

Alabama Housing Finance Authority  
Compliance Manual  
For AHFA Multifamily Funding Sources

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## Introduction

This AHFA Compliance Manual is designed to aid Ownership Entities and Management Companies of multifamily Projects which have received an allocation from the Alabama Housing Finance Authority (AHFA). These allocations are made pursuant to the rules and regulations established for the respective programs.

For the convenience of the Ownership Entities and Management Companies, AHFA has combined the compliance procedures for each program into one manual. It should be noted that these are separate programs with differing compliance requirements. Ownership Entities and Management Companies should carefully note which regulations apply to their Projects. If a combination of AHFA Multifamily Funding Sources were used, the more restrictive regulations will apply.

The procedures outlined in this AHFA Compliance Manual are guidelines for helping Ownership Entities ensure that assisted Projects remain in compliance with the Internal Revenue Code (Section 42), the HOME Investment Partnerships Program Final Rule (24 CFR Part 92) (the “HOME Rule”), the National Housing Trust Fund regulations (24 CFR Part 93), the Regulatory Agreement, the compliance addendums of the Housing Credit Qualified Allocation Plan and the HOME Action Plan and other AHFA Compliance Requirements for the duration of the Extended Use Period, HOME Affordability Period and the National Housing Trust Fund Affordability Period. **This AHFA Compliance Manual is not intended to be all-inclusive.** Rather, Ownership Entities and Management Companies should review this AHFA Compliance Manual and accompanying regulatory information in the “Code” and “HOME Rule” with their legal or tax counsel to determine the applicability of said information to their Projects.

**COMPLIANCE WITH THE REQUIREMENTS OF SECTION 42, THE HOME RULE, THE NATIONAL HOUSING TRUST FUND, AND OTHER APPLICABLE REGULATIONS IS THE BUILDING OWNERSHIP ENTITIES’ RESPONSIBILITY. AHFA’S OBLIGATION TO MONITOR THE PROJECT FOR COMPLIANCE WITH THE REQUIREMENTS OF SECTION 42, THE HOME RULE, THE NATIONAL HOUSING TRUST FUND, AND OTHER APPLICABLE REGULATIONS DOES NOT MAKE AHFA LIABLE FOR AN OWNERSHIP ENTITIES’ NONCOMPLIANCE.**

The Compliance Period is established within the Declaration of Land Use Restrictive Covenants (the “Declaration”); specifying the use restrictions required under the Code, HOME RULE, and those certified by the Ownership Entity during the Application Cycle.

This AHFA Compliance Manual provides instructions on determining eligibility of households for occupancy, the maximum rents that can be charged, record-keeping procedures, occupancy rules, provisions for monitoring Project files, and certifications.

All Projects participating in HOME, National Housing Trust Fund, and/or Low-Income Housing Tax Credit Programs are subject to compliance monitoring with rules and regulations of the Code, the HOME Rule, the National Housing Trust Fund regulations, and all other applicable regulations.

Certain capitalized terms not defined in this AHFA Compliance Manual shall have the meanings assigned in the AHFA Plan Defined Terms available at [www.ahfa.com](http://www.ahfa.com). Singular terms include the plural as well as the singular, and vice versa.

For information regarding Housing Credit, HOME, National Housing Trust Fund, and Multifamily Housing Revenue Bond compliance issues and procedures, visit AHFA's website at [www.ahfa.com](http://www.ahfa.com).

Questions can be submitted to:  
[MFCCompliance@ahfa.com](mailto:MFCCompliance@ahfa.com) or mailed to:

Alabama Housing Finance Authority  
Attn: Internal Audit  
P.O. Box 242967  
Montgomery, AL 36124-2967

Phone: (334) 244-9200

# Chapter 1: Ownership Entity's and AHFA's Role in the Housing Credit Program

## 1.1 Ownership Entity's Role

In accordance with Section 42, the Ownership Entity of the Project receiving a Housing Credit allocation is required, by acceptance of the allocation, to:

- Manage the Project in accordance with Section 42, other applicable regulations, and any agreements reached with AHFA during the Application Cycle process for the duration of the Extended Use Period.
- Submit to AHFA all documents listed in the compliance addendum of the most current Housing Credit Qualified Allocation Plan by the due dates listed in the compliance addendum.
- Submit Occupancy Certificates and/or Trustee Certificates quarterly if AHFA issued a Multifamily Housing Revenue Bond for the Project.
- Notify AHFA's compliance department when Project damage occurs using AHFA's Property Damage Notification form, submit a plan of corrective action, and notify AHFA's compliance department when the damage has been repaired.
- Certify the Project is being managed in accordance with all applicable federal, state, and local fair housing laws.
- Maintain records for the first year of the Housing Credit period (initial household) for at least six years after the federal income tax filing deadline for the last year of the 15-Year Compliance Period. (a total of 21 years).
- Maintain a Project household file (non-initial household) for at least six years after the filing date for the calendar year in which Housing Credit was claimed for federal income tax purposes.
- Records for households no longer living in the Project may be stored electronically if AHFA representatives are given access to these records.
- Assume liability for any instances of noncompliance and the correction of such deficiencies.
- Cooperate with AHFA during compliance reviews.



## A. Ownership Entities' Record-Keeping Requirements

In accordance with 26 CFR 1.42-5, the Ownership Entities' record-keeping requirements include, but are **not limited to**:

- The total number of residential rental units in the Project, including the number of bedrooms and the square footage of each unit.
- The percentage of Housing Credit units in the Project.
- The rent charged on each Housing Credit unit in the Project, including the utility allowances.
- The number of occupants in the unit.
- The vacancy history of the Housing Credit units (including number of days vacant) and when and to whom the next available unit was rented.
- Income certifications for each Housing Credit household and sufficient third-party documentation to support the certification.
- The Eligible Basis and Qualified Basis of the Building at the end of the first year of the Credit Period.
- The character and use of the non-residential portion of the Building(s) within the Project (common areas, resident manager unit if not included in qualified basis).

Problems, curable or not, discovered after reviewing the above items could reduce the amount of Housing Credit an Ownership Entity may claim for a specific tax year and could result in recapture of Housing Credit previously claimed.

An Ownership Entity may store household qualifying files on an automated system. This documentation must be legible and meet the conditions of IRS Revenue Procedure 97-22.

If an Ownership Entity cannot produce the compliance documentation in a legible format the Project will be deemed out of compliance with 26 CFR 1.42-5.

## B. Habitability Requirements

All Housing Credit Projects will be subject to physical inspections of the exterior and interior of the Project.

Therefore, it is the Ownership Entity's responsibility to provide an efficient maintenance program.

The Project will be measured according to HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE).

**Note: AHFA inspectors must receive assistance from management and maintenance personnel when conducting inspections. AHFA expects the Ownership Entity/Management Company to ensure adequate management and maintenance staff are available for AHFA's inspections.**

For the NSPIRE Standards and related definitions refer to HUD's website ([www.hud.gov](http://www.hud.gov)).

A violation of NSPIRE will be considered noncompliance and will be reported to the Internal Revenue Service (IRS).

**The Ownership Entity/Management Company must comply with Alabama state law when providing advanced notice to their households of the date on which AHFA will perform the physical inspection.**

### **C. IRS Form Submission by Ownership Entity**

Once a Housing Credit Project is Placed in Service and AHFA issues the IRS Form 8609 to the Ownership Entity, the Ownership Entity is responsible for submitting the appropriate IRS forms to claim the Housing Credit on an annual basis.

Section 42 and accompanying IRS regulations (Section 1.42) outline specific procedures on the amount of Housing Credit an Ownership Entity can claim during the rent-up process, the start of the Credit Period, and the forms to be filed.

A copy of the IRS Form 8609 with Part II completed by the Ownership Entity must be submitted to AHFA the first year Housing Credits are claimed for a Building in accordance with the most current Housing Credit QAP.

Copies of the necessary tax forms may be obtained from the IRS Forms Office by calling or visiting the IRS website.

### **1.2 AHFA's Monitoring Role**

In accordance with Section 42, once a Project is completed (Placed in Service) and receives Housing Credits, it is AHFA's responsibility to:

- Perform file reviews and on-site visits as needed and required by the Housing Credit monitoring regulations to ensure that the Ownership Entity and/or Project Management Company is operating the Project in compliance.

The areas to be reviewed for compliance may include, **but are not limited to:**

- Determination whether the applicable set-aside has been met and maintained

- Household qualifications, income calculations and appropriate supporting documentation
  - The gross rent payment and its components, including utility allowance
  - The vacancy history of both Housing Credit and market-rate units
  - Items agreed to in the regulatory agreement, the Declaration of Land Use Restrictive Covenants, or other applicable documentation
  - Project characteristics attested to in the Application Cycle for which ranking points were awarded (**e.g., tenant services, amenities**)
  - Report any instances of noncompliance (past or present), when appropriate, to the IRS after giving the Ownership Entity appropriate time to correct the problem. AHFA must retain records of any noncompliance for six years beyond the notice of noncompliance submitted to the IRS (Form 8823).
- Maintain the information used to complete the compliance review for three years after the calendar year in which it was received.
  - Report to the appropriate federal department and the cognizant inspector general of such department any indication of fraud, waste, abuse, or potentially criminal activity pertaining to federal funds.
  - Report its compliance monitoring activities annually on IRS Form 8610.

AHFA has the right to perform on-site inspections of any Housing Credit Project through the end of the respective Extended Use Period.

These on-site inspections may be separate from any review of Housing Credit certifications, supporting documentation and rent records.

The compliance monitoring procedures for AHFA have been established to conform to all current IRS and other applicable regulations.

Statutory or regulatory changes may require that these procedures be revised from time to time.

#### **A. AHFA's Monitoring Process for Housing Credit Projects**

AHFA has the right to perform compliance monitoring reviews, including site visits, on any Housing Credit Project during the full term of the Extended Use Period.

The Extended Use Period is established in the Declaration of Land Use Restrictive Covenants, which is recorded on the Project deed.

The AHFA inspection will consist of the following:

- File review for 20 percent of the units or the number of units located in the Low-Income Housing Credit Minimum Unit Sample Size Reference Chart provided by the IRS whichever is less through the 15-Year Compliance Period.
- Physical inspection of the unit, outside and inside of the Project. A sample of 20 percent of the low-income units or the number of units located in the Low-Income Housing Minimum Unit Sample Size Reference Chart provided by the IRS, whichever is less.

After the 15-Year Compliance Period AHFA will use the Post Year-15 Compliance Period procedures listed in Section 1.2 B.2.

These reviews may be performed with **little or no prior notice**.

Please be aware of this when AHFA representatives are scheduling inspections.

The following records and/or documentation will be reviewed and must be available on the scheduled review date:

- All household files, including the initial files

Household Files must be in the following order:

- The most recent Tenant Income Certification (TIC)
  - Third-party verifications (income, assets, etc.)
  - Any needed affidavits (Certification of Zero Income, child support, student, etc.)
  - HOME Lease Addendum at move in (only for Projects that received HOME Funding)
  - The current lease agreement or renewal of lease addendum
  - The same order starting with the TIC for every recertification down to the move in TIC and verifications (a self-certification for 100 percent Housing Credit Projects)
  - If a multifamily bond was issued by AHFA, an Eligibility Certification at move in
  - The application should be behind the lease at move in
- Current Rent Roll
  - Set-Aside Report

- Current Project utility allowance documentation.
- Type of rental assistance and the number of households receiving rental assistance:
  - If the household is receiving Section 8 rental assistance, place the most current Section 8 paperwork which shows the household and local public housing authority's share of the rent with the Tenant Income Certification.
  - If the household is receiving Ownership Entity-financed or private rental assistance (PRA), then a list of which households receiving the assistance will be required. The list must include the unit number, household name, and the amount of assistance.
  - Once the amount in the Ownership Entity PRA account has been spent, AHFA monitor will request documentation of the disbursements from the PRA account until the total amount of the PRA was spent (example: last bank statement showing a zero balance).

Certain noncompliance issues found during the review of the household files, the compliance documentation asked for during the review, and the physical inspection of a Project will cause the Ownership Entity/Responsible Owner(s) to have point deductions which will affect the Point Scoring System for the next Application Cycle for any AHFA Multifamily Funding Sources.

Management Companies could also be affected by certain noncompliance issues found during the review of the household files, the compliance documentation asked for during the review, and the physical inspection of a Project.

Furthermore, once an Ownership Entity/Responsible Owner(s) or Management Company reaches a certain cumulative point threshold the Ownership Entity/Responsible Owner(s) will be suspended from applying for AHFA Multifamily Funding Sources and the Management Company and principles thereof will be suspended from appearing on any multifamily applications for AHFA Multifamily Funding Sources for one year.

For more information regarding these noncompliance issues reference the compliance addendums to the QAP and the HOME Action Plan located on AHFA's website.

## **B. Extended Use Period**

The Extended Use Period for Housing Credit Projects Placed in Service on or after 1990 is two parts: the 15-Year Compliance Period and the Post Year-15 Compliance Period.

The 15-Year Compliance Period and Post Year-15 Compliance Period for Housing Credit Projects which are also issued Multifamily Housing Revenue Bonds from AHFA is the same as the Housing Credit Projects.

The Multifamily Housing Revenue Bond affordability period ends when the qualified project period has been completed and the Multifamily Housing Revenue Bond has been paid off.

The 15-Year Compliance Period and Post Year-15 Compliance Period for Projects which received TCAP/Exchange funds is the same as the Housing Credit.

### **1. The 15-Year Compliance Period**

The 15-Year Compliance Period begins either the year the last building Placed in Service or the following year based on the answer to question 10.a. on Part II of the IRS Form 8609. Non-compliance findings are reportable to the IRS during the 15-Year Compliance Period.

Site visits to Housing Credit Projects shall be performed the first year after the Project Placed in Service Date and at least once every three years after, unless AHFA determines that more frequent on-site reviews are necessary due to findings discovered during subsequent reviews of the Project's household files or inspection of units.

Site visits to Housing Credit Projects which are also issued Multifamily Housing Revenue Bond financing from AHFA will be the same as the Housing Credit Projects with one difference:

- Until the Multifamily Housing Revenue Bond affordability period is completed, an AHFA representative will review the Eligibility Certifications (Exhibit C in the agreement) each year.

Site visits to Projects which received TCAP/Exchange funds shall be performed every year through the 15-Year Compliance Period.

### **2. Post Year-15 Compliance Period**

The procedures for Housing Credit Projects Placed in Service on or after January 1, 1990, which have an Extended Use Period described in the Declaration of Land Use Restrictive Covenants will be the following:

- Every Project must continue to submit an Annual Owner's Certification each year.
- Every Project must continue to enter tenant data into AHFA DMS.
- An on-site inspection will occur once every five years.
- AHFA will request a current rent roll to inspect the income set-aside, gross rents, and if the household is income qualified.
- AHFA will conduct a physical inspection of the Project and inspect 10 percent of the units (maximum of 15).

- If tenant data has NOT been entered into AHFA DMS, then the inspection will consist of the following:
  - A household file review will consist of 10 percent of the household files with a maximum of 15 household files.
  - AHFA will conduct a physical inspection of the Project and inspect 10 percent of the units (maximum of 15).

The Post Year-15 Compliance Period for all Housing Credit Projects Placed in Service on or after 1990 is for an additional 15 years plus any additional years the Ownership Entity placed on the application for funding.

After the 15-Year Compliance Period, TCAP/Exchange-funded Projects will be treated as a Housing Credit Project in the Post Year-15 Compliance Period.

It will be the AHFA representative's option to inspect more household files and units if excessive noncompliance is found in either inspection.

- Projects which are issued Multifamily Housing Revenue Bond financing by AHFA will have the Eligibility Certifications monitored every year until the Multifamily Housing Revenue Bond qualified project period ends.
- The procedure for moving in a household during the Post Year-15 Compliance Period will stay the same as in the 15-Year Compliance Period.
- The Ownership Entity/Management Company for the Project must maintain the documentation used for a household at move in and any documentation used for recertification throughout the Post Year-15 Compliance Period.
- Recertifications will be self-certifications.
- Projects that received HOME Funding must continue to re-certify as they did during the HOME Affordability Period until the HOME Affordability Period is completed.
- Projects which are monitored and inspected by Rural Development or HUD may no longer have files or units inspected by AHFA. This decision will be based on a copy of the latest Rural Development or HUD inspection report that has been completed within five years of the inspection request year. Based on the inspection report the below steps will be followed:
  - If the Project did **not** have household file uncorrected noncompliance, then AHFA will not conduct a file inspection.
  - If the Project **has** physical uncorrected noncompliance, AHFA will conduct a physical inspection of at least 10 percent of the units.

- If the latest Rural Development or HUD inspection occurred more than five years before the inspection request year, AHFA will conduct a physical inspection of at least 10 percent of the units. (15 unit maximum)
- A physical viewing of the Project will take place at least every five years.
- Building transfers for Projects which are not 100 percent Housing Credit will no longer require the household verification and certification procedure during the Post Year-15 Compliance Period.
- The student rule will still apply for college students that are dependents of a third party. Please use the Post Year-15 Student Certification form on AHFA's website at [www.ahfa.com](http://www.ahfa.com).
- If non-compliance is found during a household file review or physical inspection, a noncompliance letter will be sent to the Ownership Entity's contact. The Ownership Entity will be given a period to correct the noncompliance. Certain non-compliance issues will affect the Ownership Entity and the Management Company. Reference Section 1.2 A. of this chapter regarding point deductions.
- If a Project's economic feasibility is threatened by adhering to the Declaration of Land Use Restrictive Covenants, AHFA may allow changes to support the Project's viability to the extent permitted by law. The Ownership Entity must do the following steps:
  - Submit a letter indicating which section(s) of the Declaration of Land Use Restrictive Covenants is creating a negative economic impact on the Project and their recommendation for an amendment to this section.
  - The Ownership Entity must also submit financials which indicate the Project's economic feasibility is threatened.
- At the end of a Project's Post Year-15 Compliance Period AHFA will send a letter to the Ownership Entity.

### **1.3 Program Noncompliance**

#### **A. Ownership Entity Notification**

During a compliance review, if AHFA finds instances of noncompliance with the requirements of Section 42, 26 CFR 1.42-5, the Declaration of Land Use Restrictive Covenants, or any noncompliance issues causing automatic point deductions the Ownership Entity will be notified of the violation by letter and given a deadline for correcting the violation.



## **B. Correction Period**

After a notice of noncompliance is received, an Ownership Entity shall have a correction period set by AHFA to correct the findings.

The Ownership Entity must provide AHFA any missing or additional documentation needed to correct the findings.

The Ownership Entity must address all discrepancies individually and indicate the actions taken to correct the findings.

Failure to correct the noncompliance within the timeframe given in the notice of noncompliance will result in additional point deductions.

If the Ownership Entity has an extenuating circumstance which prevents the noncompliance issue(s) from being corrected within the timeframe given by AHFA, the Ownership Entity can request an extension to the timeframe by submitting a request to the AHFA Compliance Department.

## **C. IRS Notification**

AHFA is required to file Form 8823 “Low-Income Housing Credit Agencies Report of Noncompliance” with the IRS no later than 45 days after the end of the cure period, whether the noncompliance is corrected or not. Form 8823 will describe the nature of the noncompliance and will state if the Ownership Entity has corrected the noncompliance.

### **1.4 Monitoring Costs**

Under current monitoring regulations and guidelines, AHFA will charge monitoring fees to all Projects.

AHFA may require additional monitoring charges if subsequent guidance or regulations warrant changes to AHFA’s monitoring procedures.

For all Projects funded in 2010 and years after, a Housing Credit compliance fee is due within 90 days after the Project is Placed in Service.

Approved and Active AHFA Project Fee Requirements are located on the AHFA website.

If a Project is found to be out of compliance and requires follow-up inspections by AHFA personnel or a third party chosen by AHFA, whether in the same year or the following year, the Ownership Entity will be responsible for reimbursing AHFA for all applicable expenses incurred.

Applicable expenses for conducting an additional on-site inspection will include, but are not limited to:

- The standard mileage rate in effect at the time of the re-inspection
- Any overnight expenses
- A meal allowance
- AHFA will charge \$50 per hour with a \$50 minimum to review household files
- AHFA will charge \$50 per hour with a \$50 minimum to review documents forwarded to AHFA to correct noncompliance
- AHFA will charge \$50 per hour with a \$50 minimum to complete a physical inspection
- Any additional expenses incurred by AHFA related to an Ownership Entity's noncompliance shall be the Ownership Entity's responsibility.

