents Sent to HUD or a CA.

HUD and its CA may offer certain electronic transmission methods for documents. O/A should contact their local HUD field office or CA to determine each agency's submission options and/or transmission preferences.

2. Documents Sent to O/A.

HUD and CA staff may electronically transmit HUD forms and documents to O/A or to each other as state, local, or federal laws permit. As noted above, adequate security measures and choice of transmission method must ensure the security of sensitive information included in such documents.

B. Applicants and Tenants.

1. Submission to O/A.

If an O/A chooses to utilize electronic communication procedures, Applicants and tenants may also choose to communicate electronically with the O/A. Their choice must be made affirmatively (not assumed with an opt-out procedure). (See E-SIGN Act, 15 U.S.C. 7001(c)(1)(A)). They may complete most documents online or by hand and then transmit and/or scan and email them electronically to an O/A.

Applicants and tenants may also submit information and documents using other methods, such as online systems, tablet or smart phone apps, email, or other electronic media. O/A may designate specific methods as acceptable for electronic transmission. However, applicants and tenants must have the opportunity (if they desire) to provide information and documents in paper copy, including both before they have provided any information or documents electronically or after they have

¹⁴ "Use of Electronic Signatures in Federal Organization Transactions", January 25, 2013, Federal CIO Council

<https://docplayer.net/6709446-Use-of-electronic-signatures-in-federal-organization-transactions-version-1-0-january-25-2013.html>

¹⁵ National Institute of Standards and Technology (NIST) Federal Information Processing Standards (FIPS) [Digital Signature Standard 186-4](https://nvlpubs.nist.gov/nistpubs/fips/nist.fips.186-4.pdf), <https://nvlpubs.nist.gov/nistpubs/fips/nist.fips.186-4.pdf>

done so and wish to discontinue.

2. Transmission to Applicants and Tenants.

O/A may provide documents and notices electronically or make such documents available in an electronic format when state and local laws permit. If an O/A chooses to provide documents electronically, the O/A should inform applicants or tenants of their option to receive such documents in paper form.

If required notices, forms, and brochures are distributed electronically, HUD recommends that O/A request an electronic acknowledgement of receipt. Where HUD does not specifically require applicant or tenant acknowledgement of receipt, O/A should nonetheless maintain records showing that they provided applicants or tenants with the electronic file or the electronic address used to access the document.

When providing documents, forms, or notices electronically, O/A must be sure to comply with tenant notification requirements in Handbook 4350.3, HUD program Notices, and state and local laws, and regulations. When local, state, federal laws or regulations require that specific documents be provided by first class mail, delivered in person, or other specified means, this document must be provided using the stated required procedures and may not be solely transmitted electronically. (Refer to Section VIII of this Notice.)

C. Transmission Methods.

1. When transmitting documents electronically, industry partners must use National Institute of Standards and Technology (NIST) compliant methods. Examples include putting the documents inside an encrypted wrapper, such as a password-protected DOC, PDF, or ZIP file. Passwords should not be included in the same transmission as the documents. It is preferable to provide the recipient with the password by calling, texting, or in a separate email. HUD strongly recommends using an encrypted transfer mechanism such as a shared link with an encrypted cloud storage service, an encrypted mail service, or web encrypted transfer tools.
2. When transmitting and storing Enterprise Income Verification (EIV) system data, vendors must adhere to NIST compliant standards. Handbook 4350.3 REV-1, Chapter 9-21(C)(1)(a)). EIV data stored electronically must be in a restricted access directory or, if placed on portable media, labeled appropriately and encrypted using a [NIST Compliant Cryptographic Module](#). Similarly, all emails containing EIV data must be encrypted using a NIST compliant cryptographic module.
3. Other possible methods for transmitting electronic documents and data must comply with HUD's security requirements. They may include but are not limited to the following:

- a. Removable electronic media, such as thumb drives or SD cards;
- b. Direct access (i.e., providing login information to a system in order to access electronically signed and/or stored documents); and
- c. Other compliant technology as developed.

D. Personally Identifiable Information (PII).

1. All documents containing or conveying PII must be encrypted or transmitted in a secure manner in order to safeguard this information.
 - a. When faxing sensitive PII, use the date stamp function; confirm the fax number, verify that the intended recipient is available and confirm that he/she has received the fax. Ensure that none of the transmission is stored in memory on the fax machine, and that all paper waste is disposed of properly (shredded). If possible, use a fax machine that uses a secure transmission line.
 - b. If a secure line is not available, contact the recipient's office prior to faxing to inform them that information is coming. Next, contact the recipient's office following transmission to ensure they received it. For each event, the best course of action is to limit access of PII only to those individuals authorized to handle it and create a paper trail and verify that information reached its destination.
 - c. When sending sensitive PII via email or via an unsecured information system, make sure the information and any attachments are encrypted.
 - d. Do not place PII on shared drives, multi-access calendars, on Intranet, or the Internet unless they are compliant with the terms of this Notice, including Section VI.C.2.
 - e. Do not let documents with PII sit on a printer, scanner, or fax machine where unauthorized employees or contractors can have access to the information.
2. Privacy Act Violations.

The Privacy Act (5 U.S.C. Sec. 552a(g) and (i)) specifically provides civil remedies, including damages, and criminal penalties for violations of the Act. In the case of criminal violations, the Privacy Act limits these penalties to misdemeanors. An officer or employee of an agency may be fined up to \$5,000 for, when "knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it," as may "[a]ny person

who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses.”¹⁶

VII. Electronic Storage.

A. File and Document Storage.

HUD forms and O/A created forms or documents used for the management of the property may be stored electronically when state and local laws permit. If industry partners want to utilize e-storage policies, they may do the following:

- Maintain paper files, electronic files, or a combination of both; and
- Convert paper files to electronic format.

Note: O/A are strongly encouraged to consult their legal counsel in determining the requirements for wet signatures for documents required by other federal, state, or local laws and/or agencies. O/A must ensure they maintain documents in appropriate formats.

When information is stored electronically, data must be encrypted using a NIST compliant encryption solution.

B. Access.

1. Industry professionals will access documents as required by the function of those documents. (For example, maintenance staff will not have access to tenant certification records. Real Estate Assessment Center (REAC) inspectors will not have access to tenant files.)
2. Access to electronic information must comply with the same HUD program requirements that apply to paper files. Industry partners must ensure the security of important electronic records and documents. Access to e-storage systems must be restricted to certain users based on specific HUD program guidance.
3. Industry partners must adhere to special rules surrounding EIV or other documents, such as documents disclosing a tenant’s/applicant’s status as a victim of domestic violence, dating violence, sexual assault, or stalking.
4. Industry partners will use the stored information only for its intended purpose and must not share any electronic or paper files for purposes other than those strictly related to an appropriate request. Proprietary information must not be shared with

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<https://www.justice.gov/opcl/criminal-penalties>

another like entity. (For example, a CA would not share rent comparability studies submitted by one O/A with another O/A.)