### **1.5 Sale of Project after Placed in Service**

If plans to alter the Ownership Entity/Responsible Owner(s) of the Project are being considered, AHFA must be notified by the Notice of Intent to Transfer Ownership forms at least 30 days prior to the intended change.

The guidelines and Notice of Intent to Transfer Ownership forms are available on AHFA's website.

AHFA must approve any changes in the Ownership Entity of a Housing Credit Project during the term of the Extended Use Period.

If a Project is under foreclosure, AHFA must be notified, and the details of the foreclosure **must be submitted in writing**.

### **1.6 Change in Management Company**

AHFA must approve any change in Management Company during the term of the Extended Use Period.

The forms needed to request approval can be found on AHFA's website.

### **1.7 Temporary Uninhabitability of a Housing Credit Unit**

If a unit or Building is destroyed or is not suitable for occupancy for any reason, AHFA must be notified immediately.

A Property Damage Notification form must be submitted with a plan in writing for when the unit(s) or Building will be ready for occupancy.

The Property Damage Notification form is available on AHFA's website. AHFA must be notified in writing when the unit or Building is occupied by a Housing Credit household again.

Note: The units destroyed or are not suitable for occupancy must be replaced or suitable for occupancy by the last day of the year in which the casualty loss occurred to claim credits for those units.

Reference Internal Revenue Service Chief Counsel Advice Memo 200134006, August 24, 2001, for further guidance concerning casualty loss and Housing Credits claimed.

You must send the notification to the compliance department at [MFCCompliance@ahfa.com](mailto:MFCCompliance@ahfa.com).

### **1.8 Compliance Trainings**

AHFA's compliance department will consider conducting compliance training for any Management Company that requests training.

The compliance training will take place either in the Management Company's office (if in Alabama), in the office of one of the Management Company's Alabama Projects or conduct a Zoom training.

## Chapter 2: Project Occupancy Restrictions

### 2.1 Income Restrictions

The Project's units must be occupied by Housing Credit qualified households.

The minimum set-aside chosen by the Ownership Entity on the application during the Application Cycle will determine the household's income percentage.

Also, in addition to the minimum set-aside, the Ownership Entity may have further restricted the income percentage on the application during the Application Cycle or within the Declaration of Land Use Restrictive Covenants.

#### **A. Minimum Set-Aside**

Housing Credit Projects must contain enough qualified Housing Credit units to satisfy the chosen set-aside by the end of the tax year following the year that the Project was Placed in Service (1991 and later years' Projects).

The Ownership Entity must ensure that the minimum set-aside requirement specified in the application during the Application Cycle is maintained throughout the Extended Use Period.

The Ownership Entity must choose one of the following irrevocable minimum set-aside requirements from section 42(g) of the Code:

- 20-50 Test - The Project must contain 20 percent or more of the residential units in the Project occupied by households whose income is 50 percent or less of area median gross income (adjusted for family size).
- 40-60 Test- The Project must contain 40 percent or more of the residential units in the Project occupied by households whose income is 60 percent or less of area median gross income (adjusted for family size).

If occupancy in a Housing Credit Project falls below the IRS minimum set-aside percentage (20-50 or 40-60), the Project will be deemed out of compliance with the Section 42 and may be subject to credit recapture by the IRS, even if the violation is corrected before the end of the calendar year.

If a greater set-aside percentage than the minimum is selected by the Ownership Entity during the Application Cycle, then this percentage is also irrevocable under the administrative rules of AHFA's program administration. This percentage is specified in the Project's Land Use Restrictive Covenants.

## **B. Income Limits**

HUD annually publishes median income listings for Alabama by county and metropolitan statistical area (MSA) of the State.

HUD publishes the very low-income (50 percent) income limits and the low-income (60 percent) income limits on its website.

AHFA provides the following on the AHFA.com website:

- A link to the HUD published income limits
- A link to the Novogradac Rent & Income Limit Calculator (Housing Credit Program)
- HOME Program income and rent limits
- National Housing Trust Fund income and rent limits
- Non-Metropolitan Income/Rent Limits

Please note the rent and income limits for each year are effective beginning with the effective date.

As per Revenue Ruling 94-57, Housing Credit income limits must be implemented on the effective date or 45 days from the publication date, whichever is later. See example below:

- The effective date of the income limits is 4/1/20. The publication date for the income limits is the same date. Forty-five days after the publication date is 5/15/20. The 2020 income limits must be implemented no later than 5/15/20.

### **2.2 Lease Requirements**

In general, occupancy must be provided on a non-transient basis to the public.

To satisfy this requirement a Housing Credit household must sign an initial lease for a minimum of six months.

The original lease should not end prior to six months except for a valid reason. (Such as the household moving because one of the members accepted a job in another state)

Other exceptions are contained in Section 42(i) (3) (B) the housing for the homeless and Single Room Occupancy (SRO) Projects. This allows a month-to-month lease to be signed by households of the low-income portion of the Project and still qualify for Housing Credits.

The Ownership Entity must ensure the lease does not violate the Fair Housing Act, any federal, state, or local laws and contains the requirements of The Violence Against Women Act.

### **2.3 Vacant and Empty Units**

When a unit that was occupied by a Housing Credit-eligible household becomes vacant, this unit will continue to count as a Housing Credit unit when the next available unit of comparable or smaller size is rented to a Housing Credit-eligible household.

Units that have never been occupied are considered empty (not vacant) and do not count as Housing Credit units since they do not exist for Housing Credit purposes until initial occupancy by a Housing Credit-eligible household.

An Ownership Entity **must** have vacant units marketable within a reasonable timeframe. AHFA allows 30 days.

If the unit has extensive damage an Ownership Entity/Management Company **must** submit the Property Damage Notification form available on AHFA's website along with a written request for an extension with a plan and date of when the unit will be suitable for occupancy again.

### **2.4 Section 8 Households**

Ownership Entities of Housing Credit Projects may not deny rental of an available unit to an applicant holding a HUD Section 8 Certificate or Voucher solely because the household receives rental assistance from HUD.

These households are still required to meet all the Project household selection criteria contained in the Project's management plan.

If an applicant holding a Section 8 Certificate or Voucher is denied occupancy, the reason for denial should be documented.

### **2.5 Elderly**

The Fair Housing Act prohibits discrimination against families with children.

However, there are two types of "housing for older persons" that allow Ownership Entities to exclude families with children. The following are the two types of "housing for older persons":

- Housing intended for, and solely occupied by, persons 62 years of age or older
- Housing intended and operated for occupancy by at least one person 55 years of age or older per unit

If at least one person 55 years of age or older per unit is selected, then the Fair Housing Act requires at least 80 percent of the units meet this requirement. **AHFA requires 100 percent.**

The above exemption criterion applies to "housing for the older person" after December 28, 1995 (this exemption is not retroactive).

The housing facility or community must also publish and adhere to policies and procedures that demonstrate the intent necessary to satisfy the definition of “housing for older persons” and that the housing provider complies with HUD’s regulations governing the 55 or older exemption.

The exemption prior to December 28, 1995, requires “significant facilities and services” for the elderly in addition to the current criteria.

Projects which are under contract with Rural Development or HUD may have additional exceptions to the Fair Housing Act age limits for “housing for older persons” than AHFA-administered programs. If this funding discontinues these exceptions discontinue as well.

## **2.6 Student Households**

A full-time student is defined as any individual who has been or will be a full-time student during each of five calendar months during the calendar year in which the taxable year of the taxpayer begins at a regular educational organization with regular facilities. (The five months do not have to be consecutive)

Elementary schools, junior and senior high schools, colleges, universities, technical schools, trade schools, and mechanical schools are defined as regular educational organizations.

Also, the individual meets all the educational organization’s requirements for full-time student status.

Households made up entirely of full-time students are not eligible to live in units receiving Housing Credits unless they meet at least one exception to the full-time student restriction.

There are five exceptions to the full-time student restriction (Section 42 (i) (3) (D)). Full-time student households that are income eligible and satisfy one or more of the following conditions can be considered eligible households:

- Students of the household are married and have filed or are entitled to file a joint tax return (*Note: Students of the household do not need to be married to each other*).
- The household consists of single parent(s) and their minor child (ren). The parent(s) and the child (ren) cannot be a dependent of a third party. However, the child(ren) can be a dependent of the other parent.
- At least one member of the household receives assistance under Title IV of the Social Security Act (i.e., AFDC, TANF assistance).
- At least one member of the household was previously under the care and placement responsibility of the state agency responsible for administering a plan under part B or part E of title IV of the Social Security Act (adults who were in the foster care system during childhood).

- At least one member of the household is enrolled in a job training program receiving assistance under the Workforce Investment Act (formerly Job Training Partnership Act), or similar federal, state, or local laws, and effective for households.

**Before Ownership Entities can lease a Housing Credit unit to households of full-time students, they must obtain written documentation that one of the five exceptions listed above applies.**

## **2.7 Fair Housing and Equal Opportunity Laws**

All Projects must comply with applicable federal, state, and local fair housing and anti-discrimination laws in the marketing and provision of housing.

\*\* AHFA requests written documentation (**located on annual owner's certification**) to verify the Ownership Entity's compliance with these laws\*\*

Federal laws that may be applicable to a Project include, but are not limited to, the Fair Housing Act as amended by the Fair Housing Amendments Act of 1988, Older Persons Act of 1995, Section 504, the Americans with Disabilities Act, the Violence Against Women Act and any further amendments of said acts. These laws include provisions for construction and design of multifamily Projects as well as Project management.

## **2.8 Housing Credit and Market-Rate Units**

The amount of Housing Credit claimed for the Qualified Affordable Housing Project is contingent on the comparable quality of the Housing Credit and market-rate units. The following conditions apply:

- The Housing Credit units of a Project must be intermingled reasonably with all other dwelling units and on all floors of the Building(s).
- The Housing Credit units shall be of equal quality, offer a range of sizes and number of bedrooms comparable to units that are available to other households.
- Households in the Housing Credit units shall have equal access to and enjoyment of all common facilities of the Project.
- All units must be maintained to ensure a safe and sanitary condition.

## **2.9 Buildings with Four or Fewer Units**

Buildings with four or fewer units are not eligible to receive Housing Credits if any of the Responsible Owners within the Ownership Entity of the Project, or a relative of any of the Responsible Owners within the Ownership Entity, occupies one of the units.



An exception exists if the buildings are bought or rehabilitated according to a state, local government, or qualified non-profit's development plan.

Projects in this category are subject to limitations on the applicable amount of Housing Credit.

## Chapter 3: Determining Household Eligibility

### 3.1 Application

All households occupying a Housing Credit residential rental unit in a Building receiving Housing Credits must have incomes at or below limits established under the Section 42.

The applicants should be advised in the initial visit of the maximum income limits and that income and asset information for all adults (Age 18 or over) occupying the unit **MUST** be collected and verified.

The Management Company must obtain sufficient information at the time of application to determine household eligibility.

The Housing Credit application should obtain the following household information:

- The name, age, and Social Security number of each person who will occupy the unit (legal name should be given just as it will appear on the lease and Tenant Income Certification).
- All sources and amounts of current and anticipated annual income for the next twelve-month certification period.
- Value of all current assets.
- The signature of the head of household and all adult occupants able to sign a lease and the date when the application was completed.

### 3.2 Verifications

Verifications must be done within 120 days before the effective date.

The effective date is the date the household moved into the unit.

All regular sources of income, including assets with a net family value over \$50,000, must be verified by a third-party.

Actual income from assets is considered a source of income and should be counted when actual income can be determined.

Verifications must be received by the Ownership Entity or Management Company **prior** to the completion of the Tenant Income Certification and move in by the household.

**Starting January 1, 2025, Ownership Entities and Management Companies must follow HUD's verification hierarchy as described in HUD Notice H 2023-10/PIH 2023-7 apart**

**from Level 6, the Enterprise Income Verification (EIV) system used by Section 8 to verify income.**

Ownership Entities and Management Companies may start following this income hierarchy in 2024.

HUD's verification hierarchy has a ranking order of acceptability from Level 5 to Level 1. Level 5 has the highest level of acceptability and Level 1 has the lowest level of acceptability.

#### **A. Upfront Income Verification using non-EIV system (Level 5)**

The work number and web-based state benefit systems are examples of upfront income verification.

#### **B. Written third-party verification from the source provided by the tenant (Level 4)**

A document generated by a third-party source which is dated within 120 days from the date of receipt by the Ownership Entity or Management Company.

Examples of this type of verification documentation are:

- Pay stubs
- Payroll summary report
- Employer notice/letter of hire/termination
- SSA benefit letter
- Bank statements
- Child support payment stubs
- Welfare benefit letters and/or printouts
- Unemployment monetary benefit notes.

When using third-party verification documentation provided by the tenant the following requirements apply:

- The two most recent, consecutive paystubs from the tenant/applicant must be obtained by the Ownership Entity or Management Company when using paystubs for employment verification. (HOME and HTF must cover at least two months of consecutive payments)
- The most recent statement to verify the current balance must be obtained by the Ownership Entity or Management Company when using bank statements.

#### **C. Third-Party Written Verification (Level 3)**

AHFA has a form available to use for third-party written verification of income on its website. This form is not mandatory.

If an Ownership Entity or Management Company has their own form for third-party written verification of income, they must include the following:

- Have a release statement indicating the reason for the request signed and dated by the applicant or tenant.
- Must provide at least the same information as the employment verification form provided on AHFA's website.

#### **D. Third-Party Oral Verification (Level 2)**

When written verification is not possible, this option may be used. Third-party oral verification must be direct contact with the source. The conversation must be documented in the household file to include all information that would have been contained in a written verification. The Ownership Entity or Management Company must include the name, title, and phone number of the third-party contact, the name of the onsite management representative receiving the information, and the date the information was obtained.

When third-party verifications received are not clear or incomplete, third-party oral clarification may be accepted if it includes the name and title of the third-party contact, the name and signature of the onsite management representative receiving the information, and the date the information was obtained.

If the third-party indicates that the information must be obtained from an automated telephone system, the Ownership Entity or Management Company may document the information provided from the telephone system. The documentation must state the date the information is received, all the information provided, and the name, signature, and title of the person receiving the information.

#### **E. Self-Certification (Level 1)**

This form of verification should be used only as a last resort, except when self-certification is allowed such as when net family assets do not exceed \$50,000. (adjusted for inflation) The Ownership Entity or Management Company may accept a tenant's signed affidavit if third-party verification cannot be obtained.

The Ownership Entity or Management Company is required to document the household file by explaining the reason third-party or tenant-provided verification could not be obtained and show all efforts to obtain third-party or tenant provided verification.

Chapter 5 of the HUD Handbook 4350.3 requires the following documents should be placed in the household file:

- A written note to the file explaining why third-party or tenant-provided verification is not possible; and/or
- A copy of the date-stamped original request that was sent to the third-party; and/or
- Written notes or documentation indicating follow-up efforts to reach the third-party to obtain verification; and/or

- A written note to the file indicating that the request has been outstanding without a response from the third-party.

The Ownership Entity or Management Company may accept self-certification if there is a fee associated with receiving the third-party verification. If the Ownership Entity or Management Company chooses to pay the fee to obtain the third-party verification, this cost cannot be passed on to the tenant or applicant.

The Ownership Entity or Management Company must be able to reasonably project anticipated income for the next 12 months from each form of verification.

AHFA has provided verification forms in the Compliance section on the AHFA website, [www.ahfa.com](http://www.ahfa.com).

If a Housing Credit/Rural Development Project has mandatory Rural Development verification form(s) that are different from AHFA's verification form(s), the Rural Development verification form(s) may be used if they are dated within 120 days of the AHFA Tenant Income Certification.

The AHFA Tenant Income Certification must be used even if copies of the Rural Development verification form(s) are used for the Housing Credit verification(s).

Make sure the originals are available if AHFA needs to see the original verification during an AHFA review.

For households with existing Section 8 Certificates or Vouchers, the local public housing authority (PHA) providing the assistance can provide a copy of HUD Form 50058 or a statement to the Ownership Entity/Management Company declaring the size of the household and the household's gross income or a statement indicating that the household's income does not exceed the applicable income limit under Section 42(g).

The HUD Form 50058 must be completed in its entirety by a qualified representative of the PHA and the members of the household and the gross income of the household before any deductions that the household may be eligible for under the Section 8 program.

The HUD Form 50058 or the statement from the PHA will not be considered valid verifications if they are dated more than 120 days prior to the household's move-in date or recertification effective date.

For households with "Means-Tested" (income based) Assistance the Ownership Entity or Management Company may, in lieu of conducting their own income calculation, rely on the income determination completed for the "means-tested" form of federal public assistance within the previous 12-month period. Approved "means-tested" programs are as follows:

- Temporary Assistance for Needy Families (TANF)
- Medicaid
- Supplemental Nutrition Assistance Program (SNAP) Ex. Food Stamps

- Earned Income Tax Credit (EITC)
- Special Supplemental Program for Women, Infants, & Children (WIC)
- Supplemental Security Income (“SSI”)
- Other programs determined by HUD to have comparable reliability as announced through The Federal Register

The Ownership Entity or Management Company must obtain a third-party verification from the applicable programs administrator which indicates household size and includes all household members and provides the household’s annual income. This verification may be in the form of a benefit award letter from the relevant program/agency.

The verification of “means-tested” assistance is valid if any of the following dates falls into the 12-month period prior to receipt of the verification by the Ownership Entity or Management Company:

- Income determination effective date
- Program administrator’s signature date
- Family’s signature date
- Report effective date
- Other report-specific dates that verify the income determination date

If this verification is not available or the household disputes the verification, the Ownership Entity or Management Company must conduct a traditional income verification and calculation.

The household **MUST** still complete a Tenant Income Certification form that lists all sources of income as defined under the rules of the Section 8 Program or the “means-tested” assistance.

### **3.3 Social Security, Supplemental Security Income (SSI), Supplemental Security Disability Income (SSDI) and Pension Verifications**

The most current benefit letter or annual statement prepared by third parties are sufficient verification documentation for household members receiving Social Security, and pension benefits.

In some instances, the Social Security Administration may not issue Social Security printouts or provide benefit verification letters. Clients can obtain an instant verification letter online by creating a personal mySocialSecurity account or by calling the national toll-free number 1-800-772-1213 and using the automated application to have a letter sent via mail.

All SSI or SSDI is required to be verified and dated within 120 days prior to the certification date.

The gross amount of the benefit must be used unless a deduction is for a prior overpayment of benefits.

Benefits received through direct deposit, or a Direct Express Debit Card are treated as income. Also, the balance on a Direct Express Debit Card is considered as an asset and must be verified consistent with the verification procedures for a checking or savings account. This balance can be obtained through an online account service, a paper statement, or an ATM balance.

### **A. Social Security Cost of Living Adjustment**

The most accurate way to determine anticipated income for Social Security and SSI benefits is to use the cost-of-living adjustment (COLA) the Social Security Department releases at the end of the third quarter of each calendar year.

The Ownership Entity/Management Company representative should use the COLA when calculating the income of a household at move in or when calculating the income for a recertification for the months of November and December.

For example, the months of November and December would be calculated using the amount the household received during the current year and the months of January through October would be calculated using the amount the household received during the current year plus the COLA. The totals for the two months and the ten months are then added together to accurately anticipate the household's income.

Households that move in before the rate increase is announced must use the amount for that year multiplied by twelve because there is no way of knowing what the amount of increase will be at that time.

Recertifications of household Social Security or SSI income should be calculated the same way income is calculated for new move ins.

### **3.4 Applicants Claiming Zero Income**

Households of Housing Credit units may not have regular, verifiable income.

If an applicant is claiming zero income, the household's income may be determined based on actual income received or earned within the previous twelve months.

Any zero-income household member 18 years of age or older **MUST** complete a Certification of Zero Income form available in the Compliance section at [www.ahfa.com](http://www.ahfa.com).

### **3.5 Household Income Evaluation**

Annual income under the Housing Credit Program must be calculated in a manner consistent with the methods used under HUD's Section 8 Program.

Annual income under the Section 8 Program is not necessarily identical to the household's income for federal income tax purposes.

If questions arise about what types of income must be included or excluded to determine household income, refer to HUD Handbook 4350.3 CHG-4, Chapter 5 and “Appendix 3: Acceptable forms of Verification”.