5. This Notice permits Independent Public Auditors (IPA), while conducting HUD financial audits, to have access to O/A electronic records.

C. Security.

Data and information stored electronically must be maintained and used in ways that ensure the security, protection, and confidentiality of any information as required by federal, state, or local law. Data security management is a way to maintain the integrity of electronic data and to make sure that the electronic data are not accessible by unauthorized parties or susceptible to corruption.

To ensure appropriate security, industry partners must comply with the following practices:

1. Comply with any specific data security requirements of HUD programs, relating to such activities and media as the following:
 - Encryption both at transmission and at rest;
 - Use and disclosure of data;
 - Passwords for all employees or agents/contractors;
 - Using and accessing electronic data and systems, backing up data, and data protection;
 - Use of emails, message content, encryption, and file retention;
 - Mobile devices - ensure they are secure, used appropriately, and protected from theft;
 - Unauthorized access;
 - Reporting malicious malware in the event it is inadvertently imported;
 - Audit and access logs; and
 - Data Destruction.
2. Report any breach to the integrity of any electronic data that contains either sensitive information or information pertaining to electronic signatures to the entity that owns or administers the data. Such security policies should comply with federal, state or local laws, regulations, and guidance.
3. Utilize a method to track electronic activity associated with sensitive documents and information. In the event of a data breach, industry partners should have a method to facilitate disclosure to those affected by the breach. Such tracking methods should also be designed in such a way as to allow security audits of the electronic data when requested by federal or state agencies. Such audits must be permissible and conducted within the protections of the Privacy Act and other privacy and confidentiality laws and regulations.

D. Retention.

A data retention policy, or records retention policy, is an organization's established protocol for retaining electronic data information for operational or regulatory compliance needs. Industry partners must comply with established program-specific document retention requirements. Refer to Multifamily Housing handbooks for record retention requirements. Retention requirements are the same for both paper and electronic documents and records. Additionally, like paper documents and records, electronically stored and/or signed documents and records must be kept within a document management system where access is limited based on function and need to know. This is also the case when records and documents are stored in a central location using document management software and when a secured version of a form is attached to a specific tenant or O/A record.

E. Data and File Destruction.

Data destruction is the process of destroying electronic data stored on tapes, hard disks, and other forms of electronic media, so that it is completely unreadable and cannot be accessed or used for unauthorized purposes. Industry partners must have policies and procedures in place to destroy records and data and must document when and how records and data are destroyed.

1. Electronic Data.

Industry partners must have policies and procedures in place to destroy electronic data and must document when and how records and data are destroyed. Procedures must ensure that records and documents cannot be accessed once they have been destroyed. The type of destruction method used should correlate to the sensitivity of the data and HUD's or other federal/state/local government requirements.

2. Paper File Destruction.

O/A must dispose of paper files in a manner that will prevent any unauthorized access to personal information, e.g., burn, pulverize, shred, etc. When converting paper files/documents to electronic format and prior to destroying the paper format, O/A must check local and state laws and practices to determine if hard-copy documents with wet signatures must be retained or whether a print-out of an electronic document with a verifiable electronic signature is acceptable.

F. HUD Review Impact.

Reviews conducted by HUD or HUD's agents or reviews conducted in compliance with HUD's guidelines may involve reading files electronically (when available). The files must be provided in compliance with HUD's or other federal/state/local government security access requirements. O/A may continue to furnish documents in paper format if they prefer.

VIII. Regulatory Restrictions.

Sections of HUD's regulations for multifamily housing programs (found in 24 Code of Federal Regulations (CFR)) require some notices to tenants be sent by first class mail, delivered directly to tenants or their units, or posted in public spaces. In these situations, electronic communication (email, posting on a website, etc.) does not satisfy the requirement. O/A and industry partners must comply with current and future regulatory requirements. Regulatory requirements supersede the administrative requirements provided in this Notice and other HUD Multifamily Housing handbooks and notices.

- A. These include but are not limited to the following types of Notices:
- Termination notice (§247.4(b));
 - Change in leasing and/or occupancy requirements, e.g., proposed pet rules (§5.353(f)).
 - Increase in Maximum Permissible Rents (Section 245.310);
 - Conversion of a project from project-paid utilities to tenant-paid utilities, or a reduction in tenant utility allowances (§ 245.410);
 - Conversion of residential units in a multifamily housing project to a nonresidential use or to condominiums, or the transfer of the project to a cooperative housing mortgagor corporation or association (§ 245.410);
 - A partial release of mortgage security (except for any release of property from a mortgage lien with respect to a utility easement or a public taking of such property by condemnation or eminent domain) (§ 245.410); and
 - Making major capital additions to the project. (The term "major capital additions" includes only those capital improvements that represent a substantial addition to the project. Upgrading or replacing existing capital components of the project does not constitute a major capital addition to the project.) (§ 245.410).
- B. Storage of Tenant Notices.
- If O/A maintain electronic tenant files, they must scan and store an electronic file of the tenant notification in the tenant's file, when the tenant is provided a notice in paper form.

IX. Accessibility of Electronic Media.

- A. Industry partners must provide all notices and communications discussed in this Notice consistent with Section 504 of the 1973 Rehabilitation Act and HUD's Section 504 regulations, and Titles II or III of the Americans with Disabilities Act (ADA) and its implementing regulations. These statutes also require effective communication with individuals with disabilities and prohibit Electronic and Information Technology (EIT) imposed barriers to accessing information, programs, and activities by persons with disabilities.

Industry partners must provide appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed, e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible websites and other electronic

communications. In the event that a person with a disability is unable to use an electronic system or file that meets federal accessibility standards, O/A must provide reasonable accommodations to afford users an equal opportunity to participate (e.g., in completing and signing documents or submitting documents in paper copy). (See 24 CFR 8.6; 28 CFR 35.160, 36.303.)

- B. Section 508 of the 1973 Rehabilitation Act requires federal agencies to ensure, when developing, procuring, maintaining, or using EIT, that the EIT allows persons with disabilities to access and use information and data comparably to those without disabilities, unless an undue burden would result to the Federal agency. HUD encourages O/A to adopt the goals and objectives of Section 508 by ensuring comparable access whenever EIT is used.
- C. In accordance with Executive Order 13166 (E.O. 13166), it is the responsibility of housing providers to ensure that effective communication of electronic media includes reasonable steps taken to ensure meaningful access for persons with Limited English Proficiency (LEP) across technological platforms. Such formats may include, but are not limited to, multilingual websites and other electronic media.