Also, be aware that income limits change every year. It is the Ownership Entity’s responsibility to obtain the most current published income limits when determining household eligibility.

### **A. Determining Household Size**

Since the Housing Credit income limits are based on the household size, it is very important to determine the correct number of household members.

The following members should be counted toward the size of the household when determining income:

- All year-round occupants
- Members temporarily absent due to placement in foster home, away at school but live with the household during school recesses
- Children in the process of being adopted
- Temporarily absent family members due to working on assignment who are approved to live in the unit
- Armed Forces personnel on temporary duty (unless the Armed Forces personnel on temporary duty are not the head, spouse, or co-head)
- Family members in the hospital, or a rehabilitation facility either temporarily or for a fixed timeframe
- Persons permanently confined to a hospital or nursing home. If the family decides to count the confined family member as a member of the household, the confined family member’s income must be included when calculating the household’s income
- Child(ren) under joint custody and resides in the unit at least 50 percent of the year
- Unborn children (documentation should be obtained in a manner consistent with the Fair Housing Laws). A self-affidavit (Tenant Income Certification signed by mother) is an acceptable form of verification

The following members should NOT be counted toward the size of the household when determining income:

- Live-in attendant or aid



- Foster child or foster adult
- Guests temporarily staying in the unit with the consent of a member of the household

*Note: A live-in attendant or aide should be someone determined to be essential to the care and well-being of the person(s) and not obligated for the support of the person(s) they are caring for (for example, the live-in attendant should not contribute towards the rent or other living expenses of the low-income household).*

The live-in attendant or aide should be someone who would not be living in the unit except to provide the necessary supportive services (a live-in aide may be related to the household member if they meet the above stated criteria).

## **B. Determining Countable Income**

Count the income of the following household members:

- Annual income of the head, spouse or co-head and other adult members of the household. Age 18 and older are considered adult members.
- Include the annual income of members under the age of 18 who can sign a lease under state law (they will be the head, spouse, or co-head). Such persons are sometimes referred to as emancipated minors (e.g., a person under the age of 18 who is married).
- Count only the first \$480 in earnings (adjusted for inflation annually by HUD) of a full-time student 18 and over who is not the head, co-head, or spouse. However, all the full-time student's unearned income is counted (unearned income is any income that is not employment income).
- Unearned income of children under the age of 18 who are members of the household. This is any household income that is not employment income (example, interest income).
- Any unearned income of children temporarily absent due to placement in a foster home and children who are away at school but who live with the household during school recesses.
- Count only the amount of child support received by the household, even if court ordered.
- To determine when the income of an absent member of the household is counted, refer to the HUD Handbook 4350.3 CHG-4, Chapter 5 or call AHFA.

Do **NOT** count the income of the following household members:

- Live-in-attendant/aide
- Guest

- Foster child or foster adult

### C. Determining Asset Income

To determine the treatment of assets, you must know the following:

1. What to include as an asset
2. How to compute the market and cash value of those assets
3. How to determine the income from an asset to be included in annual income

#### What to Include as an Asset

To know what to include as an asset, the net family assets must be determined.

Net family assets are defined as the net cash value of all assets owned by the family (except necessary personal property and specifically excluded assets).

The net cash value of an asset is the value of an asset after deducting reasonable costs that would be incurred to dispose of real property, savings, stocks, bonds, and other forms of investment.

In other words, an asset is a cash or noncash item that can be converted to cash.

Note: It is the income earned (interest on a savings account), not the value of the asset, that is counted in annual income.

There are three types of assets: real property, necessary personal property, and non-necessary personal property.

Real property is **included** in net family assets. (examples would include land or a home)

Necessary personal property is **excluded** from net family assets. Examples of necessary personal property would include but are not limited to:

- Items essential for the maintenance and use of a property as a home
- Items necessary for education, employment, or health and wellness
- Items to assist a household member with a disability or that may be required for a reasonable accommodation for a person with a disability
- Items that are convenient or useful to a reasonable existence and support and facilitate daily life within the home

Non-necessary personal property is **included** in net family assets. Non-necessary personal property includes bank accounts, other financial investments, luxury items, and other items not counted as necessary personal property.

For additional examples of necessary and non-necessary personal property see Table F1 from HUD Notice H 2023-10/PIH 2023-27.

### **How to Compute the Market and Cash Value of Assets**

Market value and cash value assets have both a market value and a cash value.

The market value of an asset is simply its dollar value on the open market.

For example, the market value of a share of stock is the price quoted on the stock exchange on a particular day.

A property's market value is the amount it would sell for on the open market.

This may be determined by comparing the property with similar, recently sold properties.

An asset's cash value is the market value less reasonable expenses required to convert the asset to cash, including:

- Penalties or fees for converting financial holdings. Any penalties, fees, or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value (penalties charged for premature withdrawal of a certificate of deposit, or broker fees for converting stocks to cash).
- Costs for selling real property. Settlement costs, real estate transaction fees, payment of mortgages/liens against the property, and any legal fees associated with the sale of real property are deducted from the market value to determine equity in real estate.

Only the cash value (rather than the market value) of an item is counted as an asset.

If more than one person owns an asset, prorate the asset according to the applicant's percentage of ownership.

If no percentage is specified or provided by state or local law, prorate the asset evenly among all owners.

If an asset is not effectively owned by an individual, it is not counted as an asset.

### **How to Determine the Income from an Asset to be Included in Annual Income** **Actual Income from Assets**

Assets can generate income, and for the purpose of determining an applicant's income, the actual income generated by the asset (interest on a savings or checking account) is what counts, not the value of the asset.

The income is counted, even if the household elects not to receive it.

For example, if an applicant elects to reinvest the interest or dividends from an asset, it is still counted as income.

As with other types of income, the income included in annual income calculation is the income that is anticipated to be received from the asset during the coming 12 months.

Checking and savings account balances are considered an asset.

Do not count monthly income as an asset. Instead, use the current balance from the most recent bank statement as the cash value of the checking account.

When the value of net family assets is \$50,000 or less and no actual income from the net household assets can be determined, calculating the imputed return on the asset(s) is not necessary. Only the actual income from assets must be counted as income. AHFA has a \$50,000 & Under Asset Certification form on its website to assist with self-verifying assets.

#### Example 1

A household has land with a cash value (after deducting amounts still owed and costs of selling) of \$30,000 and a non-interest-bearing checking account with a current balance of \$1,500. The value of the net family assets is \$31,500 which is less than \$50,000. Because there is no actual income derived from either asset, the total annual income from these assets is \$0.

#### **Imputed Income from Assets**

Calculating the imputed income from assets is only necessary if the value of net family assets exceeds \$50,000 and the actual income from a given asset(s) cannot be calculated.

The value of the asset(s) for which the actual income cannot be calculated is multiplied by the current HUD passbook savings rate to determine the income from this asset(s).

HUD will adjust the \$50,000 amount annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers.

This imputed amount is then included with any actual income from assets to get a total income from assets which becomes a part of the total anticipated income for the household.

#### Example 1

A household contains a member who owns a house with a cash value (after deducting amounts owed and costs of selling) of \$100,000 and a savings account with a current balance of \$1,000 earning \$10 of annual income.

The value of the net family assets exceeds \$50,000 (\$101,000). The actual income from the house cannot be calculated but the actual income from the savings account is \$10.

The imputed income amount for the house is calculated by multiplying the cash value of the house by the 2024 HUD passbook rate of 0.40 percent. This calculation makes the imputed income amount for the house \$400. To get the total annual income for this household you would

add the imputed income amount of \$400 and the actual income from the savings account of \$10 to get a total annual income from assets of \$410.

### **Two Unique Rules**

For most assets, calculating cash value and the income from the assets is straightforward.

Except for two circumstances:

- Assets that produce little or no income
- Assets that are disposed of for less than fair market value

### **When an Asset Produces Little or No Income**

This rule assumes that a household with assets has an increased payment ability, even if its assets do not currently produce income (for example, a household that owns land that is not rented or otherwise used to produce income).

Rather than require the household to dispose of the property, the rule requires that an “imputed” income be calculated based on a HUD passbook rate that is applied to the cash value of all assets.

In Housing Credit Projects, this rule only applies if total family net assets are more than \$50,000.

If a Project received HOME or Housing Trust funding, the same rule applies.

The following example shows how imputed income from assets calculation is applied.

#### **Example 1**

The Smith family has real estate worth \$60,000 (after deducting amounts owed and costs of selling) and the Smith family has no other assets.

The annual income amount based on a HUD passbook rate of 0.40% would be:  $\$60,000 \times .4 = \$240$ .

### **When Assets are Disposed of at Less than Fair Market Value**

Applicants who dispose of assets for less than fair market value (i.e., value on the open market in an “arm’s length transaction”) have, in essence, voluntarily reduced their ability to afford housing.

Any asset disposed of for less than fair market value during the two years preceding the income determination must be counted as if the household still owned the asset.

The amount to be included as an asset is the difference between the cash value of the asset and the amount that was received (if any) in the disposition of the asset.

Consider the following examples.

Example 1

Mr. Greg cashed in stock to give a friend's son funds for college in August 2023.

The stock had a market value of \$4,500.

A broker fee of \$500 was charged for the transaction.

Market value: \$4,500

Less broker's fee: \$500

Cash value to be considered: \$4,000

The \$4,000 in assets would be counted towards net family assets for any income determination conducted until August 2025 (looking forward two years from the time of disposal).

If Mr. Greg has no other assets, no income from assets would be included in annual income because the cash value of the asset is less than \$50,000.

If other assets brought total assets to more than \$50,000, however, the imputed income calculation described previously would be required.

Example 2

Mrs. Brown "sold" a piece of property to a family member for \$30,000 on June 1, 2024.

The home was valued at \$175,000 and had no loans against it.

Market value: \$175,000

Less settlement costs: \$3,000

Less sales price: \$30,000

Cash value to be considered \$142,000

The \$142,000 would be counted as an asset for any income determination conducted until July 1, 2026.

The \$142,000 would be combined with the cash value of other assets for which actual income cannot be determined (if any), and an imputed income calculation would be required.

Each applicant must certify whether an asset has been disposed of for less than fair market value.

Assets disposed of for less than fair market value because of foreclosure or bankruptcy are not included in this calculation.

In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant receives (or received) important consideration not measurable in dollar terms.

\*Housing Credit Projects, assets must be verified from a third party if the total net family assets are greater than \$50,000.

\*HOME and Housing Trust Fund Projects, assets must be verified from a third party if the total net family assets are greater than \$50,000.

### **Excluded Assets**

For a list of excluded assets, see below under Excluded from Annual Income.

### **D. Calculating Annual Income**

In the February 14, 2023, Federal Register, HUD states in section 5.609(a) annual income includes, with respect to the family:

- (1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
- (2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

Excluded from annual income:

In the February 14, 2023, Federal Register, HUD listed the items which are excluded from annual income. The following items are listed in section 5.609(b).

- (1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- (2) The following types of trust distributions:
  - (i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under section 5.603(b).
    - (A) Distributions of the principal or corpus of the trust; and
    - (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
  - (ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it

is distributed, shall be considered income to the family at the time it is received by the trust.

- (3) Earned income of children under the 18 years of age.
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- (8) Income of a live-in aide, foster child, or foster adult as defined in sections 5.403 and 5.603, respectively.
- (9)(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and  
(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.
  - (A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from-
    - (1) The Federal government;
    - (2) A State, Tribe, or local government;
    - (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
    - (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
    - (5) An institution of higher education.
  - (B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include-
    - (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;



- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- (3) Gifts, including gifts from family or friends; or
- (4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

- (1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
- (2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:
  - (i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or
  - (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)(i) 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);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program.

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. 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 unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) 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.

(14) Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in section 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in section 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) 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.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude 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 paragraph (b) of this section apply. HUD will publish a notice in the **Federal Register** to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

- (i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
- (ii) Direct Federal or State payments intended for economic stimulus or recovery.
- (iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

- (iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
  - (v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g. wedding gifts, baby showers, anniversaries).
  - (vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
  - (vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
- (25) Civil rights settlements or judgements, including settlements or judgements for back pay.
- (26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.
- (27) Income earned on amounts placed in a family's Family Self Sufficiency Account.
- (28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:
- (i) Net income from the 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; and
  - (ii) 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.

For an up-to-date list of income exclusions, please refer to 24 CFR Part 5.

### **E. Annualizing Household Income**

Ownership Entities must convert all verified income to annual amounts. Ownership Entities should use the current circumstances to project income, unless verification forms indicate that an imminent change will occur. To annualize full-time employment, multiply:

- Hourly wage by 2,080 hours
- Weekly wages by 52
- Bi-weekly wages by 26
- Semi-monthly wages by 24

- Monthly wages by 12

If the employment verification provides a range of hours, such as 35 to 40 hours per week, you will want to use the higher number.

#### Example 1

The rate of pay is \$7.50 per hour, the applicant is paid weekly, and the applicant works 30 to 40 hours a week.

$$\$7.50 * 40 * 52 = \$15,600$$

If the employment verification provides a rate of pay and year-to-date income amount and the year-to-date is much higher than the rate of pay amount, you must contact the employer to find out why there is a difference before using the highest amount.

If the year-to-date is correct, then you will use the higher amount. If it is not the normal pay, then you will use the rate of pay.

Make sure to document your conversation with the employer.

#### Example 2: (using the same rate of pay from Example 1)

The applicant started 1/1/2020, the year-to-date is \$7,500 through 3/31/20.

$\$7,500/3$  months = \$2,500 per month,  $\$2,500 * 12$  months = \$30,000 as the yearly gross income

$\$7,500/91$  days = \$82.42 per day,  $\$82.42 * 365$  = \$30,083 as the yearly gross income

The year-to-date gross income is \$30,083 and the rate of pay gross income is \$15,600.

You would contact the employer to ask why there is a difference before using the highest amount.

Make sure to document the findings.

#### Example 3: Benefits for Indefinite Time Period

John makes \$9 an hour and works 40 hours a week. He does not work overtime, has no other source of income.

His anticipated income is computed as:

$$\$9 * 40 * 52 = \$18,720$$

Example 4: Benefits for Definite Time Period

A teacher's assistant works nine months annually and receives \$1,300 per month.

During the summer recess, the teacher's assistant works for the Parks and Recreation Department for \$500 a month.

The anticipated income is computed as:

$$\$1300 * 9 = \$11,700$$

$$\$500 * 3 = \$1,500$$

$$\text{Total income is } \$11,700 + \$1,500 = \$13,200$$

Example 5: Anticipated Changes in Income

In May 2024, an applicant is receiving unemployment benefits of \$250 per month and will qualify for benefits for five months.

Beginning in October, the applicant will be employed at \$1,500 per month.

The anticipated income is computed for the period from May to September 2018, plus the income for October 2018 through May 2019.

$$(\$250 * 5 \text{ months}) + (\$1,500 * 7 \text{ months}) = \$11,750$$

**3.6 Initial Tenant Certification**

The initial determination of eligibility of the Housing Credit household is very important and can affect the amount of Housing Credits that can be claimed for the Project.

The information obtained during the application and verification process should be carefully examined before allowing the applicant to occupy the unit.

After it has been determined that the applicant has met all the Ownership Entity's criteria and the applicant meets the Housing Credit qualifications, the household and the Ownership Entity/Management Company must complete a Tenant Income Certification form.

The Tenant Income Certification form should be signed by any household members 18 years of age or older and the Ownership Entity/Management Company representative the same day the lease is signed at move in.

All the verifications, the Tenant Income Certification form and other applicable documentation should be placed in the household's file in the order AHFA requires and kept for the required timeframe.

**DO NOT USE WHITE-OUT ON THE TENANT INCOME CERTIFICATION FORM.**

**To correct an error**, simply place a line through the error and write in the correction placing your initials next to the correction.

AHFA has provided the mandatory Tenant Income Certification form in the Compliance section at [www.ahfa.com](http://www.ahfa.com).

ALL HOUSEHOLDS OCCUPYING HOUSING CREDIT UNITS MUST COMPLETE A TENANT INCOME CERTIFICATION FORM.

**3.7 Tenant Income Certification Effective Date**

The effective date of the Tenant Income Certification form is the date the household moves into the unit.

If the Project is 100 percent Housing Credit, the effective date will stay with the household for as long as they live at the Project (even if they transfer to another unit in a different Building).

If the Project is not 100 percent Housing Credit and the household moves into a unit in a different building, then the effective date is the move-in date of the new unit. (month and day)

**Note: The household can transfer within the same Building without needing to requalify.**

The recertifications must be completed annually and within 120 days before the effective date.

When additional adult individuals join the household, the effective date will remain the same until the unit is completely vacated.

**Example 1: Determining the Tenant Income Certification Effective Date**

A potential household consisting of Jon and Jane Doe and their child completed a rental application and income certification on April 12, 2018. The Project manager completed the third-party verifications and determined that the household was income eligible on April 21, 2018. Jon and Jane signed the lease on April 25 and took possession of the unit May 1, 2018.

The effective date of the Tenant Income Certification is May 1, 2018. All subsequent recertifications must be performed within 120 days before May 1<sup>st</sup> of each subsequent year.

**Example 2: A Household that Transfers into a 100 percent Low-Income Project**

Jon and Jane Doe move in unit 2 of Building 1 on January 1, 2010.

The household is transferred to unit 10 of Building 2 on May 1, 2014.

The effective date for the household remains January 1.

Example 3: A Project which is not 100 percent Low-Income-Household that Transfers to a Unit in a Different Building

Jon and Jane Doe move into unit 2 of Building 1 on January 1, 2020.

The household is transferred to unit 12 of Building 2 on June 1, 2023.

The effective date for the household becomes June 1.

**3.8 Recertification of Household Income**

Recertification of household income eligibility is required **ANNUALLY**.

Ownership Entities/Management Companies must set the recertification date within 120 days before the effective date (month and day of move in date).

In planning recertifications, Ownership Entities/Management Companies of Housing Credit Projects must have all the verifications completed within 120 days before the effective date.

If a Project has 100 percent of the units set aside for Housing Credit households, Ownership Entities/Management Companies are not required to do the full verification process at recertification.

The re-certification will be a self-certification process.

The self-certification process should include the following:

- The Tenant Income Certification
- The Student Certification

If you use the Tenant Income Certification that is on the AHFA website, then this is the only certification needed.

Ownership Entities/Management Companies should begin early enough to allow themselves enough time to complete the self-certification process.

If the Project does not have 100 percent of the units set aside for Housing Credit households, the Ownership Entity/Management Company must complete a full recertification (a complete verification and certification of household income).

**3.9 Household with Income Exceeding the Limit**

A household **cannot** reside in a Housing Credit Project if, at the time of the initial occupancy, the estimated gross annual income is greater than the applicable percentage of the area median income, adjusted for family size.



If a Housing Credit household occupies a unit and, during tenancy, the gross annual income increases beyond the income limit, the household is not required to vacate the unit.

The current unit would still be considered a Housing Credit unit when the rent remains restricted to less than or equal to the maximum allowed under Section 42, and the household was Housing Credit income eligible at the time of initial occupancy.

In Housing Credit Projects with less than 100 percent of the units set aside for Housing Credit income eligible households, if a household's gross annual income increases to more than 140 percent of the maximum qualifying income, the unit is still considered a Housing Credit unit when the next available unit of comparable or smaller size in the same Building is rented to a Housing Credit income-eligible household.

An Ownership Entity/Management Company must use the income limit that is applicable at the time of the new household's occupancy to determine income eligibility.

In Housing Credit Projects with 100 percent low-income occupancy, increases in income beyond the applicable income limit do not require any action by the Ownership Entity/Management Company because the next available unit would be rented to a Housing Credit income qualified household.

The unit would still be considered a Housing Credit unit when the rent remains restricted to less than or equal to the maximum allowed under Section 42, and the household was income eligible at the time of initial occupancy.

### **3.10 Addition to the Household (Adult)**

The addition of new adult member(s) to an existing low-income household requires the income certification for the new member of the household, including third party verification.

The treatment will depend on whether the building is a mixed-use or 100 percent Housing Credit building.

#### **Mixed-Use Projects**

For mixed-use Projects, the new tenant's income is added to the income disclosed on the existing household's most recent tenant income certification.

The household continues to be income qualified, and the income of the new member is taken into consideration with the income of the existing household for purposes of the Available Unit Rule.