X. Paperwork Reduction Act.

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

XI. Contact Information.

Questions concerning this Notice should be directed to your property's Account Executive in your local HUD MF Regional or Satellite Office. You may also contact Carissa Janis, Program Analyst, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, (202) 402-2487 or Carissa.L.Janis@hud.gov. Persons with hearing or speech impairments may access their field office via TTY by calling the Federal Relay Service at (800) 877-8339 (www.gsa.gov/fedrelay).

Brian D. Montgomery
Assistant Secretary for Housing
– Federal Housing Commissioner



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

As Special Attention of

All Multifamily Hub Directors
All Multifamily Program Center Directors
All Multifamily Operations Officers
All Directors of Project Management
All Field Counsel

Notice H 2012-5

Issued: April 23, 2012

Expires: This notice remains in effect until
amended, revoked, or superseded

Cross References: Housing Notice 2011-20

SUBJECT: Guidelines on Addressing Infestations in HUD-insured and Assisted Multifamily Housing

I. Purpose

This Notice supersedes Housing Notice 2011-20, “Guidelines on Bed Bug Control and Prevention in HUD Insured and Assisted Multifamily Housing.” Readers seeking guidance on the subject of bed bug infestations should instead refer to this Notice, which provides updated information to prevent and address infestations, including but not limited to bed bugs, insects, and all manner of vermin. HUD is providing guidance to Owners, Management Agents (O/As) and residents of HUD Multifamily insured and assisted properties to remind all parties of the importance of prevention, identification, and treatment of infestations in HUD-assisted and HUD-insured rental housing. The Department has received numerous inquiries and comments from the industry and HUD residents seeking clarification and information on appropriate steps to address infestations in Multifamily properties. This Notice provides information and references to best practices regarding the prevention and control of infestations. It also reaffirms existing program requirements with regard to infestations.

II. Background

Pursuant to 24 CFR Part 5, Subpart G, HUD housing must be decent, safe, sanitary and in good repair. Owners of HUD-insured or assisted housing must maintain such housing in a manner that meets physical condition standards. In accordance with project Regulatory Agreements and Section 8 HAP Contracts, the housing must have no evidence of infestation. HUD monitors Owners and Agents (O/As) to ensure that housing meets physical condition standards enumerated in 24 CFR 5.703. This includes providing guidance aimed at preventing and addressing infestations.

Many residents and O/As have contacted HUD to seek guidance on infestations. Of particular concern is the growing problem of bed bugs. According to the United States Environmental Protection Agency (EPA), bed bug populations have recently increased dramatically. HUD is working closely with other federal agencies to develop and share best practices for preventing, identifying and controlling bed bugs.

III. Applicability

This Notice provides guidance to the following types of projects:

- A. Properties assisted with Section 8 Project Based Rental Assistance, Rent Supplement or Rental Assistance Payment (RAP) contracts.
- B. Properties with active Section 202 Direct Loans, Section 202/162, Section 202 and 811 Capital Advances, and Section 202 Senior Preservation Rental Assistance Contracts or Section 811 Project Rental Assistance demonstration funding.
- C. Properties with active FHA insured first mortgages under Sections 207 pursuant to 223(f), 221(d)(3), 221(d)(4), 221(d)(5), 231, 213 or 236.

Certain provisions of this Notice are applicable only to assisted properties, as specified in various sections of the Notice below. The Notice does not supersede existing lease provisions that comply with state and/or local landlord/tenant laws and that have been approved by HUD (where such approval is required).¹ All parties should refer to the property lease executed between the tenant and the O/A, and the property House Rules, for details on Owner and resident rights and responsibilities related to infestations and housing physical condition standards. Certain assisted properties² are also subject to provisions of the HUD Model Lease for Subsidized Programs (Family Model Lease) (Form HUD-90105-A, HUD-90105-B, HUD 90105-C and HUD-90105-D) in HUD Handbook 4350.3, *Occupancy Requirements of Subsidized Multifamily Housing Programs*.

IV. Prevention of Bed Bug Infestations

Of particular concern for Multifamily O/As, as well as project residents, is the resurgence of bed bugs, which can cause discomfort and anxiety for residents and which can spread quickly. The ideal approach to bed bug infestations is to prevent them from occurring in the first place. Federal agencies, such as EPA and HUD, are working in tandem to develop and share recommendations to prevent infestations.

¹ For unassisted O/As, this Notice does not supersede state and local landlord/tenant law related to lease enforcement, housing habitability, and cure rights or damages.

² Section 221(d)(3) BMIR, Section 236, Section 8 New Construction, Section 8 Substantial Rehabilitation, Section 8 State Agency, RHS 515 with Section 8, Section 8 Loan Management Set-Aside (LMSA), Section 8 Property Disposition Set-Aside (PDSA), Rental Assistant Payment (RAP), and Rent Supplement projects are subject to the provisions of the Family Model Lease.

HUD encourages Multifamily O/As to develop an Integrated Pest Management Plan (IPM) to focus on preventing infestations. Such plans describe the ongoing efforts the property management will take to prevent and respond to pests. For more detail on IPMs generally, please see the online guide at <http://www.stoppests.org>. The information below pertains specifically to bed bug infestations.

According to the EPA, principles of IPM for bed bugs include:

- Raising awareness through education on prevention of bed bugs;
- Inspecting infested areas, plus surrounding living spaces;
- Checking for infestations on luggage and clothes when returning home from a trip;
- Reducing the number of secondhand items brought into units and looking for bed bugs or signs of infestation on secondhand items before bringing the items home;
- Correctly identifying the pest;
- Keeping records – including dates when and locations where pests are found;
- Cleaning all items within a bed bug infested living area;
- Reducing clutter where bed bugs can hide;
- Eliminating bed bug habitats;
- Physically removing bed bugs through cleaning;
- Using pesticides carefully according to the label directions; and,
- Following up on inspections and possible treatments.

In addition to or as part of an IPM program, Multifamily O/As are strongly encouraged to take the following steps to prevent bed bugs:

- Provide training for staff to identify bed bugs, and to perform ongoing prevention actions as outlined in the IPM. When a community is at high risk for bed bugs (for example, if the community has experienced prior infestations), periodic building inspections are recommended.
- Actively engage residents in efforts to prevent bed bugs. Education and involvement of project residents is a critical component of IPM for bed bugs. Bed bugs may often go undetected and unreported, because they are active at night, and tenants may not be aware of their presence. O/As may wish to hold workshops for tenants to teach them to identify bed bugs, to create unfriendly environments for pests, and to report suspicions of bed bugs as soon as possible.
- Provide orientation for new tenants and staff, and post signs and handouts.