#### **100 percent Housing Credit Projects**

If the Project is a 100 percent Housing Credit Project, then the new tenant's income is added to the income disclosed on the existing household's original Tenant Income Certification.

AHFA would like to see a clarification memo in the file placed behind the original Tenant Income Certification explaining why the gross income was changed.

If the next available unit is rented to an income-qualified household the Available Unit Rule will not be violated even if the household's income exceeds 140 percent of the income limit with the additional household member's income.

A Housing Credit household may continue to add members and still qualify when at least one member of the original household remains in the unit.

If all the original household members move out of the unit, the remaining household members must be certified and qualify as a Housing Credit household.

However, if the remaining household members were certified when they moved in the unit and the certification indicates they qualified at move in, then the household will remain a Housing Credit household.

For all Housing Credit Projects, the income limit that is applicable at the time of the initial tenant certification or re-examination of household income is the appropriate limit to use.

### **3.11 Initial Household Income Certifications (Acquisitions/Rehabs)**

IRS Revenue Procedure 2003-82 allows a unit occupied before the beginning of the Credit Period to be considered a Housing Credit unit at the beginning of the Credit Period when the household's income exceeds the income limit at the beginning of the first year of the Credit Period when two conditions related to income qualifications are met and the unit is rent restricted.

- First, the new Ownership Entity must for each Housing Credit household occupying a unit at the time of acquisition, complete an initial Tenant Income Certification form within 120 days after the date of acquisition using the income limits in effect on the day of the acquisition. Since there is no move-in date, the effective date of the Tenant Income Certification form is the date of acquisition.
- Second, if a Housing Credit household occupies a unit at the time of acquisition and the Tenant Income Certification form is completed more than 120 days after the date of acquisition, the household must be treated as a new move in. The income limits in effect at the time of the Tenant Income Certification form's completion must be used and the effective date is the last date the last adult household member signed the Tenant Income Certification form.

When a household moves into a unit after the Building is acquired by the new Ownership Entity but before the beginning of the first year of the 15-Year Compliance Period, the new Ownership Entity must complete the Tenant Income Certification form using the income limits in effect at the time of the certification.

The effective date of the Tenant Income Certification form is the date the household moves into the unit.

### **A. Less than 100 Percent Housing Credit Projects**

When an Ownership Entity acquires a Project which will have less than 100 percent of the units set aside for Housing Credit households, the Ownership Entity must check the incomes of the individuals occupying any unit occupied before the beginning of the first year of the Credit Period for purposes of the Available Unit Rule under IRC Section 42(g)(2)(D)(ii) and Treasury Regulation Section 1.42-15 at the beginning of the first year of each Building's Credit Period.

- This process must be completed within 120 days before the beginning of the first year of the Credit Period.
- The Ownership Entity must confirm with the household the sources and amounts of anticipated income included on the Tenant Income Certification form are still current. If additional sources or amounts of income are identified, the Tenant Income Certification form must be updated. It is not necessary to complete third-party verifications in this instance.
- If a household is over income based on current income limits, the Available Unit Rule is applied.

If the effective date of the initial Tenant Income Certification form is within 120 days of the anticipated start of the Credit Period, it is not necessary to gain an update of the household's income again because the period for completing the initial Tenant Income Certification Form and the period for updating the household's income is the same.

The recertification of the household's income will be conducted each year on the anniversary of the original Tenant Income Certification form's effective date.

#### Example 1: The Effective Date of Initial Tenant Income Certification is 120 days or Less before the Test Date

An Ownership Entity purchased an existing building on October 1, 2015, and anticipated beginning the Credit Period on January 1, 2016.

Household A occupied a unit at the time of purchase and was determined to be income qualified on October 20, 2015.

Because the household was determined to be income qualified within 120 days of January 1, 2016, it is not necessary to "test" for purposes of the Available Unit Rule.

If the effective date of the original Tenant Income Certification form is more than 120 days before the anticipated start of the Credit Period, the Ownership Entity must check the income

of the household again within 120 days before the beginning of the first year of the Credit Period.

Example 2: The Effective Date of Original Tenant Income Certification is more than 120 Days before the Beginning of the First Year of the Credit Period

An Ownership Entity purchased an existing building on March 1, 2015, and anticipated beginning the Credit Period on January 1, 2016.

Household A, a Housing Credit-qualified household, moved into a rent-restricted unit on April 1, 2015.

Because the household was determined to be Housing Credit qualified more than 120 days before the beginning of the Credit Period on January 1, 2016, the household's income must be tested no earlier than 120 days before January 1, 2016, to determine whether the Available Unit Rule should be applied.

## **B. Acquisition and Rehabilitation of Previous Housing Credit Projects**

For all Projects allocated Housing Credits after 1989, the Ownership Entities are required to maintain the Buildings as Housing Credit Projects for at least 30 years starting with the first day of the 15-Year Compliance Period.

The Ownership Entity must maintain the specified number of Housing Credit units stated in the Declaration of Land Use Restrictive Covenants with AHFA for the entire Extended Use Period. (30 or more years).

As a result, any household which was determined to be a Housing Credit household at move in for purposes of Section 42 during the first allocation of Housing Credits qualifies as a Housing Credit household for any subsequent allocation of Housing Credits.

Note: You must provide a certification for the Housing Credit household from the original Project to prove the household qualified as a Housing Credit household before rehabilitation.

If an Ownership Entity acquires a Project which has less than 100 percent of the units set aside for Housing Credit households the Ownership Entity must apply the Available Unit Rule if any unit was determined to be an over-income unit at the time of the Housing Credit household's last income recertification.

Vacant units previously occupied by Housing Credit households continue to qualify as Housing Credit units when the units are suitable for occupancy.

However, the Ownership Entity is subject to the Vacant Unit Rule if the Project has less than 100 percent of the units set aside for Housing Credit households.

If an Ownership Entity acquires a Project which has 100 percent of the units set aside for Housing Credit households, the next available unit should be rented to a Housing Credit household.

However, the Ownership Entity must adhere to the requirements of Section 42(f)(2) when claiming Housing Credits on any units which were vacant at the time of acquisition.

### **3.12 Staff Unit and Courtesy Officer Unit**

Staff units should be reserved for management staff.

A courtesy officer may **NOT** live in a non-revenue management unit unless the Project has received approval from AHFA.

A courtesy officer may, however, live on the Project as part of a Housing Credit-qualified household.

If later the Ownership Entity decides not to have a courtesy officer unit, then they can rent to a Housing Credit qualified household.

This would not remove the previous courtesy officer approval.

### **3.13 Transfers within a Project**

Ownership Entities/Management Companies no longer must verify or certify a household's income when a household transfers between units in the same Building or within different Buildings in a 100 percent Housing Credit Project.

This exception may **NOT** apply to Housing Credit Projects which also received HOME Funds. Please reference Section 6.20 of Chapter 6 of this manual.

### **3.14 Self Correction**

If documentation at the time a certification was performed was insufficient and the Ownership Entity/Management Company discovers the noncompliance and obtains enough documentation *before* the notification of a compliance review by AHFA, the noncompliance is treated as if it never happened.

Such self-corrected documentation is not reported to the IRS as noncompliance, because the Ownership Entity/Management Company has demonstrated due diligence and reasonable attempts to maintain enough documentation of household Housing Credit eligibility.

#### **Example 1: Failure to Obtain Third-Party Verification**

An Ownership Entity/Management Company failed to verify child support income when the household moved in.

The oversight was identified a few months later when the Management Company conducted a quality review of the file.

The deficiency was immediately corrected by getting a copy of the child support documentation and the amount was added to the move-in income. The annual income did not exceed move-in eligibility.

#### Example 2: Correction after Notification of Upcoming Review

Unit A went out of compliance on January 15, 2013, when a household with income exceeding the Housing Credit limit moved in.

The Ownership Entity/Management Company was notified on March 15, 2013, that the inspection will be May 1, 2013.

The Ownership Entity/Management Company realized the problem while preparing for the review and paid the moving costs for the over-income household to move out immediately.

A new Housing Credit household moved into Unit A on April 13, 2013.

Unit A was selected as part of the 20 percent file inspection and the new household's income certification was reviewed.

Because the effective date of this certification was after the date of the notification of the upcoming review, the previous tenant file was reviewed and determined that Unit A was out of compliance from January 15 to April 13, 2013.

## Chapter 4: Project Rent Restrictions

### 4.1 Components of Gross Rent

#### Inclusions:

- An approved utility allowance (if the household is paying a portion or all the utilities)
- Any fees charged to Housing Credit households for use of common areas or mandatory services attached to the Building(s)

#### Exclusions:

- Any payment made under Section 8 of the U.S. Housing Act of 1937 or any comparable rental assistance program
- Any fee for a supportive service paid to the Ownership Entity of the unit by any governmental program assistance, if such program provides rental assistance, and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services
- Any rental payment to the Ownership Entity of the unit to the extent such Ownership Entity pays an equivalent amount to the Rural Development under Section 515 of the Housing Act of 1949.

### 4.2 Fees

A unit is considered in compliance when the rent charged does not exceed the gross rent limitations each month.

A unit is out of compliance if the rent exceeds the limit on a tax year basis or a monthly basis. A unit is also considered out of compliance if an Ownership Entity charges fees that are not permissible.

Once a unit is determined to be out of compliance with the rent limits, the unit ceases to be a Housing Credit unit for the remainder of the Ownership Entity's tax year.

A unit is back in compliance on the first day of the Ownership Entity's next tax year if the rent charged each month does not exceed the limit.

An Ownership Entity cannot avoid the disallowance of the Housing Credit by rebating excess rent or fees to the affected households.

**Provision of Services:**

- Any charges to households for services that are not optional generally must be included in gross rent (example: a hook-up fee for washer and dryer installation).
- A service is optional when the service is not a condition of occupancy and there is a reasonable alternative.
- No separate fees should be charged for household facilities (example: pools, parking, recreational facilities).

**Condition of Occupancy:**

- The cost of services that are required as a condition of occupancy must be included in gross rent.
- Refundable fees are not included in the rent computation (example: security deposits, fees paid if a lease is prematurely terminated).
- Required costs or fees, which are not refundable, are included in the rent computation (example: fees for month-to-month tenancy, renter's insurance).
- Fees for preparing a unit for occupancy must not be charged. Ownership Entities are responsible for physically maintaining units in a manner suitable for occupancy.

**Application Processing:**

- Application fees may be charged to cover the actual cost of checking a prospective household's income, credit history, and landlord references.
- The fee is limited to recovery of the actual out-of-pocket costs.
- No amount may be charged in excess of the average expected out-of-pocket costs of checking household qualifications at the Project.

**In Compliance Examples:**Example 1: Provision of Optional Services

A Project provides hot meals twice a day for the convenience of its households in a common dining facility.

They charge a nominal fee to cover their costs, but do not include the cost in the rent charged for the apartments.

Each unit in the Project includes a fully functional kitchen.



In this case, a practical alternative exists for households to obtain meals other than from the dining facility, and payment for the meals in the common dining facility is not required as a condition of occupancy.

The cost of the meals is not included in the gross rent.

#### Example 2: Fee for Late Payment of Rent

A household pays the maximum rent of \$525 for a one-bedroom unit.

The household did not pay the rent timely and was charged a late fee of \$25, as stated in the lease.

The \$25 late fee is a penalty for failure to perform according to the lease agreement, and the fee is not included in the rent.

#### **Out of Compliance Examples:**

#### Example 1: Gross Rent Exceeds Gross Rent Limit for One Month

The maximum gross rent for a two-bedroom unit is \$800 per month.

The Ownership Entity charges a gross rent amount of \$795.

In addition to rent, the Ownership Entity charges a one-time \$35 hookup fee for the household's washer and dryer the month the household moves in.

A new household moves in on June 1, 2013, and has a gross rent amount of \$830 for the first month.

For July through December, the household has a gross rent amount of \$795.

The one-time hookup fee is included in rent for one month.

The gross rent amount of \$830 for June exceeded the monthly limit.

#### Example 2: Ownership Entity Charges Impermissible Fee

The Ownership Entity charges new households a one-time optional fee of \$125 to clean a unit before move in. For example, the new household may move into the unit as the previous household left it (which is not suitable for occupancy) or pay the fee to the Ownership Entity to clean and prepare the unit for occupancy.

A new household paid the \$125 cleaning fee and moved into the unit on March 15, 2013.

It is not permissible for Ownership Entities to charge households a fee for maintaining Housing Credit units in a condition suitable for occupancy. This is the responsibility of the Ownership Entity of the Building for which the Housing Credit is allocated.

The unit is out of compliance as of March 15, 2013.

### Example 3: Overcharged Rent

The Ownership Entity leased all the units to eligible households during 2013, the third year of the Credit Period.

However, the Ownership Entity inadvertently overcharged rent to households occupying three-bedroom apartments.

The error impacted 15 out of 75 units. The Ownership Entity is a calendar year taxpayer.

The applicable fraction for 2013 is 60/75, which equals 80 percent.

The units are back in compliance on January 1, 2014, if the Ownership Entity correctly limits the rent for all units.

### **4.3 Where to Find the Gross Rent Limits**

There is a link to Novogradac's Rent & Income Calculator to determine the gross rent limits for each county on AHFA's website.

### **4.4 Changes in Gross Rent Resulting from Changes in Area Median Income**

The gross rent may decrease with changes in the gross area income. This provision is contained in Section 42(g) (2) (A) of the Code.

- Housing Credit Projects funded on or after January 1, 1990 - Regardless of changes in the area median gross income, the rent does not have to be lowered below the rent established during the year for which the Project or Building first satisfied the minimum unit set-aside requirement (i.e. the 20-50 or 40-60 test).
- After September 23, 1994, an Ownership Entity can make the election to use the carryover allocation date or the Placed-in-Service Date to establish the rent floor (IRS Revenue Procedure 94-57).

### **4.5 Households Charged more than Maximum Gross Rent**

For Projects receiving a Housing Credit allocation in 1991 or later, an Ownership Entity may charge more than the maximum gross rent allowed under Section 42, **IF**:

- The Project is receiving rental assistance under the Rural Development or HUD's Section 8 program
- The household's rent contribution (30 percent of adjusted annual income) required by Rural Development and HUD is not greater than the Housing Credit maximum gross rent

This provision does not apply to Projects receiving allocations in 1990. Consult Section 42(g) (2) (E) for the specific statutory basis for this provision.

#### **4.6 Utility Allowances**

A utility allowance is an allowance for the cost of any utilities paid directly by the household and is a component of gross rent.

Do not include the telephone, internet, and cable utilities.

The utility allowance must be updated **annually**.

The following methods are acceptable forms of obtaining a utility allowance:

1. If the Building or household receives Rural Development assistance, then an **approved** utility allowance from Rural Development with an effective date should be used.
2. If the Building has Rural Development assistance and is monitored by HUD, then a Rural Development utility allowance should be used.
3. Buildings monitored by HUD should use an **approved** utility allowance from the appropriate local public housing authority.
4. If the household receives Section 8 rental assistance, then the Project should use an **approved** utility allowance from the local public housing authority that provides the rental assistance to the household. The utility allowance must have a cover sheet or some type of documentation to indicate the source and effective date of the utility allowance.

**Numbers 1-4 above are mandatory, if applicable to the Building/household.**

If numbers 1-4 above are not applicable, the following options are available:

1. An **approved** utility allowance from the local public housing authority that has jurisdiction over the area the Project is located.
2. An estimate received from the local utility provider (electric provider, gas provider, water works, etc.) is acceptable. This estimate must be on the utility provider's letterhead and have estimates for **each** utility paid directly by the household. Management Companies should always round up estimates to the next dollar amount (for example: \$25.01 would be \$26.00).

3. An estimate calculated using the HUD Utility Schedule Model found at [www.huduser.org/portal/resources/utilallowance.html](http://www.huduser.org/portal/resources/utilallowance.html). The estimate must follow these guidelines:
  - This estimate must list the type of units (apartments, homes, townhomes, etc.), bedroom sizes, square footage of the units, and what the calculated rates are for those units.
  - Supporting documentation such as letters from the utility companies stating the rates, taxes, and fees.
  - The utility rates used for the HUD Utility Schedule Model must be no older than the rates in place 60 days prior to the beginning of the 90-day implementation period allowed under Section 42.
  - This 90-day period will allow AHFA time to review the HUD Utility Schedule Model submitted, ask for further clarification if needed, and either accept or reject the submission.
  - The HUD Utility Schedule Model must be renewed at least once every 12 months and completed so that the approval date is within 12 months of the previous year's utility allowance.
  - If the submission is rejected, the Ownership Entity will need to obtain a current acceptable form of utility allowance.
  - The Ownership Entity must bear the full cost of using this method including the cost of making the results available to the households of the Project for comment as well as to AHFA at the beginning of the 90-day implementation period allowed under Section 42.
4. An energy consumption model estimate provided by a properly licensed engineer or qualified professional approved by AHFA which follows the guidelines below:
  - This estimate must at a minimum consider specific factors including, but not limited to, unit size, Building orientation, design and materials, mechanical systems, appliances, and characteristics of the Building location.
  - The qualified professional must not be related to the Building Ownership Entity within meaning of section 267 (b) or 707 (b) of the appropriate IRS regulations. The Ownership Entity must certify to this in writing as well as send the credentials (licensed engineer documentation, years of experience conducting utility estimates, etc.) of the qualified professional.
  - A complete copy of the energy consumption model documenting all steps in the process must be submitted.

- This documentation should include projected consumptions with any taxes or fees included. Correspondence with the utility companies should be submitted.
- The data and utility rates used must be for a 12-month period ending no earlier than 60 days prior to the beginning of the 90-day implementation period allowed under Section 42.
- This 90-day period will allow AHFA time to review the energy consumption model submitted, ask for further clarification if needed, and either accept or reject the submission.
- If the submission is rejected, the Ownership Entity will need to obtain a current acceptable form of utility allowance.
- For new Projects with less than 12 months of consumption data the qualified professional may use consumption data for the 12-month period of units of similar size and construction in the geographic area in which the Building containing the units is located. This data must be for a 12-month period ending no earlier than 60 days prior to the beginning of the 90-day implementation period allowed under Section 42.
- After the first year of using the energy consumption model, the qualified professional should compare the actual consumption data with their energy consumption model to determine if their model needs adjusting to closer reflect actual consumption. This information should be submitted to AHFA along with the qualified professional's energy consumption model for the next year's utility allowance.
- The energy consumption model must be renewed at least once every 12 months and completed so that the approval date is within 12 months of the previous year's utility allowance.
- The Ownership Entity must bear the full cost of using this method including the cost of making the results available to the households of the Project for comment as well as to AHFA at the beginning of the 90-day implementation period.

All the above utility allowance documentation must be **current and approved** by the agency or utility provider and updated **within each calendar year**.

The utility allowance must also be the effective utility allowance at the time of AHFA's review.

Current IRS regulations specify if the utility allowance changes due to an increase or decrease in utility costs, the new allowances must be used in the rent calculation within 90 days of the effective date of the change.

The effective date for the Rural Development, HUD, and a local public housing authority utility allowance is located on the utility allowance form.

The effective date for the utility provider allowance will be the date on the letter from the utility provider.

The effective date for the HUD Utility Schedule Model and the energy consumption model estimate will be the effective date listed on the AHFA approval letter of the utility model estimate.

There is no provision for a utility allowance floor as there is for rent.

The method of obtaining the utility allowance for a Project is initially chosen by the Ownership Entity on the application for Housing Credit funding.

The method of obtaining the utility allowance initially chosen by the Ownership Entity cannot be changed until after the IRS Form 8609(s) has been issued by AHFA.

The Ownership Entity may update the form of utility allowance chosen on the application and use it, but AHFA cannot approve it until the IRS Form 8609(s) have been issued by AHFA.

## Chapter 5: Multifamily Housing Revenue Bonds

### 5.1 Ownership Entity and Trustee Role

- Submit the Occupancy Certificate quarterly
- Submit the Trustee Certificate quarterly
- Complete the Bond Eligibility Certification for each household
  - AHFA recommends completing the certification at move in
  - The Bond Eligibility Certification is completed once for each eligible household
  - The Bond Eligibility Certification is located on the AHFA website in the compliance section (<https://www.ahfa.com/multifamily/compliance/tenant-verifications>)

### 5.2 AHFA'S Monitoring Role

The bond inspection will take place annually.