In addition, tenants should immediately report the suspicion of infestations in housing units or other areas of the property. Early reporting allows the pests to be identified and treated before the infestation spreads. Tenants are the first line of defense against infestations and should cooperate to create living environments that deter pests. This includes reducing unreasonable amounts of clutter that create hiding places for pests and deter treatment.

More information on bed bug prevention may be found by accessing the following websites:³

- **Healthy Homes Training:** *What's Working for Bed Bug Control in Multifamily Housing?: Reconciling best practices with research and the realities of implementation.* http://www.healthyhomestraining.org/ipm/NCHH_Bed_Bug_Control_2-12-10.pdf.
- **National Pest Management Association Bed Bug Hub:** <http://pestworld.org/pest-world-blog/the-bed-bug-hub-one-stop-shop-for-bed-bug-information>
- **National Pest Management Association Best Practices Website:** <http://www.bedbugbmps.org>
- **IPM Curriculum and Blog:** <http://www.stoppests.org>
- **Environmental Protection Agency:** <http://www.epa.gov/pesticides/bedbugs/>

V. Addressing Infestations

The O/A should respond with urgency to tenant reports of infestations. The O/A should endeavor to take appropriate action within a reasonable time period. However, tenants are advised that pest inspections and, if necessary, treatment, may take time to schedule, particularly for recently resurgent pests such as bed bugs, for which it may be difficult to find trained specialists to perform inspections and conduct treatments.

Residents should fully cooperate with the O/A's efforts to identify and address infestations. This tenant cooperation is shown to expedite the control of infestations. Cooperation includes allowing the O/A to enter the unit to perform inspections and treatments, allowing pest treatments to occur, following the pest treatment protocol, and removing infested furniture or other items from common areas such as hallways or community rooms.

Residents are advised that some infestations, including bed bugs, require multiple treatments over the course of several weeks. Generally, relocation from units is not necessary for effective pest treatment. However, if reasonable temporary relocation is necessary, the O/A may request withdrawals from available project funds (which may include Reserve for Replacement, project income, or Residual Receipts, if authorized by HUD), as described below in Section VI, for those days when treatment is actively occurring that may render the unit uninhabitable. All withdrawals of this type must be approved by the Hub/PC Director or designee. Any temporary relocation must be carried out in accordance with applicable civil rights laws, including, but not limited to, Title VI

³ An additional resource for interested parties is the *Bed Bug Handbook*. L.J. Pinto, R. Cooper, and S.K. Kraft, *Bed Bug Handbook: The Complete Guide to Bed Bugs and Their Control* (Mechanicsville, MD: S.K. Pinto & Associates, 2007).

of the Civil Right Act of 1964 and Section 504 of the Rehabilitation Act of 1973. For example, when persons with disabilities are temporarily relocated, they must be placed in housing that provides, at a minimum, the same accessibility features as the housing in which they currently reside. Additionally, the O/A must ensure the right of return for tenants who have had to be temporarily relocated while the treatment is being performed.

VI. Project Resources

An O/A may contact HUD to request project resources for control of infestations. An O/A may use available operating funds to pay for activities to prevent and/or treat infestations. When other sources of funds are not available or sufficient, the Hub/PC Director may honor requests to reimburse Owners for infestation treatment from the Reserve for Replacement account, or, if authorized, the Residual Receipts account. The releases should follow the processes outlined in HUD Handbook 4350.1, *Multifamily Project Servicing*, Chapters 4 and 25. Owners may make advances (loan without interest) when no reserves are available. With prior HUD approval, Owners may repay the advances from project resources as discussed in HUD Handbook 4350.1.

For assisted housing projects, HUD may consider use of rental assistance to pay reasonable and necessary project expenses, such as an increased pest control line item in the project's operating budget, if the Section 8 Housing Assistance Payments (HAP) contract allows for budget-based rent setting in accordance with the *Section 8 Renewal Policy Guide*.

Owners of assisted properties are advised that any rental assistance received under Section 8, Rent Supplement or RAP cannot be used to reimburse residents for the cost of any additional expense to the household, such as purchase of new furniture, clothing or cleaning services. Assisted project Owners' requests for tenants to pay the costs of infestation treatment must be in accordance with the provision for tenant payment of damages or noncompliance as required in the Family Model Lease.

VII. Recurring Infestations

Many properties face recurring infestations. O/As may take initiative to offer protective tools to residents to help safeguard properties from recurrences. To prevent pests from entering a Multifamily property, O/As may voluntarily offer to inspect tenants' furniture before move-in. Where there is an approved (for Assisted Owners) lease provision that complies with state and/or local landlord/tenant law, O/As may require appropriate treatment of furniture upon tenant move-in, or when a tenant moves furniture into the apartment. These services or products are to be offered at the Owner's expense, or may be paid from project operating funds if available.

All Owners (of assisted and unassisted properties) may pursue remedies provided in the lease agreement and in accordance with state and local rental law. Assisted Owners must follow additional guidelines including occupancy requirements for assisted housing, and must adhere to all HUD and state and local landlord/tenant laws before taking action to deny tenancy or remove residents for causes related to infestations. For O/As of assisted properties, the Family Model Lease provides remedies related to damages or noncompliance. Many O/As have proposed lease addenda

related to infestations. As detailed in HUD Handbook 4350.3, Section 6-9, Lease Addenda in assisted properties may not conflict with the Family Model Lease. HUD reserves the right to review and approve Lease Addenda for assisted properties, for example to ensure that tenant payment provisions in proposed Addenda do not exceed the remedies for damages or noncompliance provided in the Family Model Lease.

VIII. Responding to Inspection Findings

Infestations should be addressed when reported by staff, tenants or the Real Estate Assessment Center (REAC), or if an audit by the HUD Office of the Inspector General identifies possible infestation.

Presently, REAC inspectors will only deduct points if there is the “presence of rats, or severe infestation by mice or insects such as roaches or termites. The following deficiencies can be noted: 1) Insects and 2) Rats/Mice/Vermin.”⁴ If there is no evidence of infestation (i.e. there are baits, traps, and sticky boards with no presence of insects or vermin) inspectors are instructed not to record this as a deficiency. If evidence is identified, the infestation may be cited as a deficiency.

As per Inspector Notice No. 2010-01, “the presence and/or treatment of bed bugs will not be scored in the UPCS inspection.” However, inspectors now ask the O/A to identify any units and/or buildings that are infested before the inspection begins. If bed bugs are reported, the inspector will record the units and/or buildings affected in the comment section of the Physical Inspection report.