### 5.3 Income Restrictions

#### Set-Aside Requirement

- At least 20 percent of the rental residential units in the Project shall be rent restricted and occupied by individuals whose income is 50 percent or less of the area median income.
- At least 40 percent of the rental residential units in this Project shall be rent restricted and occupied by individuals whose income is 60 percent or less of the area median income.

### 5.4 Bond Terms

- Bond Issue Date: Date of the closing
- Bond Maturity: Specified length of the Bond (example: 15 years, 30 years, etc.)
- Bond is Paid Off: Date the Bond is repaid
- Qualified Project Period (QPP): The later date of the following situations:
  - Fifteen years from the date the Project was 50 percent occupied
  - Bond Maturity and Bond is paid off

- When the Project-based Section 8 is terminated

#### Example 1

Bond Issue Date is 2/1/2000.

Fifty percent Occupied date is 8/1/2000.

$8/1/2000 + 15 \text{ years} = 8/1/2015.$

Bond Maturity Date is 12/31/2015.

Bond is paid off as of 1/31/2010.

The Project does not have a Section 8 contract.

Even though the Project paid the Bond off before the Bond Maturity Date, it still must continue Bond regulations until 12/31/2015 to complete the QPP.

#### Example 2

Bond Issue Date is 2/1/2000.

Fifty percent Occupied Date is 8/1/2000.

$8/1/2000 + 15 \text{ years} = 8/1/2015.$

Bond Maturity Date is 12/31/2015.

Bond is paid off as of 3/15/2017.

The Project does not have a Section 8 contract.

As of 3/15/2017 the Project has completed the QPP.

#### Example 3

Bond Issue Date is 2/1/2000.

Fifty percent Occupied Date is 8/1/2000.

$8/1/2000 + 15 \text{ years} = 8/1/2015.$

Bond Maturity Date is 12/31/2015.

Bond is paid off as of 3/15/17.



The Project does have a Section 8 contract.

Even though the Project has paid off the Bond, passed the maturity and 50 percent occupancy date, it must comply with Bond regulations if the Project has a Section 8 contract.

Example 4

Bond Issue Date is 2/1/2000.

Fifty percent Occupied Date is 8/1/2000.

$8/1/2000 + 15 \text{ years} = 8/1/2015.$

Bond Maturity Date is 12/31/2015.

Bond has not been paid off.

The Project does not have a Section 8 contract.

Once the Bond is paid off, then the Project will be complete with the QPP.

## Chapter 6: HOME Program

AHFA has specifically designed the HOME Program to meet the needs of low- and moderate-income Alabamians consistent with the HUD guidelines.

If your Project received HOME Funds combined with other funding types, such as Housing Credit, then you must abide by each of the funding-type regulations (AHFA requires the most restrictive).

### **6.1 Ownership Entity's Role**

In accordance with the HOME Program regulations, the Ownership Entity of the Project receiving an allocation of HOME Funds is required, by acceptance of the allocation, to:

- Manage the Project in accordance with the HOME Rule and any agreements reached with AHFA during the Application Cycle process for the duration of the HOME Affordability Period.
- Review the most current HOME Action Plan for the AHFA document submittal due dates.
- Notify AHFA's Compliance Department when Project damage occurs and submit a plan of corrective action.
- Assume liability for any instances of noncompliance and the correction of such deficiencies.
- Submit HOME Project gross rent increases to AHFA for approval annually.
- Cooperate with AHFA during compliance reviews.
- Supply AHFA with quarterly bank statements on the replacement reserve account, operating deficit account, and the taxes and insurance account.
- Provide a copy of the current Project insurance policy.
- Supply AHFA with any other Project information requested.
- Certify that the Project is being managed in accordance with all applicable federal, state, and local fair housing laws.
- Maintain a Project household file for the length of time required by the HOME Program regulations. Records for households no longer living in the Project may be stored electronically if AHFA representatives are given access to these records.

- Ensure the Management Company is familiar with the required steps when an accessible unit becomes vacant (guidance is available on HUD’s website).
- Require that the Management Company know and follow the following HOME Program household selection steps:
  - Be consistent with the purpose of providing housing for low-income and very low-income households and must not exclude an applicant household with a certificate or voucher under the Section 8 Tenant-Based Assistance, Housing Choice Voucher Program or HOME Tenant-based Rental Assistance Program because of the status of the prospective household as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.
  - Be reasonably related to HOME Program eligibility and the household’s ability to perform the obligations of the lease.
  - Provide for the selection of households based on a written waiting list in the chronological order of application, to the extent practicable.
  - State that the Ownership Entity or Management Company will give prompt written notice to any rejected applicant household, with an explanation of the grounds for the rejection.

#### **A. Ownership Entity’s Record-Keeping Requirements**

In accordance with 24 CFR and 26 CFR 1.42-5, the Ownership Entity’s record-keeping requirements include, but are **not limited to**:

- Total number of residential rental units in the Project, including the number of bedrooms and the square footage of each unit
- Percentage of HOME Program units in the Project
- Rent charged on each HOME Program unit in the Project, including the utility allowances
- Number of occupants in the unit
- Vacancy history of the HOME Program units (including number of days vacant) and when and to whom the next available unit was rented
- Income certifications for each HOME Program household and sufficient third-party documentation to support the certification
- Providing an affirmative marketing plan and maintain records which support the affirmative marketing plan is being followed

- Maintain a written household selection process and make it available upon request
- For Projects that are owned, developed, or sponsored by a CHDO, a written household participation plan ensuring residents are involved in the management and decision-making of the Project must be available at the Project site
- The character and use of the non-residential portion of the Building(s) within the Project (common areas, resident manager unit if not included in qualified basis)

These records should be kept on site. **If records are kept in another location, AHFA must be notified of the location.**

An Ownership Entity may store household qualifying files on an automated system. This documentation must be legible and meet the conditions of IRS Revenue Procedure 97-22.

If an Ownership Entity cannot produce the compliance documentation in a legible format, the Project will be deemed out of compliance with 26 CFR 1.42-5.

## **B. Habitability Requirements**

All HOME-funded Projects will be subject to physical inspections of the unit, outside, and inside of the Project.

It is the Ownership Entity's responsibility to provide an efficient maintenance program.

The Project will be measured according to HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE).

**Note: AHFA inspectors must receive assistance from management and maintenance personnel when conducting inspections. AHFA expects the Ownership Entity/Management Company to ensure adequate management and maintenance staff are available for AHFA's inspections.**

For the NSPIRE Standards and related definitions, refer to HUD's website ([www.hud.gov](http://www.hud.gov)).

A violation of these standards will be considered noncompliance and will be reported to HUD.

**The Ownership Entity/Management Company must comply with Alabama State Law when providing advanced notice to their households of the date on which AHFA will perform the physical inspection.**

### **6.2 AHFA's Monitoring Role**

In accordance with 26 CFR 1.42-5 and 24 CFR Part 92 of the HOME Rule, once a Project is completed (Placed in Service) and receives HOME Funds, it is AHFA's responsibility to:

- Perform household file reviews and on-site visits as needed and required by the HOME Program monitoring regulations to ensure that the Ownership Entity and/or Management Company is operating the Project in compliance. The areas to be reviewed for compliance may include, **but are not limited to:**
  - Determination whether the applicable set aside has been met and maintained
  - Household qualifications, income calculations, and appropriate supporting documentation
  - The gross rent payment and its components, including utility allowance
  - The vacancy history of the units
  - Items agreed to in the regulatory agreement, the Declaration of Land Use Restrictive Covenants, or other applicable documentation
  - Project characteristics attested to in the Application Cycle for which ranking points were awarded (**e.g., tenant services, amenities**)
- Report any instances of noncompliance (past or present), when appropriate, to HUD after giving the Ownership Entity appropriate time to correct the problem.
- Retain records of any noncompliance with the HOME Program regulations for six years beyond the HOME Affordability Period
- Maintain the information used to complete the compliance review for six years beyond the HOME Affordability Period
- Report to the appropriate federal department and the cognizant inspector general of such department any indication of fraud, waste, abuse, or potentially criminal activity pertaining to federal funds

The HOME Program compliance monitoring procedures for AHFA have been established to conform to all current HUD regulations.

Statutory or regulatory changes may require these procedures to be revised from time to time.

#### **A. AHFA's Monitoring Process for HOME Funded Projects**

AHFA has the right to perform compliance monitoring reviews, including site visits, on any HOME-funded Project during the full term of the HOME Affordability Period.

These on-site inspections may be separate from any review of HOME certifications, supporting documentation and rent records.

The HOME Affordability Period is established in the Declaration of Land Use Restrictive Covenants, which are recorded on the property deed.

These reviews may be performed with **little or no prior notice**. Please be aware of this when AHFA representatives are scheduling inspections.

AHFA will review 20 percent of the household files and documentation in the Project.

AHFA will inspect 20 percent of units in the Project for HOME-funded projects with five or more units.

HOME-funded projects with one to four units, AHFA will inspect 100 percent of the units.

HOME regulations require a household file review and on-site inspection to occur within 12 months after Project completion and at least once every three years thereafter during the HOME Affordability Period.

AHFA monitors projects with HOME Funds **annually** until after the HOME Affordability Period has been completed.

If excessive deficiencies in multiple household files reviewed are not found on the required household file inspection, in years two and three AHFA will review a current rent roll to check income eligibility, gross rents, income and rent set-asides, and perform a physical inspection of the project.

Hazardous Deficiencies that require a follow-up on-site inspection to verify that deficiencies are corrected is listed in Addendum D of the HOME Action Plan (Health and Safety Deficiencies). The follow-up inspection must occur within 12 months after the notification.

After the HOME Affordability Period has been completed and the HOME loan is repaid, AHFA will monitor following the Post Year-15 Compliance Period (Section 1.2 B.2) for Projects that received Housing Credits.

If the HOME loan has not been repaid, AHFA will monitor the Project every three years until the HOME loan has been repaid. Once the HOME loan is repaid, then AHFA will monitor following the Post Year-15 Compliance Period (Section 1.2 B.2) for Projects that received Housing Credits.

When a Project completes its HOME Affordability Period, the Ownership Entity/Management Company must adhere to the set-asides written in the Declaration of Land Use Restrictive Covenants for the Housing Credit Program.

Projects that received HOME Funds only have a HOME Affordability Period and will not have a Declaration of Land Use Restrictive Covenants for the Housing Credit Program.

The following records and/or documentation will be reviewed and must be available on the scheduled review date:

- All household files; including the initial files. Household files must be in the following order:
  - The most recent Tenant Income Certification (TIC)
  - Third-party verifications (income, assets, etc.)
  - Any needed affidavits (Certification of Zero Income, child support, student, etc.)
  - HOME Lease Addendum at move in
  - The current lease agreement or renewal of lease addendum
  - The same order starting with the TIC for every recertification down to the move in TIC and verifications
  - The application should be behind the lease at move in
- Rent Roll
- Set-Aside Report for Income and Rent
- Current Project utility allowance documentation
- Type of rental assistance, the amount of rental assistance, and the households receiving rental assistance
  - If the household is receiving Section 8 rental assistance, place the most current Section 8 paperwork which shows the household and local Public Housing Authority's share of the rent with the Tenant Income Certification form.
  - If the household is receiving Ownership Entity-financed or private rental assistance (PRA), a list of which households are receiving the assistance, the unit number, and the amount of assistance each household is receiving will be required.
  - Once the amount in the Ownership Entity provided rental assistance (PRA) account has been spent, AHFA monitor will request documentation of the disbursements from the PRA account until the total amount of the PRA was spent (example: last bank statement showing a zero balance).

- The Affirmative Marketing Plan and documentation to show how the Management Company is implementing the plan.

Certain noncompliance issues found during the review of the household files, the compliance documentation asked for during the review and the physical inspection of a Project will cause the Ownership Entity/Responsible Owner(s) to have point deductions which will affect the point scoring system for the next Application Cycle for any AHFA Multifamily Funding sources.

Management Companies could also be affected by certain noncompliance issues found during the review of the household files, the compliance documentation asked for during the review and the physical inspection of a Project.

Furthermore, once an Ownership Entity/Responsible Owner(s) or Management Company reaches a certain cumulative point threshold the Ownership Entity/Responsible Owner(s) will be suspended from applying for AHFA Multifamily Funding Sources and the Management Company and principles thereof will be suspended from appearing on any multifamily applications for AHFA Multifamily Funding Sources for one year.

For more information regarding these noncompliance issues, reference the compliance addendum in the HOME Action Plan.

The HOME Action Plan is available on AHFA's website.

## **B. The HOME Affordability Period**

The HOME Affordability Period for HOME-funded Projects is 20 years.

On-site inspections will begin the first year after the Project Placed in Service Date.

HOME regulations allow for on-site inspections to occur once every three years.

AHFA requires on-site inspections to occur on an annual basis.

After the HOME Affordability Period is over HOME Projects are no longer subject to HOME regulations.

If the Project received Housing Credits, then it must follow the Post Year-15 Compliance Period procedures in Section 1.2.B.2 of this Compliance Manual.

### **6.3 Income Restrictions**

The Project's units must be occupied by HOME Program qualified households.

The minimum set-aside chosen by the Ownership Entity on the application during the Application Cycle will determine the household's income percentage.



Also, in addition to the minimum set-aside, the Ownership Entity may have further restricted the income percentage on the application during the Application Cycle or within the Declaration of Land Use Restrictive Covenants.

### A. Minimum Set-Aside

The following apply for HOME-funded Projects with Housing Credits:

- Must contain enough qualified HOME Program units to satisfy the chosen set-aside by the end of the tax year following the year the Project was Placed in Service (1991 and later year Projects).
- To qualify for the nine-percent Housing Credit, the minimum set-aside must be met at initial rent up and maintained throughout the 15-Year Compliance Period of the Project.
- If funded **before** January 1, 2009, the Ownership Entity had to choose one of the following irrevocable minimum set-aside requirements:
  - At least 40 percent of the residential units in the Project occupied by households whose income is 50 percent or less of the area median gross income with the remaining 60 percent of the residential units in the Project occupied by households whose income is 60 percent or less of the area median gross income.
  - One hundred percent of the residential units in the Project occupied by households whose income is 50 percent or less of the area median gross income.
- If funded **before** January 1, 2009, the Project must meet the set-aside on a Building-by-Building basis.
- If funded **after** January 1, 2009, the Project will have the following irrevocable minimum set-aside requirement:
  - At least 20 percent of the residential units in the Project occupied by households whose income is 50 percent or less of the area median gross income with the remaining 80 percent of the residential units in the Project occupied by households whose income is 60 percent or less of the area median gross income.
- If funded **after** January 1, 2009, the Project will have to meet this set-aside on a Project basis.

The following applies for a HOME-only funded Project:

- Projects with four or fewer units:
  - One hundred percent of the units must be occupied by households with incomes at or below 60 percent of median family income.

- The rent must be restricted at or below the 60 percent rent level or Section 8 fair market rent, whichever is less.
- Projects with five or more units
  - Twenty percent of the units must be occupied by households with incomes at or below 50 percent of median family income.
  - The rent must be restricted at or below the 50 percent rent level or Section 8 fair market rent, whichever is less.
  - The remaining units must be occupied by households with incomes at or below 60 percent of the median family income.
  - The rent must be restricted at or below the 60 percent rent level or Section 8 fair market rent, whichever is less.

If occupancy in a HOME-funded Project falls below the minimum set-aside percentage, the Project will be violating the Declaration of Land Use Restrictive Covenants that is recorded with the deed to the Project.

Therefore, the HOME-funded Project will be deemed out of compliance with AHFA, and the Buildings in the Project will be treated as federally subsidized Buildings subject to the four percent Housing Credit percentage.

## **B. Income Limits**

HUD's Office of Affordable Housing annually publishes median income listings for Alabama by county and metropolitan statistical areas (MSA) of the State. HUD publishes the very low income (50 percent) and the 60 percent income limits on the HOME Program portion of its website.

AHFA provides the Ownership Entities/Management Companies with a current copy of the HUD HOME 50 percent and 60 percent income limits and HUD HOME low and high rent limits on its website.

### **6.4 Lease Requirements**

In general, occupancy must be provided on a non-transient basis to the general public. To satisfy this requirement a household occupying a HOME unit must sign a lease with a minimum term of one year.

AHFA has prepared a HOME Lease Addendum that is to be signed with the lease by the household occupying the HOME unit and the landlord or landlord's representative at move in.

The HOME Lease Addendum is required to contain the following household protections according to the HOME Rule:

1. Neither the lease nor any of the terms, conditions, covenants, or agreements thereof shall breach or be in violation of that certain Declaration of Land Use Restrictive Covenants for Alabama's HOME Program.
2. The lease must be for not less than one year, unless by mutual agreement between the landlord and the household.
3. If any of the following provisions are contained in the lease, they are hereby deleted:
  - A. Agreement by the household to be sued, to admit guilt or to a judgment in favor of the landlord in a lawsuit brought in connection with the lease.
  - B. Agreement by the household that the landlord may take, hold, or sell personal property of household members without notice to the household and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the household concerning disposition of personal property remaining in the apartment after the household has moved out of the apartment. The landlord may dispose of this personal property in accordance with Alabama law.
  - C. Agreement by the household not to hold the landlord or the landlord's agents legally responsible for any action or failure to act, whether intentional or negligent.
  - D. Agreement of the household that the landlord may institute a lawsuit without notice to the household.
  - E. Agreement of the household that the landlord may evict any household member without instituting a civil court proceeding in which the household has the opportunity to present a defense, or before a court decision on the rights of the parties.
  - F. Agreement by the household to waive any right to a trial by jury.
  - G. Agreement by the household to waive the household's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
  - H. Agreement by the household to pay attorney's fees or other legal costs even if the household wins in a court proceeding by the landlord against the household. The household, however, shall be obligated to pay costs if the household loses.
  - I. Agreement by the household (other than a household in transitional housing) to accept supportive services that are offered.

4. The landlord may not terminate the household's tenancy or refuse to renew the lease except for: (a) serious or repeated violation of the terms and conditions of the lease, (b) violation of applicable federal, state, or local law, completion of the transitional housing tenancy period or (c) other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the landlord's service upon the household of a written notice specifying the grounds for the action.
5. The landlord must maintain the apartment, the building of which the same is a part, and the grounds surrounding said building in compliance with all applicable housing quality standards and local code requirements.
6. The landlord must adopt written household selection policies and criteria that (a) are consistent with the purpose of providing housing for very low-income and low-income families, (b) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease, (c) give reasonable consideration to the housing needs of families that would have a preference under CFR 960.211 and (d) provide for (i) the selection of households from a written waiting list in the chronological order of their application, insofar as is practicable, and (ii) the prompt written notification to any rejected applicant of the grounds for and rejection.

Notwithstanding anything to the contrary in the lease to which the HOME Lease Addendum is attached, the terms, conditions, covenants, and agreements in the HOME Lease Addendum shall apply.

In the event of any conflict between the terms, conditions, covenants, or agreements in the HOME Lease Addendum and those in the lease, the terms, conditions, covenants, and agreements of this HOME Lease Addendum shall control.

Failure to have the household(s) and the landlord or landlord's representative sign and date the HOME Lease Addendum, or failure of the landlord or landlord's representative to comply with the terms of the HOME Lease Addendum will be deemed as noncompliance with the HOME Rule regulations.

A copy of the HOME Lease Addendum is available on AHFA's website.

If an Ownership Entity rents an accessible unit to a non-disabled household, AHFA strongly encourages the Ownership Entity to include a special provision in the lease requiring the non-disabled household to move into a non-accessible unit of the same size if a household which requires the accessible features of their unit applies and is eligible for the unit.

Ownership Entities must ensure the lease does not violate the Fair Housing Act, any federal, state, or local laws and contains the requirements of the Violence Against Women Act.

### **6.5 Section 8 Households**

Ownership Entities of HOME Projects may not deny rental of an available unit to an applicant holding a HUD Section 8 Certificate or Voucher solely because the household receives rental assistance from HUD.

The Ownership Entity verifies this on the Annual Owner's Certification form.

These households are still required to meet all the Project's household selection criteria contained in the Project's management plan.

If an applicant holding a Section 8 Certificate or Voucher is denied occupancy, the reason for denial should be documented.

### **6.6 Elderly**

The Fair Housing Act prohibits discrimination against families with children. However, there are two types of "housing for older persons" that allows Ownership Entities to exclude families with children.