Because bed bug infestations are on the rise, HUD staff will take additional steps to monitor and track reports of bed bug infestation and treatments of such infestations. When bed bugs are reported by the Owner/Agent at the time of inspection or if the Inspector notes the presence of bed bugs, REAC sends a “Bed Bugs Reported” email to the Hub/Program Center Director. HUD staff must take the following steps upon receipt of the “Bed Bugs Reported” email from REAC (regardless of the PASS score the property receives) or if bed bugs are cited as a deficiency within the REAC report, or if bed bugs are reported by the O/A, project residents, the Performance Based Contract Administrator, or an OIG audit:

- Enter the bed bug information on the Problem Statement screen in the Integrated Real Estate Management System (iREMS).
- If bed bugs were identified by REAC, send the attached letter (Attachment 1) to the Owner regardless of the score of the REAC Physical Inspection.
- Advise the Owner to describe what actions were taken or will be taken to eradicate the infestation.
- Advise the Owner to inform HUD of the response to the infestation, and to inform HUD if and when the problem has been completely eradicated.

⁴ HUD Physical Inspection Program—Chapter 3: UPCS Definitions Training—Health & Safety

- Release funds from Reserve for Replacement or Residual Receipts accounts if requested and if such funds are available and authorized.
- Continue to enter all related information into the Problem Statement screen in iREMS; and,
- Report any significant developments or problems regarding a bed bug infestation to Headquarters, Office of Asset Management.

If you have questions, please contact your Desk Officer in the Office of Asset Management.

Carol J. Galante
Acting Assistant Secretary for Housing –
Federal Housing Commissioner

Enclosures

ATTACHMENT

Property Owner
Address

SUBJECT: Bed Bugs
Property Name: _____

Dear Owner:

The [Hub Name] Multifamily Hub has received notification from the Real Estate Assessment Center (REAC) that during the physical inspection of your property performed on [Date], the inspector indicated that bed bugs were reported present at the property. The units/buildings below were identified as being infested with bed bugs:

Within 5 days of the date of this letter, please inform your Project Manager of the actions you are taking for bed bug control. This information should include the method of treatment used (or to be used), the timing for treatment(s), and your proposed plan for monitoring and preventing the possibility of future infestation.

If you have any questions, please contact your Project Manager, [Project Manager's Name], at [Project Manager's Telephone Number] ext. [Extension]

Sincerely,

Supervisory Project Manager
Project Management Division

EMPLOYMENT VERIFICATION

TO: (Name & Address of Employer)

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

RE: _____
Applicant/Tenant Name

Email: _____

Contact _____ at () _____ or
by email at _____ if you have any questions.

Unit Number (Optional)

Thank you for your prompt response. All information is confidential.

PERMISSION FOR RELEASE OF INFORMATION

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

Signature of Applicant/Tenant

Date

THIS SECTION TO BE COMPLETED BY EMPLOYER

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

Employee Name: _____ Job Title: _____

Presently Employed: Yes _____ Date First Employed _____ No _____ Last Day of Employment _____

Current gross wages/salary: \$ _____ (circle one) hourly weekly bi-weekly semi-monthly monthly yearly other _____

Average # of regular hours per week: _____

Overtime Rate: \$ _____ per hour Average # of overtime hours per week (not included in regular hours): _____

Shift Differential Rate: \$ _____ per hour Average # of shift differential hours per week (not included in regular hours): _____

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

Complete only if above wage data is unavailable: Year-to-date earnings: \$ _____ From ___/___/___ through ___/___/___

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

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

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

Additional remarks: _____

Signature: _____

Date: _____

Print Your Name: _____

Tel. #: _____

Title: _____

Email: _____

Company Name: _____

Address: _____

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

CERTIFICATION OF ZERO INCOME

(Each adult household member must complete this form.)

Head of Household Name: _____ Unit No.: _____

Development Name and Address: _____

A. Within the next 12 months, will you receive income from any of the following sources?

You must supply additional information to verify all 'Yes' answers.

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Wages, bonus, commissions, tips, etc. | <input type="checkbox"/> Yes <input type="checkbox"/> No | Self-employment (includes Uber/Lyft, online sales, etc.) |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Unemployment Benefits | <input type="checkbox"/> Yes <input type="checkbox"/> No | Annuities, insurance policies, stocks, etc. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Worker's Compensation | <input type="checkbox"/> Yes <input type="checkbox"/> No | Pensions, IRA, 401K |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Disability Payments | <input type="checkbox"/> Yes <input type="checkbox"/> No | Income from rental property |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Alimony | <input type="checkbox"/> Yes <input type="checkbox"/> No | Death Benefits |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Child Support | <input type="checkbox"/> Yes <input type="checkbox"/> No | Interest/dividends from assets, including bank accounts |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Social Security | <input type="checkbox"/> Yes <input type="checkbox"/> No | Direct Sales Consulting such as Mary Kay, Tupperware, Pampered Chef, etc. |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | Help with paying bills or other expenses or regular gifts of money from family or friends who don't live with you (including online donations such as GoFundMe or through a local bank) | <input type="checkbox"/> Yes <input type="checkbox"/> No | Work for cash (babysitting, lawncare, etc.) |
| | | <input type="checkbox"/> Yes <input type="checkbox"/> No | Any other source (if yes, explain below)
_____ |

B. Mark the ONE statement that applies to you:

- I do not expect to have any source of income in the next 12 months.
- I have been hired for a new job or I will be receiving another source of income soon. I will give you more information for verification purposes.

C. If you have circled N for each source of income in section A, and you do not expect to have any source of income in the next 12 months, explain how you will pay for the following:

(write N/A if the cost does not apply to your household)

Rent (including garage rent, if applicable) _____

Utilities _____

Food _____

Clothing _____

School supplies _____

Cell phone or phone _____

TV (cable, dish, satellite) and/or internet _____

Medical care _____

Medications & prescriptions: _____

Personal care products (shampoo, toothpaste, etc.) _____

Vehicle expenses (car payments, insurance, fuel, etc.) _____

Payments on credit card balances _____

Other expenses not listed above _____

Additional comments _____

Under penalty of perjury, I certify that the information presented in this certification is true and accurate to the best of my knowledge. I further understand that providing false representations constitutes an act of fraud. False, misleading, or incomplete information may result in the termination of my lease agreement. I understand that I may be required to periodically update this information as requested by owner/agent.

Signature of Applicant/Tenant

Printed Name of Applicant/Tenant

Date

UNDER \$5,000 ASSET CERTIFICATION

For households whose combined net assets do not exceed \$5,000.
Complete only one form per household; include assets of children.

Head of Household Name: _____ Unit No.: _____

Development Name and Address: _____

Complete all that apply for 1 through 4:

1. My/our assets include (enter n/a in (A) if you do not own the respective asset):

	(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income		(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income
Savings Account(s)	\$ _____	%	\$ _____	Checking Account(s)***	\$ _____	%	\$ _____
Cash on Hand	\$ _____	N/AP	N/AP	Government Benefits****	\$ _____	%	\$ _____
Certificates of Deposit	\$ _____	%	\$ _____	Money Market Funds	\$ _____	%	\$ _____
Stocks	\$ _____	%	\$ _____	Bonds	\$ _____	%	\$ _____
IRA Account(s)	\$ _____	%	\$ _____	401(k)/403(b) Account(s)	\$ _____	%	\$ _____
Keogh Account(s)	\$ _____	%	\$ _____	Trust Funds	\$ _____	%	\$ _____
Equity in Real Estate	\$ _____	%	\$ _____	Land Contracts	\$ _____	%	\$ _____
Lump Sum Receipts	\$ _____	%	\$ _____	Capital Investments	\$ _____	%	\$ _____
Bitcoin/ Cryptocurrency	\$ _____	%	\$ _____	GoFundMe/Crowdsourcing	\$ _____	%	\$ _____
Life Insurance (Excluding Term)	\$ _____	%	\$ _____				
Other Retirement/Pension Funds not named above:	\$ _____	%	\$ _____	Explanation _____			
Personal Property Held as an Investment**	\$ _____	%	\$ _____	Explanation _____			
Other (list):	\$ _____	%	\$ _____	Explanation _____			

PLEASE NOTE: Certain funds (e.g., Retirement, Pension, Trust) may or may not be (fully) accessible to you. Include only those amounts which are.

- *Cash value is defined as market value minus the cost of converting the asset to cash, such as broker's fees, settlement costs, outstanding loans, early withdrawal penalties, etc.
- **Personal property held as an investment may include, but is not limited to, gem or coin collections, art, antique cars, etc. Do not include necessary personal property such as, but not necessarily limited to, household furniture, daily-use autos, clothing, assets of an active business, or special equipment for use by persons with disabilities.
- ***Checking Account cash value should be the average in the checking account over the last six (6) months
- ****Cash Card Account used to receive government benefits or other income.

(Check either box 2 or box 3 below, not both)

2. Within the past two (2) years, I/we have sold or given away assets (including cash, real estate, etc.) for more than \$1,000 below fair market value (FMV). Those amounts equal a total of: \$ _____ (enter the difference between FMV and the amount you received).
3. I/we have not sold or given away assets (including cash, real estate, etc.) for less than fair market value during the past two (2) years.
4. I/we do not have any assets at this time (do not check this box if you have entered any numbers in section 1, above).

The net family assets (as defined in 24 CFR 813.102) above do not exceed \$5,000, and the annual income from the net family assets is \$ _____ (enter the total of all (A*B) Annual Income in section 1 above). This amount is included in total gross annual income.

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

Signature of Applicant/Tenant _____ Date _____ Signature of Applicant/Tenant _____ Date _____

Signature of Applicant/Tenant _____ Date _____ Signature of Applicant/Tenant _____ Date _____

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

STUDENT SELF CERTIFICATION

This annual Student Self Certification is in connection with the undersigned's application/occupancy in the following apartment:

Head of Household Name: _____ Unit No. if assigned: _____

Development Name and Address: _____

Move-in Date if applicable: _____ Effective Date: _____

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

A. _____ Household contains at least one occupant who is not a student and has not been/will not be a student for five months or more out of the current and/or upcoming calendar year (months need not be consecutive). If this item is checked, no further information is needed (**Do not answer questions 1-5**). Sign and date below.

B. _____ Household contains all students, but is qualified because the following occupant(s) _____ is/are a PART-TIME student(s) who have not been/will not be a full time student for five months or more of the current and/or upcoming calendar year. Verification of part-time student status is required for at least one occupant. If this item is checked, no further information is needed (**Do not answer questions 1-5**). Sign and date below.

C. _____ Household contains all students who were, are, or will be FULL-TIME for five months or more out of the current and/or upcoming calendar year (months need not be consecutive). **If this item is checked, questions 1-5 below must be completed:**

- | | | |
|---|------------------------------|-----------------------------|
| 1. Is any member married and entitled to file a joint tax return? (attach marriage certificate or tax return) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 2. Is at least one student a single parent with child(ren) <i>and</i> this parent is not a dependent of someone else, <i>and</i> the child(ren) is/are not dependent(s) of someone other than a parent? (attach student's most recent tax return and, if applicable, divorce/custody decree or other parent's most recent tax return) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 3. Is at least one student receiving Temporary Assistance to Needy Families (TANF)? (provide release of information for verification purposes) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 4. Does at least one student participate in a program receiving assistance under the Workforce Innovation and Opportunity Act or under other similar federal, state, or local laws? (attach verification of participation) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| 5. Does the household consist of at least one student who has ever been under the care and placement responsibility of the state agency responsible for administering foster care? (provide verification of participation) | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

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

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

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

_____ Printed Name	_____ Signature	_____ Date
-----------------------	--------------------	---------------

_____ Printed Name	_____ Signature	_____ Date
-----------------------	--------------------	---------------

_____ Printed Name	_____ Signature	_____ Date
-----------------------	--------------------	---------------

_____ Printed Name	_____ Signature	_____ Date
-----------------------	--------------------	---------------

STUDENT SELF CERTIFICATION

This annual Student Self Certification is in connection with the undersigned's application/occupancy in the following apartment:

Head of Household Name: _____ Unit No. if assigned: _____

Development Name and Address: _____

Move-in Date if applicable: _____ Effective Date: _____

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

A. _____ Household contains at least one occupant who is not a student and has not been/will not be a student for five months or more out of the current and/or upcoming calendar year (months need not be consecutive). If this item is checked, no further information is needed (**Do not answer questions 1-5**). Sign and date below.

B. _____ Household contains all students, but is qualified because the following occupant(s) _____ is/are a PART-TIME student(s) who have not been/will not be a full time student for five months or more of the current and/or upcoming calendar year. Verification of part-time student status is required for at least one occupant. If this item is checked, no further information is needed (**Do not answer questions 1-5**). Sign and date below.