The following are the two types of "housing for older persons":

- Housing intended for, and solely occupied by, persons 62 years of age or older
- Housing intended and operated for occupancy by at least one person 55 years of age or older per unit

The Fair Housing Act requires at least 80 percent of the units are occupied by at least one person 55 years of age or older. **AHFA requires 100 percent.**

The housing facility or community must also publish and adhere to policies and procedures that demonstrate the intent necessary to satisfy the definition of "housing for older persons" and that the housing provider complies with HUD's regulations governing the 55 or older exemption.

The above exemption criterion applies to "housing for the older person" after December 28, 1995, and is not retroactive.

The exemption prior to December 28, 1995, requires "significant facilities and services" for the elderly in addition to the current criteria.

### **6.7 Student Households**

The HOME Program defines a student as anyone enrolled either part-time or full-time at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

Students are prohibited from receiving any type of HOME Program assistance **independent** of their low or very low-income families unless they meet one of the following exceptions:

- Is at least 24 years of age
- Is a veteran of the United States military
- Is married
- Has a dependent child
- Is a person with disabilities, as such term is defined in section 3(b)(3) of the 1937 Act and was not receiving assistance under section 8 of the 1937 Act as of November 30, 2005
- Is individually eligible, or has parents who, individually or jointly, are eligible on the basis of income to receive assistance under section 8 of the 1937 Act

Determining a student's **independence** from their family is the same as the HUD regulations for the Section 8 Program.

For the HOME Program a student is considered **independent** of his or her parents (where the income of the parents is not relevant) when a student demonstrates either the absence of or independence from parents or legal guardians.

While additional criteria may be used to determine a student's independence from their parents the following criteria must be met:

- The student must be of legal contract age under state law
- The student must have established a household separate from parents or legal guardians for at least one year prior to application for occupancy or meet the U.S. Department of Education's definition of an independent student
- The student can not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations
- The student must obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support (this certification is required even if no assistance will be provided)

Before Ownership Entities/Management Companies can lease a HOME Program unit to a student household, they must obtain written documentation that the household meets the qualifications of the HOME Program.

**AHFA provides the student verification form for the HOME Program on its website.**

If the Project only received HOME Funds, then it will only need to follow the HOME Program definition of a student household, and if necessary, ensure the household meets one of the exceptions to the HOME Program Student Rule.

If the Project received HOME Funds and Housing Credits, then it will have to comply with the HOME and Housing Credit Student Rules. See section 2.6 for the Housing Credit Student Rule.

### **6.8 Fair Housing and Equal Opportunity Laws**

All Projects must comply with applicable federal, state, and local fair housing and anti-discrimination laws in the marketing and provision of housing.

AHFA requests written documentation on the Annual Owner's Certification to verify the Ownership Entity's compliance with these laws.

Federal laws that may be applicable to a Project include, but are not limited to, the Fair Housing Act as amended by the Fair Housing Amendments Act of 1988, Older Persons Act of 1995, Section 504, the Americans with Disabilities Act, and any further amendments of said acts.

These laws include provision for construction and design of multifamily Projects as well as Project management.

During a monitoring review the AHFA monitor will require the Ownership Entity/Management Company to submit a copy of the Project's current Affirmative Marketing Plan along with documentation indicating the procedures in the plan are followed.

AHFA monitors will also look for the Equal Housing logo on the Project sign and the bulletin board in the office for the Project.

### **6.9 Application**

All households occupying a low-income residential rental unit in a Building receiving HOME Funds must have incomes at or below limits established under the HOME Program regulations.

The applicants should be advised in the initial visit of the maximum income limits and that income and asset information for all adults (18 or over) occupying the unit MUST be collected and verified.

The Management Company must obtain sufficient information at the time of application to determine household eligibility.

The HOME Program application should obtain the following household information:

- The name, age, and Social Security number of each person who will occupy the unit (legal name should be given just as it will appear on the lease and Tenant Income Certification form)

- All sources and amounts of current and anticipated annual income for the next twelve-month certification period
- Value of all current assets
- The signature of the head of household and all adult occupants able to sign a lease and the date when the application was completed

### **6.10 Verifications**

When determining the tenant household's income, the following rules apply:

- The income of all adult household members must be included.
- The determination must be based on income that is expected in the next twelve months.
- **Starting January 1, 2025, Ownership Entities and Management Companies must follow HUD's verification hierarchy as described in Chapter 3, Section 3.2 of this compliance manual for the initial-eligibility determination, years 6, 12, and 18 of the HOME Affordability Period.**

Ownership Entities and Management Companies may start following this income hierarchy in 2024.

- Household income must be verified and certified before move-in using at least two months of income source documentation.
- For recertifications except for year 6, 12, and 18 of the HOME Affordable Period, one of the following may be used:
  - Obtain at least 2 months of source documents utilizing HUD's verification hierarchy, or
  - Self-Certification from tenant(s)
  - A copy of HUD Form 50058 or a written statement from the administrator of a government program under which the family receives benefits and which examines each year the annual income of the tenant(s).

All regular sources of income, including assets with a net family value over \$50,000, must be verified by a third party.

Actual income from assets is considered a source of income and should be counted when actual income can be determined.

Verifications must be received by the Management Company within six



months of the completion of the Tenant Income Certification form and move in by the household.

The Ownership Entity or Management Company must be able to reasonably project anticipated income for the next 12 months from each form of verification.

AHFA has provided verification forms in the Compliance section on the AHFA website, [www.ahfa.com](http://www.ahfa.com).

The applicant household should sign a release and consent form authorizing the Management Company to verify the information given by the household on the application.

**For households with existing Section 8 Certificates or Vouchers or any other tenant-based or project-based state or federal rental assistance program:**

In lieu of conducting their own income calculation, the Ownership Entity or Management Company may **(if a unit receiving Housing Trust Funds must)** accept either a copy of HUD Form 50058 or a statement from the public housing authority or state or federal assistance program providing the assistance declaring the household size and gross household income or a statement that the household's income does not exceed the applicable income limit under Section 42(g), or the very low-income limit (50 percent) established by HUD.

However, the household **MUST** still complete a Tenant Income Certification form that lists all sources of income as defined under the rules of the Section 8 program.

The Ownership Entity or Management Company must obtain traditional third-party verification if the PHA or other rental assistance administrator does not respond to requests or is unwilling to provide the necessary statement.

AHFA **cannot** accept the EIV system used by Section 8 to verify income. Any EIV documentation must be kept in a separate file from the Housing Credit, HOME, or Housing Trust Fund verifications so that is completely inaccessible to AHFA.

For households with "Means-Tested" (income based) Assistance the Ownership Entity or Management Company may, in lieu of conducting their own income calculation, rely on the income determination completed for the "means-tested" form of federal public assistance within the previous 12-month period. Approved "means-tested" programs are as follows:

- Temporary Assistance for Needy Families (TANF)
- Medicaid
- Supplemental Nutrition Assistance Program (SNAP) Ex. Food Stamps
- Earned Income Tax Credit (EITC)
- Special Supplemental Program for Women, Infants, & Children (WIC)
- Supplemental Security Income ("SSI")
- Other programs determined by HUD to have comparable reliability as announced through the Federal Register

The Ownership Entity or Management Company must obtain a third-party verification from the applicable programs administrator which indicates household size and includes all household members and provides the household's annual income. This verification may be in the form of a benefit award letter from the relevant program/agency.

The verification of "means-tested" assistance is valid if any of the following dates falls into the 12-month period prior to receipt of the verification by the Ownership Entity or Management Company:

- Income determination effective date
- Program administrator's signature date
- Family's signature date
- Report effective date
- Other report-specific dates that verify the income determination date

If this verification is not available or the household disputes the verification, the Ownership Entity or Management Company must conduct a traditional income verification and calculation.

The household **MUST** still complete a Tenant Income Certification form that lists all sources of income as defined under the rules of the Section 8 Program or the "means-tested" assistance.

For information on anticipating Social Security and SSI income, and applicants claiming zero income, refer to Chapter 3, sections 3.3 and 3.4.

### **6.11 Household Income Evaluation**

Annual income under the HOME Program must be calculated in a manner consistent with the methods used under HUD's Section 8 Program.

Annual income under the Section 8 Program is not necessarily identical to the household's income for federal income tax purposes.

If questions arise about what types of income must be included or excluded to determine household income, refer to HUD Handbook 4350.3 CHG-4, Chapter 5.

It is the Ownership Entity's responsibility to obtain the most current published income limits when determining household eligibility.

To determine the household size, whose incomes to count, how to calculate asset income, and what income to include and exclude from annual income, refer to chapter 3, section 3.5 (A), (B), (C) and (D) of this manual.

Ownership Entities/Management Companies must convert all verified income to annual amounts.

Ownership Entities/Management Companies should use the current circumstances to project income, unless verification forms indicate that an imminent change will occur. To annualize full-time employment, multiply:

- Hourly wage by 2,080 hours
- Weekly wages by 52
- Bi-weekly wages by 26
- Semi-monthly wages by 24
- Monthly wages by 12

If the employment verification provides a range of hours, such as 35 to 40 hours per week, use the higher number.

#### Example 1

The rate of pay is \$7.50 per hour, the applicant is paid weekly, and the applicant works 30 to 40 hours a week.

$$\$7.50 * 40 * 52 = \$15,600$$

If the employment verification provides a rate of pay and year-to-date income amount and the year-to-date is much higher than the rate of pay amount, the employer must be contacted to find out why there is a difference before using the highest amount.

If the year-to-date is correct, then the higher amount will be used, but if it is not the normal pay, then the rate of pay will be used.

Make sure the conversation with the employer is documented.

#### Example 2: Using the Same Rate of Pay from Above

The applicant started 1/1/2013, the year-to-date is \$7500 through 3/31/13.

$\$7500/3$  months = \$2500 per month,  $\$2500 * 12$  months = \$30,000 as the yearly gross income

The year-to-date gross income is \$30,000 and the rate of pay gross income is \$15,600. The employer should be contacted to find out why there is a difference before using the highest amount.

Make sure to document the conversation with the employer.

Example 3: Benefits for Indefinite Time Period

John makes \$9 an hour, 40 hours a week. He does not work overtime, has no other source of income. His anticipated income is computed as:

$$\$9 * 40 * 52 = \$18,720$$

Example 4: Benefits for Definite Time Period

A teacher's assistant works nine months annually and receives \$1,300 per month.

During the summer recess, the teacher's assistant works for the Parks and Recreation Department for \$500 a month. The anticipated income is computed as:

$$\$1,300 * 9 = \$11,700$$

$$\$500 * 3 = \$1,500$$

$$\text{Total income is } \$11,700 + \$1,500 = \$13,200$$

Example 5: Anticipated Changes in Income

In May 2018, an applicant is receiving unemployment benefits of \$250 per month and will qualify for benefits for five months.

Beginning in October, the applicant will be employed at \$1,500 per month.

The anticipated income is computed for the period from May to September 2018, plus the income for October 2018 through May 2019.

$$(\$250 * 5 \text{ months}) + (\$1,500 * 7 \text{ months}) = \$11,750$$

**6.12 Asset Verification**

For further information about asset verification, refer to section 3.5.C. (Determining Asset Income).

**6.13 Initial Tenant Certification**

The initial determination of eligibility of the HOME Program household is very important.

The information obtained during the application and verification process should be carefully examined before allowing the applicant household to occupy the unit.

After it has been determined that the applicant household has met all the Ownership Entity's criteria and the applicant household meets the HOME Program qualifications, the household and

the Ownership Entity/Management Company must complete a Tenant Income Certification form.

The Tenant Income Certification form should be signed by any household members 18 years of age or older and the Ownership Entity/Management Company representative the same day the lease is signed at move in.

All the verifications, the Tenant Income Certification form, and other applicable documentation should be placed in the household's file in the order AHFA requires and kept for the required timeframe.

**DO NOT USE WHITE-OUT ON THE TENANT INCOME CERTIFICATION FORM.**

To correct an error, simply place a line through the error and write in the correction placing your initials next to the correction.

AHFA has provided the Tenant Income Certification form in the Compliance section of the AHFA website, [www.ahfa.com](http://www.ahfa.com).

All household occupying Home Funded units must complete a Tenant Income Certification Form.

The effective date of the Tenant Income Certification form is the date the household moves into the unit.

The effective date will stay with the household for the entire time they live at the Project (even if the household transfers to another unit).

**6.14 Recertification of Household Income**

If a HOME-funded Project is a 100 percent low-income project, the Ownership Entity/Management Company must conduct the full verification and certification process at the household's move in.

Each year thereafter, the Ownership Entity/Management Company must recertify by either conducting the full verification and certification process or by performing a self-certification of household income.

The type of recertification used by the Ownership Entity/Management Company will be determined by what year of the HOME Affordability Period the HOME-funded Project is in.

Full verification and certification in years 6, 12 and 18 of the HOME Affordability Period.

Self-Certification in all other years.

The self-certification process should include:

- The Tenant Income Certification
- The HOME Student Certification

Ownership Entities/Management Companies must set the recertification date within 180 days before the effective date (month and day of move in date).

The HOME Affordability Period start date is the date the HOME loan closes.

To calculate year six of the HOME Affordability Period for a HOME-funded Project take the year the HOME Affordability Period started and add six to it.

For example, years 6, 12, and 18 for a HOME-funded Project where the HOME loan closed February 26, 2000, would be 2006, 2012 and 2018.

### **6.15 Households with Incomes Exceeding the HUD 80% Income Limit**

A household **cannot** reside in a HOME-funded Project if, at the time of the initial occupancy, the estimated gross annual income is greater than the applicable percentage of the area median income, adjusted for family size.

If an income-qualified household occupies a unit and, during tenancy, the gross annual income increases beyond the HUD 80% income limit, the household is not required to vacate the unit. The unit would be considered temporarily in noncompliance with the HOME Rule if all vacancies are filled with a qualified household and the household pays the lesser of 30% of the household's adjusted gross income or the amount payable by the household under state or local law. If the unit also received Housing Credits, the household must pay the lesser of 30% of the household's adjusted gross income or a rent which places the household's gross rent within the applicable Housing Credit gross rent limit.

### **6.16 Households with Incomes Exceeding the chosen HOME Set-Asides**

In HOME Projects that select the 40 percent at 50 percent income level and the remaining at 60 percent income level set-aside requirement and the household's gross annual income increases to more than 140 percent, the unit is still considered a low-income unit as long as the next available unit of comparable or smaller size in the same building is rented to a qualifying household with the applicable income percentage that will maintain the particular set-aside selected.

- If you have a 50 percent household and the household's gross income increases more than 140 percent of the 50 percent income limit, then the next available unit of comparable or smaller size in the same Building must be rented to a 50 percent household.
- If you have a 60 percent household and the household's gross income increases more than 140 percent of the 60 percent income limit, then the next available unit of

comparable or smaller size in the same Building must be rented to a 60 percent household.

In HOME Projects that have selected a set-aside with 100 percent low-income occupancy at the 50 percent income limit, increases in income beyond the applicable income limit do not require any action by the Ownership Entity/Management Company because the next available unit would be rented to a household at the 50 percent income level.

The unit would still be considered a low-income unit as long as the rent remains restricted to less than or equal to the maximum allowed, and the household was income eligible at the time of initial occupancy.

In HOME Projects funded **after** January 1, 2009, the income set-aside is on a Project basis.

In HOME Projects funded before January 1, 2009, the income set-aside is on a Building by-Building basis.

Therefore, the unit transfer rule that applies to transfers from one Building to another does **not** apply to Projects that received HOME funding **after** January 1, 2009.

### **6.17 Addition to the Household (Adult)**

Refer to Chapter 3, Section 3.10 in the Compliance Manual.

### **6.18 On-Site Manager's Unit**

In Projects with 100 percent HOME units, if there is a need for an on-site manager to contribute to the stability of the Project, one HOME unit may be converted to an on-site manager's unit. Staff units should be reserved for Management Company staff.

Before approval, the Ownership Entity/Management Company must submit the following detailed information:

- Information that supports the need of the on-site manager's unit based on marketing, management, or financial difficulties.

### **\*\*Courtesy Officer Unit\*\***

A courtesy officer may **NOT** live in a non-revenue staff unit unless the Project has received approval from HUD through AHFA.

Once approved, if the Ownership Entity decides not to have a courtesy officer unit, then they can rent to an income-qualified household.

This would not remove the previous courtesy officer approval.

A courtesy officer may, however, live in the Project as an income-qualified household.

### **6.19 Ownership Entity Occupancy of HOME Units**

No Ownership Entity, Development Team Members, or sponsor of a Project assisted with HOME Funds (or officer, employee, agent, elected or appointed official, or consultant of the Ownership Entity, Development Team Members, or sponsor or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the Ownership Entity, Development Team Members, or sponsor) whether private, for profit or non-profit (including a CHDO when acting as an Ownership Entity, Development Team Members or sponsor) may occupy a HOME-funded affordable housing unit in a Project during the required HOME Affordability Period.

This provision does not apply to an employee or agent of the Ownership Entity or Development Team Members of a rental housing Project who occupies a staff unit as the Project manager or maintenance worker.

### **6.20 Transfers within a Project**

A Project which received HOME Funds **after** January 1, 2009, can transfer existing households between units within different Buildings without certifying the household's income because the gross income set-aside is a Project set-aside (20/50; 80/60).

A Project which received HOME Funds before January 1, 2009, must certify the income of a household wishing to transfer between units within different Buildings prior to the transfer by one of the following:

- Self-Certification
- Use the latest recertification if it is dated within 120 days of the transfer date

If the Project received HOME Funds and Housing Credits, the Ownership Entity/Management Company must be sure the household's transfer does not cause noncompliance with the set-aside requirement.

- 40 percent at 50 percent income level per Building
- 60 percent at 60 percent income level per Building

The scenario for each example is below:

The Project has a 40 percent at 50 percent and 60 percent at 60 percent per Building set-aside requirement.

Building 1 and Building 2 have 10 units, which means four of the units must be rented to a household within the 50 percent income level.



Example 1

Building 1	
1 (50)	2 (50)
3 (50)	4 (50)
5 (60)	6 (60)
7 (60)	8 (60)
9 (60)	10 (60)

Building 2	
1	2 (50)
3 (50)	4 (50)
5 (60)	6 (60)
7 (60)	8 (60)
9 (60)	10 (60)

Building 1 has four units at 50 percent.

Building 2 has three units at 50 percent and one vacant unit.

Unit 1 of Building 1 can transfer to Unit 1 of Building 2.

Unit 5 of Building 1 is NOT able to transfer to Unit 1 of Building 2.

Example 2

Building 1	
1 (50)	2 (50)
3 (50)	4 (50)
<b>5 (60)</b>	6 (60)
7 (60)	8 (60)
9 (60)	10 (60)

Building 2	
<b>1</b>	2 (50)
3 (50)	4 (50)
5 (60)	6 (60)
7 (60)	8 (60)
9 (60)	10 (60)

Unit 5 in Building 1 would like to transfer to Unit 1 in Building 2.

Building 2 only has three units that are within the 50 percent income level and Unit 5 in Building 1 is within the 60 percent income level.

The household in Unit 5 is **not** able to transfer to Building 2.

Example 3

Building 1	
1 (50)	2 (50)
3 (50)	4 (50)
<b>5 (60)</b>	6 (60)
7 (60)	8 (60)
9 (60)	10 (60)

Building 2	
<b>1</b>	2 (50)
3 (50)	4 (50)
5 (60)	6 (60)
7 (60)	8 (60)
9 (60)	10 (60)

Unit 5 in Building 1 would like to transfer to Unit 1 in Building 2.

The household in Unit 5 is considered a 60 percent household, but at move in the household was considered a 50 percent household.

Building 2 only has three units that are within the 50 percent income level.

The household is **allowed** to transfer if the next unit in Building 2 is rented to a 50 percent household.

### **6.21 Project Rent Restrictions**

The components of gross rent for all HOME-funded Projects are as follows:

The household's portion of the rent plus any rental assistance paid to the Ownership Entity, plus any fees charged to the households for use of common areas or mandatory services attached to the Building(s), plus an approved utility allowance if the household is paying a portion of or all the utilities.

AHFA must approve all rent schedules for a Project prior to lease up and during the HOME Affordability Period annually.

AHFA provides the applicable rent limits to the Ownership Entity before the Project begins to lease up and on an annual basis throughout the Project's HOME Affordability Period.

When a household receives tenant-based rental assistance provided by the Section 8 Program, HOME, or another funding source, the maximum allowable rent cannot exceed the applicable HOME Program gross rent limits.