C. _____ Household contains all students who were, are, or will be FULL-TIME for five months or more out of the current and/or upcoming calendar year (months need not be consecutive). **If this item is checked, questions 1-5 below must be completed:**

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

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

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

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

Printed Name

Signature

Date

Printed Name

Signature

Date

Printed Name

Signature

Date

Printed Name

Signature

Date

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 regular 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 EXCLUSIONS:

- (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).

FORMS

South Carolina State Housing Finance and Development Authority - Compliance Monitoring Division

300C Outlet Pointe Blvd, Columbia, South Carolina 29210

CURRENT OWNERSHIP AND MANAGEMENT INFORMATION - Part I

It is the owner's responsibility to notify the Authority of any change in ownership or management of the developments. A response is required in each region for information requested, or N/A is an acceptable reply for information requested that is not applicable to the property. If applicable, please check the box describing the partnership relationship. All information should be typed or printed clearly. **All areas of Parts I and II of this form must be completed and returned to the attention of _____ by _____.**

This form was completed by _____ Phone _____

The above listed person can be reached for questions or clarification of information on this report.

Property ID _____ **Property Name** _____

Physical Property Address/Location of Property _____

Mailing Address for Property _____

Name of Owner or Ownership Entity _____ **Mailing Address of Owner or Ownership Entity** _____ **IRS Identification Number** _____

Owner or Ownership Entity Contact Person _____ **Phone** _____ **Fax** _____ **Email Address** _____

Organizational Name of Management Agent/Company _____ **Mailing Address of Management Agent** _____ **IRS Identification Number** _____

Management Contact Person _____ **Phone** _____ **Fax** _____ **Email Address** _____

On-Site Manager's Name _____ **On-Site Manager's Phone** _____

On-Site Manager's Email _____ **On-Site Manager's Fax** _____

South Carolina State Housing Finance and Development Authority - Compliance Monitoring Division
300C Outlet Pointe Blvd, Columbia, South Carolina 29210

CURRENT OWNERSHIP AND MANAGEMENT INFORMATION - Part II

Property ID Property Name

Make copies of Part II to use for additional listings. Complete the entire Part II including signing the document when additional listings are required.
*The Sum of the Total Percentage of Holding must equal 100%. Partnership and Shareholder information must be reported as of the most recent Partnership Agreement and IRS Schedule K-1 (Form 1065). If applicable, please check the box describing the partnership relationship. Do not return Partnership Agreements or Schedule K-1's, just the information requested. All information should be typed or printed clearly.

Name of Partner (Managing or Sole) Mailing Address Percentage of Holding*

IRS Identifying Number Phone Fax Email Address

Contact Person

Name of Partner (General) Mailing Address Percentage of Holding*

IRS Identifying Number Phone Fax Email Address

Contact Person

Name of Partner (Equity) Mailing Address Percentage of Holding*

IRS Identifying Number Phone Fax Email Address

Contact Person

The information in Parts I and II are complete and correct according to available property records. Total Percentage of Holdings _____

Signature of Owner, Signing Partner, or Officer _____ Date _____

Type or Print Name of Owner, Signing Partner, or Officer _____ Title of Signing Partner or Officer if Owner is not an Individual _____

PART V. DETERMINATION OF INCOME ELIGIBILITY

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 \$

Designated Income Restriction:
 80% 70% 60%
 50% 40% 30%
 20% ___%

RECERTIFICATION ONLY:

Designated Income Limit x 140% (170% for Deep Rent Skewing):
 \$ _____

(Designated Income Limit: 20-50 properties use 50%; 40-60 properties use 60%; Average Income Test properties use 60% for all units with income designations that are 60% or lower and actual unit designation for units at 70% and 80%)

Current Income Limit per Family Size: \$ _____

Household Income at Move-in: \$ _____

Household Size at Move-in: _____

Household is over income at recertification:
 Yes No

PART VI. RENT

Tenant Paid Rent:	\$ _____	Unit Meets Rent Restriction at:
		<input type="checkbox"/> 80% <input type="checkbox"/> 70% <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> 20% <input type="checkbox"/> ___%
Utility Allowance:	\$ _____	
Rental Assistance:	\$ _____	
Other non-optional charges and mandatory fees:	\$ _____	
Gross Rent For Unit (See Instructions):	\$ _____	
Is the source of the Rental Assistance Federal? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If No, what is the source of the assistance?</i> _____		
<i>If Yes, identify the type of Federal Rental Assistance:</i>		
<input type="checkbox"/> HUD Multi-Family Project-Based Rental Assistance (PBRA)	<input type="checkbox"/> HUD Housing Choice Voucher (HCV-tenant based)	
<input type="checkbox"/> HUD Section 8 Moderate Rehabilitation	<input type="checkbox"/> HUD Project-Based Voucher (PBV)	
<input type="checkbox"/> Public Housing Operating Subsidy	<input type="checkbox"/> USDA Section 521 Rental Assistance Program	
<input type="checkbox"/> HOME Tenant Based Rental Assistance (TBRA)	<input type="checkbox"/> Other Federal Rental Assistance _____	

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL-TIME STUDENTS? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, enter Student Explanation* and attach documentation Enter 1-5	*Student Explanation 1. TANF assistance 2. Previously in state foster care system 3. Job Training Program 4. Single parent/dependent child 5. Married/joint return
---	---	---

PART VIII. PROGRAM TYPE

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

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

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

SIGNATURE OF OWNER/REPRESENTATIVE

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

SIGNATURE OF OWNER/REPRESENTATIVE DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

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

Part I. Development Data

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

- Move-in Date Enter the date the tenant has or will take occupancy of the unit.
- Effective Date Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification. For acquisition/rehabilitation where existing tenants are being initially certified within 120 days of the date of acquisition, the effective date is the date of acquisition. Otherwise the effective date is the date the existing household signs the TIC.
- Property Name Enter the name of the development.
- County Enter the county (or equivalent) in which the building is located.
- BIN # Enter the building identification number (BIN) assigned to the building (from IRS Form 8609).
- Address Enter the address of the building.
- Unit Number Enter the unit number.
- # Bedrooms Enter the number of bedrooms in the unit.

Part II. Household Composition

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

- | | | | | | |
|---|---|-------------------|---|---|----------------------------|
| H | - | Head of household | S | - | Spouse |
| A | - | Adult co-tenant | F | - | Foster child(ren)/adult(s) |
| C | - | Child | O | - | Other |
| L | - | Live-in caretaker | | | |

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

If there are more than eight (8) occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III. Annual Income

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

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

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

- Column (B) Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
- Column (C) Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
- Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
- Row (E) Add the totals from columns (A) through (D), above. Enter this amount.