This means that the household rent + utility allowance + rental assistance cannot exceed the HOME Program gross rent limits.

Depending on the set-aside selected, the HOME-funded Projects with Housing Credits may have two maximum rents that can be charged to the household.

The two types of rents are as follows:

#### **A. Low Rents**

At least 40 percent for Projects funded before January 1, 2009, (20 percent for Projects funded after January 1, 2009) or 100 percent of the assisted units in each Building must have rents that are **not higher than the lesser of:**

- Thirty percent of annual incomes for households at 50 percent of median income, adjusted for family size, minus household-paid utilities

OR

- The Fair Market Rents (FMRs), minus household-paid utilities

**B. High Rents**

If not 100 percent at low rents, all remaining assisted rental units must have rents **not higher than the lesser of:**

- Thirty percent of annual incomes for households at 60 percent of median income, adjusted for family size, minus household-paid utilities

OR

- The Fair Market Rents (FMRs), minus household-paid utilities

The Project must maintain the proportion of high and low HOME rent limits.

Cannot change rent from low to high HOME until the Project has a substitute low HOME unit.

Example: 4-Unit Project with a 40 percent at 50 percent AMI (Low) and 60 percent at 60 percent AMI (High).

1 (L)	2 (H)	3 (L)	4 (H)	5 (L)
6 (H)	7 (L)	8 (H)	9 (H)	10 (H)

Unit 1, 3, 5, and 7 are considered low HOME rent units.

Units 2, 4, 6, 8, 9, and 10 are considered high HOME rent units.

The gross income of units 1 and 7 go above the 50 percent AMI limit.

Even though the gross income is within the 60 percent income limit range, you are not allowed to use the high HOME Rents until you have a substitute low HOME unit.

HUD’s Office of Affordable Housing publishes the HOME Program gross rent limits.

No other program gross rent limits can be used.

(Note: HUD’s HOME Program gross rent limits use the 65 percent limits when calculating the high rents. Gross rents cannot exceed the Housing Credit or 60 percent gross rent limit.)

**6.22 Utility Allowances**

A utility allowance is an allowance for the cost of any utilities paid (excluding telephone, internet, and cable) directly by the household and is a component of gross rent.

The utility allowance must be updated **annually**.

The following methods are acceptable forms of obtaining an AHFA-approved utility allowance:

- If the household receives Section 8 rental assistance, then the Project should use an **approved** utility allowance from the local public housing authority that provides the assistance to the household. The utility allowance must have a cover sheet or some type of documentation to indicate the source and effective date of the utility allowance.

\*The above is mandatory only if the Project received Housing Credits and HOME Funds and if applicable to the Building/household.

Every Project that received HOME Funds from AHFA must use one of the options listed below:

- An **approved** utility allowance from the local public housing authority that has jurisdiction over the area the Project is located if HOME Funds were committed **before August 23, 2013**.
- AHFA must receive one of the other methods of utility allowance listed below if the HOME Funds commitment date is **on or after August 23, 2013**:

An estimate received from the local utility provider (electric provider, gas provider, water works, etc.) is acceptable. If the local utility provider is used, it must be on the utility provider's letterhead and have estimates for **each** utility paid directly by the household. Management Companies should round up estimates to the next dollar amount (example: \$25.01 would be \$26.00).

- An estimate calculated using the HUD Utility Schedule Model found at [www.huduser.org/portal/resources/utilallowance.html](http://www.huduser.org/portal/resources/utilallowance.html). The estimate must follow these guidelines:
  - Must list the type of units (apartments, homes, townhomes, etc.), bedroom sizes, square footage of the units and what the calculated rates are for those units
  - Supporting documentation such as letters from the utility companies stating the rates, taxes, and fees
  - The utility rates used for the HUD Utility Schedule Model must be no older than the rates in place 60 days prior to the beginning of the 90-day implementation period
  - This 90-day period will allow AHFA time to review the HUD Utility Schedule Model submitted, ask for further clarification if needed, and either accept or reject the submission
  - The HUD Utility Schedule Model must be renewed at least once every 12 months and completed so that the approval date is within 12 months of the previous year's utility allowance

- If the submission is rejected, the Ownership Entity will need to obtain a current acceptable form of utility allowance
- The Ownership Entity must bear the full cost of using this method including the cost of making the results available to the residents of the Project for comment as well as to AHFA at the beginning of the 90-day implementation period allowed
- An energy consumption model estimate provided by a properly licensed engineer or qualified professional (together qualified professional) approved by AHFA which follows the guidelines below:
  - Must, at a minimum, consider specific factors including, but not limited to unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location.
  - The qualified professional must not be related to the Building Ownership Entity within meaning of section 267(b) or 707(b) of the appropriate IRS regulations. The Ownership Entity must certify to this in writing as well as send the credentials (licensed engineer documentation, years of experience conducting utility estimates, etc.) of the qualified professional.
  - A complete copy of the energy consumption model documenting all the steps in the process must be submitted.
  - This documentation should include projected consumptions with any taxes or fees included. Correspondence with the utility companies should be submitted.
  - The data and utility rates used must be for a 12-month period ending no earlier than 60 days prior to the beginning of the 90-day implementation period allowed.
  - This 90-day period will allow AHFA time to review the energy consumption model submitted, ask for further clarification if needed, and either accept or reject the submission.
  - If the submission is rejected, the Ownership Entity will need to obtain a current acceptable form of utility allowance.
  - For new Projects with less than 12 months of consumption data, the qualified professional may use consumption data for the 12-month period of units of similar size and construction in the geographic area in which the Building containing the units is located. This data must be for a 12-month period ending no earlier than 60 days prior to the beginning of the 90-day implementation period allowed.
  - After the first year of using the energy consumption model, the qualified professional should compare the actual consumption data with their energy consumption model to determine if their model needs adjusting to closer reflect

actual consumption. This information should be submitted to AHFA along with the qualified professional's energy consumption model for the next year's utility allowance.

- The energy consumption model must be renewed at least once every 12 months and completed so that the approval date is within 12 months of the previous year's utility allowance.
- The Ownership Entity must bear the full cost of using this method including the cost of making the results available to the households of the Project for comment as well as to AHFA at the beginning of the 90-day implementation period.

All the above utility allowance documentation must be **current and approved** by the agency or utility provider and updated **within each calendar year**.

The utility allowance must also be the effective utility allowance at the time of AHFA's review.

If the utility allowance changes due to an increase or decrease in utility costs, the new allowances must be used in the rent calculation within 90 days of the effective date of the change.

The effective date for the local public housing authority utility allowance is located on the utility allowance form.

The effective date for the utility provider allowance will be the date on the letter from the utility provider.

The effective date for the HUD Utility Schedule Model and the energy consumption model estimate will be the effective date listed on the AHFA approved utility model estimate.

There is no provision for a utility allowance floor as there is for rent.

The method of obtaining the utility allowance for a Project is initially chosen by the Ownership Entity during the Application Cycle.

### **6.23 Rent Increases**

An Ownership Entity of a HOME-funded Project must provide at least 30 days written notice to the households before implementing any increase in rents to stay in compliance with 24 CFR Part 92.

AHFA must approve all rent increases. The rent increase request must be sent to AHFA at least 45 days from the new rent effective date.

The rent increase request should include the current household rent, the proposed household rent, and the current utility allowance.

AHFA will ask for additional documentation for any rent increase request over \$50 per month. This documentation will consist of prospective budgets with projected expenses.

### **6.24 Rent Decreases**

If an Ownership Entity must decrease a household's rent due to a decrease in the HUD HOME gross rent limits, the Ownership Entity must follow one of two options:

Decrease all the affected household's rents at the same time the next month.

**OR**

Decrease the affected household's rents once each household's lease is completed and the household signs a new lease.

**Note: Ownership Entities are not required to decrease rents below the initial rents approved by AHFA at the time of the HOME Project commitment.**

### **6.25 Program Noncompliance**

#### **A. Ownership Entity Notification**

During a compliance review, if AHFA finds instances of noncompliance with the requirements of Section 42, 26 CFR 1.42-5, 24 CFR PART 92, the Declaration of Land Use Restrictive Covenants, or any noncompliance issues causing automatic point deductions for the Point Scoring System of the Application Cycle, the Ownership Entity will be notified of the violation by letter and given the deadline for correcting the violation.

#### **B. Correction Period**

After a notice of noncompliance is received, an Ownership Entity shall have a correction period set by AHFA to correct the findings.

The Ownership Entity must provide AHFA any missing or additional documentation needed to correct the findings.

The Ownership Entity must address all discrepancies individually and indicate the actions taken to correct the findings.

Failure to correct the noncompliance within the timeframe given in the notice of noncompliance will result in additional point deductions for the Point Scoring System of the Application Cycle.

If the Ownership Entity has an extenuating circumstance which prevents the noncompliance issue(s) from being corrected within the timeframe given by AHFA, the Ownership Entity can request an extension to the timeframe by submitting a request to the AHFA Compliance Department.

## **C. HUD Notification**

AHFA may notify HUD if a Project receiving HOME Funds has a noncompliance issue that has not been corrected after the deadline given for correcting the noncompliance has expired.

### **6.26 Sale of Project after Placement in Service**

Specific procedures govern executing the sale of a Project that has received HOME Funds from AHFA.

If plans to alter the Ownership Entity of the Project are being considered, AHFA must be notified by the Notice of Intent to Transfer Ownership at least 30 days prior to the intended change.

The guidelines and transfer of Ownership Entity forms are available on AHFA's website.

AHFA must approve any changes in the Ownership Entity of a HOME Project during the term of the HOME Affordability Period.

### **6.27 Change in Management Company**

AHFA must approve any change in Management Company during the term of the HOME Affordability Period.

The forms needed to request approval can be found on AHFA's website.

### **6.28 Temporary Uninhabitability of a HOME-Funded Unit**

If a unit or Building is destroyed or is not suitable for occupancy for any reason, AHFA must be notified and receive a plan in writing for when the unit(s) will be ready for occupancy.

AHFA must be notified in writing when the unit or Building is occupied by income-qualified household(s) again.

### **6.29 Household Selection Procedures**

Each Project that received HOME Funds from AHFA should have household selection procedures (the procedures must have the steps listed in Section 6.1 Ownership Entity's Role of Chapter 6 in this manual).

The AHFA compliance auditor may request the household selection procedures during the compliance audit.



## Chapter 7: Special Needs Set-Aside

### 7.1 Set-Asides for Special Needs (2001 & 2002 Award Years)

Housing Credit/HOME funded and Housing Credit Only- 10 percent or 15 percent of the units are set-aside for tenants with special needs.

The Ownership Entity representative had to choose one of the above percentages on the application.

HOME funded without Housing Credits- 100 percent of the units must be set-aside for special needs.

### Provision for Converting the Special Needs Housing Units

If the special needs housing units are not rented within 60 days of the **initial** lease up, the unit(s) may be rented to an otherwise income-eligible household(s).

Also, the Ownership Entity of the Project will be required to maintain a separate waiting list of eligible special needs households and rent to all eligible special needs households on the list.

However, if there are no eligible special needs households on the waiting list, the Ownership Entity must provide written notification to the local service provider and the Alabama Department of Mental Health.

After the Ownership Entity has provided written notice to the local service provider and the Alabama Department of Mental Health, the unit may be rented to an otherwise income-eligible household(s).

AHFA will verify that the Project remains eligible for and entitled to supportive services for its households from an appropriate service provider.

All files for households with special needs should contain the **Confidential Tenant Eligibility Certificate** for the special needs tenant.

### 7.2 Special Needs Set-Aside Rents

#### **A. Housing Credit/HOME funded**

Effective for all household leases starting January 1, 2010, and after, net household paid rents are the following:

- \$180 for a one-bedroom unit
- \$240 for two or more bedrooms (total combined rent if the unit is shared by more than one person)

These household net paid rent limits can increase if the household's income can support higher rent (30 percent of the household's gross income) or the household is holding a Section 8 voucher.

Gross rent includes household paid rent and the utility allowance.

### Example

Tenant's income is \$15,000. The maximum gross rent that can be charged is \$375 per month (see below).

$$\$15,000 * 30 \text{ percent} = \$4500/12 \text{ months} = \$375$$

If the rent is increased for a household with the special needs set-aside, the Ownership Entity must keep in mind the rent restrictions for Housing Credit and Housing Credit/HOME-funded Projects.

### **B. HOME Only (Funded without Housing Credits)**

Effective for all household leases starting January 1, 2010, and after, net household paid rents are the following:

- \$250 for a one-bedroom unit
- \$310 for two or more bedrooms

(total combined rent if the unit is shared by more than one person)

These net rent limits can increase if the household's income can support higher rent (30 percent of the household's gross income) or the household is holding a Section 8 Voucher.

- If the rents are increased in Projects with five or more units, 20 percent of the units must be rent restricted at or below the 50 percent rent level or fair market rent, whichever is less. The remaining units must be rent restricted at or below the 60 percent rent level or fair market rent, whichever is less.
- If the rents are increased in Projects with four or fewer units, 100 percent of the units must be rent restricted at or below the 60 percent rent level or fair market rent, whichever is less.

AHFA will notify the Ownership Entity representatives when the net household paid rents increase.

### **C. Income Set-Asides for Special Needs**

- Housing Credit and Housing Credit/HOME Funded

- The income set-asides are the same as the income set-asides for all other Housing Credit and Housing Credit/HOME-funded Projects.
- HOME Funded without Housing Credits
  - If the Project has four or fewer units, the units must be occupied by households with incomes at or below 60 percent of the median family income.
- HOME Funded without Housing Credits
  - If the Project has five or more units, at least 20 percent of the units must be occupied by households with incomes at or below 50 percent of the median family income.
  - The remaining units must be occupied by households with incomes at or below 60 percent of the median family income.

### **7.3 Disabilities/Homeless Election (started in 2016 Award Year)**

This election is a set-aside of five percent of the total units for tenants with disabilities and/or homeless population.

Disability, homeless, or both can be selected.

#### 1. Requirements:

- Marketing Plan
- Preference Plan
- List of Local and/or Regional Service Providers Contacted
- Executed Memorandum of Understanding (MOU)
- Letter of Support from Alabama HUD Continuum of Care (if targeting homeless)

#### Marketing and Preference Plan

The applicant must provide a Project specific Marketing and Preference Plan specifying the special populations (disabled and/or homeless) that will be targeted.

Regardless of the selection, the units must also meet income and age restrictions for the funding type.

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### List of Local and/or Regional Service Providers Contacted

A list of local and/or regional service providers must be provided before submitting the application and must provide the following:

- Service provider's name
- Address
- Phone number
- Email address
- Name of person contacted
- Services provided and population served

### MOU

An executed MOU between the applicant and at least one local and/or regional service provider or Continuum of Care that specifically serves the targeted population identified in the marketing plan.

The MOU must include the following agreed upon terms:

- A description of the supportive services that will be available to the targeted households, and any other local and/or regional community agencies, including disability and homeless service providers, who will be working with the local and/or regional service provider(s) in referring households and making their services available to the households. The Service Plan should also provide a description of how services will be coordinated among agencies and how households will be linked to these services.
- The willingness of all parties to negotiate any reasonable accommodations to facilitate the admittance and retention of person with disabilities.
- A plan between the local and/or regional service provider, the Continuum of Care and Ownership Entity that will take into consideration any possible future staff turnover and ensure continuing availability of services for the duration of the compliance period.

### Letter of Support from Alabama HUD Continuum of Care

If the Ownership Entity is targeting homeless persons, the applicant must provide a letter of support from the Alabama HUD Continuum of Care covering the region of Project.

## 2. Eligible Households

### A. Unit Occupied by a Household with a Disabled Person

At least one member (adult and/or minor) of the household must have a documented disability as defined by the American with Disabilities Act (ADA) of 1990.

A unit can be filled by unrelated adults, as long as one head of household has a disability.

### B. Unit Occupied by a Homeless Household

For a household to be eligible for a homeless unit in the Project, the unit must be leased to a household that meets at least one of the following described living situations:

- A place not meant for human habitation, such as cars, parks, sidewalks, abandoned buildings (on the street)
  - Certification form signed by the outreach worker or service worker verifying that the person or family is homeless.
  - This could include a letter or certification form signed by an outreach worker or service worker from another organization that can verify that the persons or family was, in fact, homeless as described in the above definition, or a written statement prepared by the household about the household's previous living place (if unable to verify by outreach worker or service worker).
  - Have the household sign and date.
- An emergency shelter
  - The shelter operator should provide a certification that the household has been residing at the emergency shelter (on agency letterhead, signed and dated).
  - A transitional or supportive housing program for homeless persons who originally came from the street or emergency shelters (make sure you have evidence that the person came from the streets or emergency shelter situation).
  - A certification (on agency letterhead, signed and dated) if the household is residing at the transitional housing facility as well as written verification that household was living on the streets or an emergency shelter prior to living in the transitional housing facility.
- In any of the above places but is spending a short time (up to 30 consecutive days) in a hospital or other institution

- Certification from institution's staff verifying that the household has been residing in the institution for 30 days or less should be obtained.
- There should also be written verification that the household was residing on the street or in an emergency shelter prior to the short-term stay in the institution.
- Is fleeing a domestic violence housing situation, no subsequent residence has been identified, and the person lacks the resources and support networks needed to obtain housing
  - A written statement from the household that he/she is fleeing a domestic violence situation should be prepared.
  - If household is unable to prepare a written statement, staff should prepare the statement about the household's previous living situation and have the household sign and date it.

### **C. Household Requirements and Obligations**

- The prospective household member(s) should complete an application for tenancy and any other documentation required by Ownership Entity's management agent, including information required for the verification of income.
- Once tenancy has been established, the tenant must fulfill the obligations of tenancy and provide annual information required for verification of income.
- The tenant is also responsible for their own application fee, security deposit, and share of the monthly rent unless otherwise specified in the Ownership Entity's agreement with the local and/or regional service provider.

### **D. Ownership Entity's Requirements and Obligations**

- If an Ownership Entity is unable to rent the targeted disabled and/or homeless housing units to the targeted population within 90 days of the initial lease up, the unit(s) may be rented to an otherwise income-eligible tenant(s).
- Efforts of locating the target population and advertising availability of units must be documented.
- The Ownership Entity will be required to maintain a separate waiting list of eligible (disabled and/or homeless) household(s) and rent set-aside units to all eligible household(s) on the list.
- If there are no eligible (disabled and/or homeless) household(s) on the waiting list, the Ownership Entity must notify the local and/or regional service provider and AHFA.

- After the Ownership Entity has notified the local and/or regional service provider and AHFA, the unit may be rented to an otherwise income-eligible household.

**E. Disability Self Certification**

This certification must be placed and maintained in the tenant's file at move in.

It is available in the Compliance section at [www.ahfa.com](http://www.ahfa.com).

**F. Homeless Certification**

This certification must be completed to certify a household is homeless.

Once the certification is completed, it must be placed in the tenant's file at move in.

It is available in the Compliance section at [www.ahfa.com](http://www.ahfa.com).

## Chapter 8: AHFA Online Data Management System (AHFA Online DMS)

### 8.1 Ownership Entity's Role:

In accordance with the QAP and HOME Action Plan, the Ownership Entity is required to:

- Enter Tenant Data for the Project monthly (see QAP or HOME Action Plan for specific requirements).
- Complete and Submit the Annual Owner Certification by the due date.
- Submit and Finalize all tenant events from January 1<sup>st</sup> through December 31<sup>st</sup> by the due date.
- Maintain the appropriate Users for the AHFA Online DMS.
- Update the Utility Allowance annually.
- Create the units for each Building.
- Upload AHFA requested documentation through the Document Center.

### 8.2 New User Registration

Each user must have an individual account. Sharing user accounts is NOT recommended.

Instructions on how to register can be found by clicking Compliance, then Online Management System within the AHFA website.

Each Project must have someone approved with Owner permission before any other user requests can be submitted.