Part IV. Income from Assets

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

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

- Column (F) List the type of asset (i.e., checking account, savings account, etc.).
- Column (G) Enter C (for current, if the family currently owns or holds the asset) or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
- Column (H) Enter the cash value of the respective asset. Cash value is the market value less expenses involved in converting the asset to cash.
- Column (I) Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate). Anticipated income is the market value multiplied by the interest rate for the asset.
- TOTALS Add the total of Column (H) and Column (I), respectively.

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

- Row (K) Enter the greater of the total in Column (I) or (J).
- Row (L) Total Annual Household Income from All Sources Add (E) and (K) and enter the total.

HOUSEHOLD CERTIFICATION AND SIGNATURES

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

Part V. Determination of Income Eligibility

- Total Annual Household Income from All Sources Enter the number from item (L).
- Current Income Limit per Family Size Enter the Current Move-in Income Limit for the household size at the designated income limit for that unit.

Household Income at Move-In	For recertifications only. Enter the household income from the move-in certification.
Household Size at Move-In	On the adjacent line, enter the number of household members from the move-in certification.
Household Meets Income Restriction	Check the appropriate box for the income restriction that the household meets according to what is required by the minimum set-aside(s) for the project, including the specific unit designation for Average Income Test developments.
Current Income Limit x 140% (170% for Deep Rent Skewed)	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% (170% for Deep Rent Skewed) and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% (170% for Deep Rent Skewed) of the current income limit, then the available unit rule must be followed. For units designated at 50 percent or below in Average Income Test developments, use 60% limit for Current Income Limit.

Part VI. Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Rental Assistance	Enter the amount of rent assistance, if any.
Other Non-Optional Charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of tenant paid rent plus utility allowance and other non-optional charges.
Source of Rental Assistance	Check whether the rental assistance is provided under a federal rental assistance program. If so, check the type of federal rental assistance in one of the boxes below. If the rental assistance is not provided under a federal rental assistance program, indicate the source of the assistance.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the minimum set-aside(s) for the project, including the specific unit designation for Average Income Test developments.

Part VII. Student Status

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

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

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

Part VIII. Program Type

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

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

- Housing Bond If the property receives financing from the tax-exempt Housing Bond program, mark the appropriate box indicating the household's income designation for purposes of the Housing Bond program.
- HTF If the property receives financing from HTF and this household's unit will count towards the HTF set-aside requirements, mark the appropriate box indicating the household's income designation for purposes of HTF.
- Other If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

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

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

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

**CERTIFICATION OF
DOMESTIC VIOLENCE,
DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

[Insert Name of Housing Provider¹]

Notice of Occupancy Rights under the Violence Against Women Act²

To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.³ The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **[insert name of program or rental assistance]** is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

Protections for Applicants

If you otherwise qualify for assistance under **[insert name of program or rental assistance]**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

¹ The notice uses HP for housing provider but the housing provider should insert its name where HP is used. HUD’s program-specific regulations identify the individual or entity responsible for providing the notice of occupancy rights.

² Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

³ Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

If you are receiving assistance under **[insert name of program or rental assistance]**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under **[insert name of program or rental assistance]** solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

HP may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HP chooses to remove the abuser or perpetrator, HP may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HP must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, HP must follow Federal, State, and local eviction procedures. In order to divide a lease, HP may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, HP may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HP may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HP will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HP's emergency transfer plan provides further information on emergency transfers, and HP must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HP can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HP must be in writing, and HP must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HP may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HP as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HP with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that HP has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HP does not have to provide you with the protections contained in this notice.

If HP receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HP has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HP does not have to provide you with the protections contained in this notice.

Confidentiality

HP must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HP must not allow any individual administering assistance or other services on behalf of HP (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HP must not enter your information into any shared database or disclose your information to any other entity or individual. HP, however, may disclose the information provided if:

- You give written permission to HP to release the information on a time limited basis.
- HP needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires HP or your landlord to release the information.

VAWA does not limit HP's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HP cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HP can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If HP can demonstrate the above, HP should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to

additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

For Additional Information

You may view a copy of HUD's final VAWA rule at **[insert Federal Register link]**.

Additionally, HP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **[insert name of program or rental assistance contact information able to answer questions on VAWA]**.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **[Insert contact information for relevant local organizations]**.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **[Insert contact information for relevant organizations]**

Victims of stalking seeking help may contact **[Insert contact information for relevant organizations]**.

Attachment: Certification form HUD-5382 **[form approved for this program to be included]**

**EMERGENCY TRANSFER
REQUEST FOR CERTAIN
VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed): _____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

[Insert name of covered housing provider]

**Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence,
Sexual Assault, or Stalking**

Emergency Transfers

[Insert name of covered housing provider (acronym HP for purposes of this model plan)] is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),¹ HP allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.² The ability of HP to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether HP has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model

¹ Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that **[insert name of program or rental assistance here]** is in compliance with VAWA.

Eligibility for Emergency Transfers

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify HP's management office and submit a written request for a transfer to **[HP to insert location]**. HP will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under HP's program; OR

2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Confidentiality

HP will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives HP written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against Women Act For All Tenants for more information about HP's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

HP cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. HP will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. HP may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If HP has no safe and available units for which a tenant who needs an emergency is eligible, HP will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, HP will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

**INCOME VERIFICATION
FOR TENANTS WITH SECTION 8 CERTIFICATES OR VOUCHERS**

TO:

_____ has applied for residency in/is a resident of unit _____ of _____, a Low Income Housing Tax Credit development. As part of our processing, we must obtain verification of his/her household's anticipated gross annual income.

Number occupants: _____

Number bedrooms: _____

Move-in

Recertification

Permission by: _____
(Applicant's Signature) (Date)

Under section 42(g) of the Internal Revenue Code (as amended) and the Low Income Housing Tax Credit Program, the anticipated gross annual household income for the above referenced household cannot exceed \$ _____, the applicable income limit for this unit. The applicant has reported an anticipated annual household income of \$ _____.

Please complete the section below and return this form in the enclosed self-addressed, stamped envelope or fax it back to my office at _____. Thank you in advance for your prompt attention.

Sincerely, _____
Apartment Manager

The following is to be completed by the public housing authority:

The combined anticipated gross annual household income of the tenants in the above referenced unit does not exceed the applicable income limit under section 42(g) of the Internal Revenue Code, as amended. Anticipated Gross Annual Income stated above ___ agrees / ___ does not agree with our records.

(Signature) (Date) (Phone #)

(Printed Name) (Title)

The Low Income Housing Tax Credit Program is a federal low-income rental housing program governed by the Internal Revenue Service. Section 42 of the Internal Revenue Code requires owners to determine annually the income eligibility of all tenants occupying tax credit units.