- On the login page, click “New User? Register Here”.
- You must have the Award Number for the property.
- If you have the Organization Code for the user company, then you can enter it, but if not, you can enter the Organization’s information by checking the box beside “My Organization is not registered”.
- The Username and Password are created by the user.
  - AHFA does NOT recommend using the new user’s business email address as the username.
  - The password must have 7 characters and must contain at least one number. It can contain letters, number, and characters (\*, #, @, etc.)
- The user will choose what type of Access they are requesting. Below is the list of Access Types that the user will need for AHFA Compliance:
  - Annual Owner Certification
    - Entering Tenant Data and Submitting the Annual Owner Certification
  - Manage your organizations information and users
    - The user will have the ability to approve or deny user requests
  - Document Center



- The user will have the ability to upload documentation to AHFA and receive documentation from AHFA
- If the user request is for Owner permission the request will come to AHFA for approval.
- If the user request is for management permission the request is sent to the Owner for approval.

### **8.3 Navigation**

- Avoid using the back arrow on the internet browser.
- Use AHFA Online DMS to navigate through the system.
- If you click the property name, this will take the user to the Property Details screen.

### **8.4 Programs**

Below is the list of Programs that the user will use for AHFA Compliance:

- Owner Certification
  - Provides access to the project
- Document Center
  - Provides access to upload and download project documents
- My Profile
  - Change the password
  - Add new permission(s)
  - Update the Organization information
    - Mailing address
    - Phone Number
    - Users

### **8.5 Properties Listing**

- You see the property or properties that the user has been approved to access.
- The user will see two (2) effective years.
  - The current effective year and the previous effective year.
- If other effective years are needed, then check the box beside “Show All Owner Certificates”.
- If you need to narrow down your selection, you can filter to look for a single Project by clicking on the hourglass beside Property Name.
- The Status column will either show:
  - Active - the user can edit tenant data.
  - Submitted - the user has finalized the effective year and sent to AHFA for review.
  - Monitoring - AHFA is reviewing the tenant data.
  - Completed - AHFA has finished the review of the tenant data for that effective year.
- The Annual Cert Status column will show the following:

- Active - Annual Owner Certification (AOC) has not been submitted.
- Submitted - AOC has been submitted and sent to AHFA for review.
- Received - AHFA has reviewed and checked in the AOC.
- Annual Certification Column
  - You can begin the Annual Certification process by clicking Annual Certification for the appropriate effective year.
  - If Submitted, you can review the submitted Annual Certification for that effective year.
- You must enter a tenant event in the effective year the tenant event occurred.
- On this screen the user can add additional projects by clicking “Request another property”
  - The Award Number for the Property is needed.
- AHFA will use the Message Board to communicate with the user.

## **8.6 Property Details**

The property information is listed on this screen. If anything is not accurate, please email [mfcompliance@ahfa.com](mailto:mfcompliance@ahfa.com).

- Property Address
- Owner Name and Address
- Primary Owner Contact
- Management Company Name and Address
- Primary Management Contact
- AMI and Rent Level for the Project
  - Based on the Application and Land Use Restrictive Covenant

## **8.7 Utility Allowances**

- Before entering a tenant event, the user must create the utility allowance.
- You must have a utility allowance that covers the entire effective year.
  - Depending on the effective date of the utility allowance, this may be accomplished by creating more than one.
- Be descriptive with the name of the utility allowance.
  - If you have more than one allowance for the same time period, naming the allowance will help the user know which allowance to use when the tenant event is entered.
- Main issues for a created utility allowance to not show as an option:
  - Effective Date is after the Tenant Event Date
  - The BIN (building) is not checked
  - Allowance Type answer does not match
  - “Owner Paid” is selected in the Paid By cell
- A created utility allowance will stay in the system for 12 months + 90 days
  - This does not mean that this allowance is still in affect (refer to the utility allowance requirements discussed in this compliance manual)

- If the utility allowance was created in the previous year and there are no changes other than the amount and effective date, then you can click “Copy” on the Utility Allowance screen and be able to edit the information.

## **8.8 Import Events**

- NAHMA 2.0 is the import standard used in AHFA Online DMS.
- Once you have created the XML file in the users compliance system you are ready to import.
- The start date used to import is January 1<sup>st</sup> and the end date is whatever date you are importing through. Examples:
  - Start Date: January 1, 2024; End Date February 29, 2024
  - Start Date: January 1, 2024; End Date March 31, 2024
- Once you Choose your File, click “Upload”
  - The system is confirming your import file meets the import requirements for AHFA Online DMS.
  - If there is an issue, the system will provide a message. If no issue exists, the user will be asked to choose the utility allowance for each tenant event.
    - This step can be skipped by clicking “Save” at the bottom of the screen.
    - AHFA recommends not skipping this step because the user must make this selection for each tenant event, and it is much easier to do this step on this screen.
  - After the utility allowance selection screen has been saved, the system will import the XML. If no issues exist, the system will give you a message of a successful import.
  - Next the user must click “Check for Errors”. The system will then run compliance checks for the imported tenant events.
  - Then review the following listed items:
    - Errors must be corrected before Finalizing the year. Errors will be colored Red.
    - Warnings will not prevent the user from Finalizing the year.
      - Some Warnings may need a correction, but some will not. Warnings will be colored Orange.
    - AHFA recommends clicking on Export Events on the Property Details screen to confirm your tenant data has been imported.

## **8.9 Building Details**

The user will create the units for each BIN on this screen.

- While on the Property Details screen do the following to get to the Building Details screen:
  - Click on the BIN
- The user must then create the units for each BIN.
  - Click “Add New Unit”
  - Enter the Unit Information

- Low-Income Units are referred to as Program Units
- AMI Percentage is based on what the owner selected on the application and what is listed in the Land Use Restrictive Covenants.
- If a Project has a set-aside unit for staff or a courtesy officer, then this unit must be created.
  - AMI Percentage selection is “M”.
  - Unit Identity selection is “Manager, Maintenance, or Security”.
- Choose the funding program for the Project.
  - At a minimum, you must enter the Start Date.
    - Tax Credit = Placed-in Service Date for the Building
    - HOME = HOME Loan Closing Date

### **8.10 Event Details**

This screen is used to enter tenant events, such as Move-in, Move-Out, Recertify, Transfer, or an Adjustment.

- While on the Property Details screen do the following to get to the Event Details screen:
  - Click on the box beside the BIN.
  - Click on the box beside the Unit Number.
  - Click “Add New Event”
- Enter the “Event Date”; then click enter or tab your keyboard. After AHFA Online DMS processes the request, a new cell will open.
  - Move In tenant event = Move In Date
  - Recertify tenant event = the date the tenant signed and dated the Tenant Income Certification
- Choose the Event Type:
  - Move In
    - The move in income must be entered in the Total Household Income and Household Income at Move-in cell.
  - Move Out
  - Recertify
  - Transfer Out
    - This will create an automatic Transfer In tenant event for the new unit. The user must add the new rent and utility allowance selection to the Transfer In tenant event.
  - Adjustment – this event is used if updates are needed to the household, such as:
    - Rent Update
    - Utility Allowance Update
    - Household Member change
- Each cell in the Unit information and Household Member section must have an answer.
- No negative numbers, such as:
  - \$-50; if you have a negative number just enter “0” in AHFA Online DMS.
- Choose the appropriate answer for the Income Level and Rent Level based on the set-aside requirement selection on the application and the Land Use Restrictive Covenants.
- Funding Program choice:

- Select all that apply to the Project (with one exception: Housing Trust Fund (HTF))
- Only choose Housing Trust Fund for the units used to meet the HTF funding program requirement.
- Special Needs Code must match the Household Member Special Needs answer.
- Income Other Than Assets
  - Enter this information just as you would enter the information on the Tenant Income Certification.
- Income From Assets
  - Enter this information just as you would enter the information on the Tenant Income Certification.
- After income information is entered, the user will click “Calculate Total Household Income & Member Income”.
- Click “Update” when complete.
- Once the tenant event is saved, AHFA Online DMS will give the user an option to print a tenant income certification.

### **8.11 Export Events**

Use this screen to review all the tenant events entered for the effective year and to download the tenant events to excel.

### **8.12 Manage Users**

- Shows the Current Users for the Project
- Shows the User Access Requests
- The user with Project Owner permission can do the following:
  - Approve or Deny user access requests.
  - Update Access Groups for current users.
  - Remove current users.
- The user with Property Manager Access Groups can do the following:
  - Enter Tenant Data
  - Create the Utility Allowance
  - Export Tenant Events

### **8.13 Document Center**

- Click on Document Center on the Programs screen.
- Click on “Project Documents”.
- Select your Project within the drop-down box.
  - If you do not see it, then click “Request Additional Projects”.
- Click the blue box with a +
- Select your Project within the drop-down box.
  - If you do not see it, enter the Award Number for the Project, and click “Submit”.
- Click “Back to Document Center” and repeat steps listed above.

- Once you click on the Project, you will do the following to send a file to AHFA:
  - Choose the File from the user's system.
  - Select "Compliance Audit Information" within the Document Types drop-down box.
  - Click "Save"
  - Once you have saved a document make sure to email AHFA Compliance at [mfcompliance@ahfa.com](mailto:mfcompliance@ahfa.com) to let us know.
- To download a file sent from AHFA to the Project do the following:
  - Click on the blue box to the left of the Document Name

## **Chapter 9: National Housing Trust Fund**

### **9.1 AHFA's National Housing Trust Fund**

AHFA has specifically designed the National Housing Trust Fund (HTF) Program to meet the needs of extremely low-income (ELI) and very low-income (VLI) Alabamians, including the homeless and disabled populations, consistent with the HUD guidelines.

AHFA will monitor each HTF Project at least annually throughout the entire 30-year HTF affordability period.

AHFA will review for compliance with the HTF Plan, eligibility requirements (24 CFR 93.151), property standards (24 CFR 93.301), rent reasonableness (24 CFR 93.302), affirmative outreach (24 CFR 93.350), and household protections and selection (24 CFR 93.303).

After each monitoring visit, written correspondence will be sent to the HTF Ownership Entity's contact representative describing the results of the review in detail to clearly describe the areas that were covered, the basis for any conclusions reached and a timeframe for correcting any noncompliance described in the written correspondence.

Compliance with the requirements of the HTF regulations are the responsibility of the HTF Ownership Entity.

AHFA's obligation to monitor for compliance with the requirements of the HTF regulations does not make AHFA or the State of Alabama liable to any HTF Ownership Entity or to any shareholder, officer, director, partner, member, or manager of any HTF Ownership Entity or of any entity comprising any Ownership Entity for an Ownership Entity's noncompliance therewith.

### **9.2 Ownership Entity's Role**

In accordance with the HTF Program regulations, the HTF Ownership Entity is required, by acceptance of the allocation, to:

- Manage the Project in accordance with the HTF program and any agreements reached with AHFA during the allocation process for the duration of the HTF affordability period
- Submit to AHFA all documents listed in the compliance addendum of the most current HOME Action Plan by the due dates listed in the compliance addendum

- Notify AHFA’s Compliance Department when Project damage occurs and submit a plan of corrective action
- Assume liability for any instances of noncompliance and the correction of such deficiencies
- Submit HTF Project rent increases to AHFA for approval
- Cooperate with AHFA during compliance reviews
- Supply AHFA with quarterly bank statements on the replacement reserve account, operating deficit account, and the taxes and insurance account
- Provide a copy of the current Project insurance policy
- Supply AHFA with any other Project information requested
- Certify that the Project is being managed in accordance with all applicable federal, state and local fair housing laws
- Ensure the Management Company is familiar with the required steps when an accessible unit become vacant (guidance is available on HUD’s website)
- Require the Management Company knows and follows the following household selection steps:
  - Comply with the affirmative marketing requirements established by the grantee pursuant to 24 CFR 93.350
  - Be consistent with the purpose of providing housing for ELI and VLI households and must not exclude an applicant household with a certificate or voucher under the Section 8 Tenant-Based Assistance, Housing Choice Voucher Program or HOME Tenant Based Rental Assistance Program because of the status of the prospective household as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document
  - Limit eligibility or give a preference to a particular segment of the population if permitted in its written agreement with the AHFA (and only if the limitation or preference is described in the AHFA consolidated plan)
  - Be reasonably related to HTF Program eligibility and the household’s ability to perform the obligations of the lease
  - Provide for the selection of households based on a written waiting list in the chronological order of application, to the extent practicable



- State that the Ownership Entity or Management Company will give prompt written notice to any rejected applicant household, with an explanation of the grounds for the rejection
- Maintain a Project file for at least five years after the last year of the HTF affordability period (total of 35 years). Records for households no longer living in the Project may be stored electronically if AHFA representatives can gain access to these records on site.

## 1. Ownership Entity's Record-Keeping Requirements

In accordance with HTF regulations, the Ownership Entity's record-keeping requirements include, but are **not limited to:**

- The total number of residential rental units in the Project, including the number of bedrooms and the square footage of each unit
- The percentage of ELI and VLI units in the Project
- The rent charged on each unit in the Project, including the utility allowances
- The number of occupants in the unit
- The vacancy history of the ELI and VLI units (including number of days vacant), and when and to whom the next available unit was rented
- Income certifications for each low-income household and third-party documentation to support the certification
- Provide an affirmative marketing plan and maintain records which support the affirmative marketing plan is being followed
- Maintain a written household selection process and make it available upon request
- These records should be kept on site. **If records are kept in another location, AHFA must be notified of the location.**

## 2. Habitability Requirements

All HTF Projects will be subject to physical inspections of the exterior and interior of the Project.

It is the Ownership Entity's responsibility to provide an efficient maintenance program.

The Project will be measured according to HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE).

**Note: AHFA inspectors must receive assistance from management and maintenance personnel when conducting inspections. AHFA expects the Ownership Entity/Management Company to ensure adequate management and maintenance staff are available for AHFA's inspections.**

For the NSPIRE Standards and related definitions refer to HUD's website ([www.hud.gov](http://www.hud.gov)).

A violation of these standards will be considered noncompliance.

If the Project has five or more HTF units, then AHFA will physically inspect at least 20 percent of the units chosen randomly.

If the Project has fewer than five HTF units, then AHFA will physically inspect 100 percent of the units.

The Ownership Entity/Management Company must comply with Alabama State Law when providing advanced notice to their households of the date on which AHFA will perform the physical inspection.

### **9.3 AHFA's Monitoring Role**

AHFA will monitor Projects receiving HTF for the following specific goals:

- Impact of HTF Projects that reached veterans unsheltered and/or homeless
- Number of veteran ELI households served by HTF Projects.
- Number of veteran ELI households with mental illness that were served by HTF Projects.
- Number of ELI households served by HTF Projects
- The extent to which the HTF Project met the overall goal established by the HTF Plan and AHFA
- Ownership Entities will develop performance goals that best quantify the HTF Project's impact for their local area's veteran and ELI populations. Performance goals which are specific to the specific geographic area will be evaluated to determine if the HTF goals have been achieved.
- Please refer to Section 6.2 in Chapter 6 of the AHFA Compliance Manual for more on AHFA's monitoring role

### **9.4 Affordability Period**

The affordability period for HTF Projects is 30 years.

Site visits to HTF Projects shall be performed once every three years.

### **9.5 Income Restriction**

The Project's units must be occupied by ELI- and/or VLI-qualified households.

The minimum set-aside chosen by the Ownership Entity on the application will determine the household's income percentage.

HUD's Office of Affordable Housing annually publishes median income listings for Alabama by county and metropolitan statistical areas (MSA) of the state. HUD publishes the HTF income and rent limits on its website.

AHFA also provides the HTF income and rent limits on its website.

### **9.6 Lease and other HTF Program Requirements**

The lease requirements, policies regarding households receiving assistance from the Section 8 Program, student household policies if combined with HOME Funds and/or Housing Credits, Fair Housing and Equal Opportunity laws, policies for household applications, household verifications, household income evaluation, initial household asset verification, initial household certification, recertification of household income, households with incomes exceeding the income limit, additions to a household, and owner occupancy for the HTF Program are the same as the requirements and policies for the HOME Program.

Please refer to Sections 6.4, 6.5, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.16, 6.17 and 6.19 in Chapter 6 of this AHFA Compliance Manual for these requirements and policies.

The HTF lease addendum is located on AHFA's website.

### **9.7 Project Rent Restrictions**

The components of gross rent for all HTF Projects are as follows:

- The household's portion of the rent, plus any fees charged to the members of the household for use of common areas or mandatory services attached to the Building(s), plus an approved utility allowance if the household is paying a portion of or all the utilities.
- AHFA must approve all rent schedules for a Project prior to lease up and annually during the HTF affordability period. Rent increases must be sent 45 days before the rent increase effective date.
- AHFA provides the applicable HTF rent limits to the Ownership Entity before the Project begins to lease up and on an annual basis throughout the HTF Project's affordability period.

- If an HTF unit receives federal- or state project-based rental subsidy, and the household pays as a contribution toward rent not more than 30 percent of the household's adjusted income, the maximum rent is the rent allowable under the federal or state project-based rental subsidy program.

### **9.8 Utility Allowances**

A utility allowance is an allowance for the cost of any utilities paid (excluding telephone, internet, and cable) directly by the household and is a component of gross rent.

The utility allowance must be updated **annually**.

The following methods are acceptable forms of obtaining an AHFA-approved utility allowance:

- An estimate received from the local utility provider (electric provider, gas provider, water works, etc.) is acceptable. If the local utility provider is used, it must be on the utility provider's letterhead and have estimates for **each** utility paid directly by the household. Management Companies should round up estimates to the next dollar amount (example: \$25.01 would be \$26.00).
- An estimate calculated using the HUD Utility Schedule Model found at [www.huduser.org/portal/resources/utilallowance.html](http://www.huduser.org/portal/resources/utilallowance.html). The guidelines for this estimate are listed in Section 6.22 in Chapter 6 of this AHFA Compliance Manual.
- An energy consumption model estimate provided by a properly licensed engineer or qualified professional (together qualified professional) approved by AHFA which follows the guidelines listed in Section 6.22 in Chapter 6 of this AHFA Compliance Manual.

All the above utility allowance documentation must be **current and approved** by the utility provider or AHFA and updated **within each calendar year**.

The utility allowance must also be the effective utility allowance at the time of AHFA's review.

The effective date for the utility provider allowance will be the date on the letter from the utility provider.

The effective date for the HUD Utility Schedule Model and energy consumption model estimate will be the effective date listed AHFA-approval letter for the utility model estimate.

The method of obtaining the utility allowance for a Project is initially chosen by the Ownership Entity on the HTF application for funding.

### **9.9 Rent Increases**

An Ownership Entity of a Project which receives HTF must provide at least 30 days written notice to the households before implementing any increase in rents to stay in compliance with 24 CFR 93.302.

AHFA must approve all rent increases annually.

The rent increase request must be sent to AHFA 45 days before the rent increase effective date.

### **9.10 Rent Decreases**

If an Ownership Entity must decrease a household's rent due to a decrease in the HUD HTF gross rent limits, the Ownership Entity must follow one of two options:

1. Decrease all the affected household's rents at the same time the next month

**OR**

2. Decrease the affected household's rents once each household's lease is completed and the household signs a new lease

**Note: Ownership Entities are not required to decrease rents below the initial rents approved by AHFA at the time of Project commitment.**

### **9.11 Program Noncompliance**

#### **A. Ownership Entity Notification**

During a compliance review, if AHFA finds instances of noncompliance with the requirements of 24 CFR Part 93, the Declaration of Land Use Restrictive Covenants, or any noncompliance issues causing automatic point deductions which could affect the Point Scoring System, the Ownership Entity will be notified of the violation by letter and given the deadline for correcting the violation.

#### **B. Correction Period**

After a notice of noncompliance is received, the Ownership Entity shall have a correction period set by AHFA to correct the findings.

The Ownership Entity must provide AHFA any missing or additional documentation needed to correct the findings.

The Ownership Entity must address all discrepancies individually and indicate the actions taken to correct the findings.

Failure to correct the noncompliance within the timeframe given in the notice of noncompliance will result in additional point deductions.

If the Ownership Entity has an extenuating circumstance which prevents the noncompliance issue(s) from being corrected within the timeframe given by AHFA, the Ownership Entity can request an extension to the timeframe by submitting a request to the AHFA Compliance Department.

### **C. HUD Notification**

AHFA may notify HUD if a Project receiving HTF has a noncompliance issue that has not been corrected after the deadline given for correcting the noncompliance has expired.

### **9.12 Sale of an HTF Project and other Project Changes**

For guidance for a sale of an HTF Project after the Project has Placed In Service, had a change in Management Company of an HTF Project, had temporary uninhabitability of an HTF unit, or had a change in household selection procedures, refer to Sections 6.26, 6.27, and 6.28 in Chapter 6 of this AHFA Compliance Manual.