Housing Credit Compliance Manual Multifamily Finance

September 2025

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Introduction

Utah Housing Corporation (UHC) is the designated administrator of the Low Income Housing Tax Credit Program (“Housing Credit Program” or “Program”) for the State of Utah under Section 42 of the Internal Revenue Code of 1986, as amended (“Code” or “Section 42”), and under Section 59-7-607 of the Utah Code, as amended (the “Utah Code”) and all regulations promulgated thereunder. To most efficiently administer the Program and to ensure uniform compliance from those projects having received Housing Credits, UHC has developed this Compliance Manual.

The federal laws establishing the Housing Credit Program are subject to change. Final interpretations of certain rules and regulations governing various facets of the Program may not yet have been issued. Consequently, additional requirements or conditions applying to the Program may be forthcoming.

Foreword

This Manual is a training and reference guide for the administration of the Housing Credit Program. It is intended to answer questions regarding the procedures, rules, and regulations that govern the Program. The Manual should be used in conjunction with, and as a supplement to, the Code, Qualified Allocation Plan and the Utah Code. If a determination is made that any provision of this Manual is in conflict with the Code, the Code will govern.

The laws and regulations governing the Housing Credit Program as well as the interpretation of these laws can and do change. Owners and Managers should keep abreast of all changes in the Utah Code and the Code of Federal Regulations that may affect their properties. This may require consulting qualified legal and tax professionals for advice.

Compliance monitoring by UHC will be administered through the Multifamily Finance Department. The contact phone number for Housing Credit compliance monitoring is (801) 902-8200 or (800) 284-6950.

Background

The Code requires UHC to include in their Housing Credit Qualified Allocation Plan (QAP) a procedure to monitor all Housing Credit projects for continuous compliance with IRC §42 requirements and notify the Internal Revenue Service (IRS) of any non-compliance of which it becomes aware, whether or not it is corrected. The compliance monitoring requirements became effective on January 1, 1992, were amended on January 14, 2000, and apply to all Housing Credit projects, even if the projects received an allocation prior to 1992. UHC, as the state allocating agency, is authorized by the Code to charge a reasonable fee to cover the costs of compliance monitoring. The IRS has issued final regulations, Income Tax Regulation 1.42-5 ("1.42-5"), relating to the requirements for compliance monitoring.

The purpose of this Manual is to set forth the procedures to be followed by UHC and the owners of Housing Credit projects in order to comply with the requirements of the Program. The compliance monitoring requirements are subject to modification by the IRS and income determination requirements are subject to modification by the United States Department of Housing and Urban Development ("HUD").

This Manual includes a number of chapters designed to cover the specific compliance monitoring requirements under Section 42.

Chapter 1 presents an overview of the program fundamentals;

Chapter 2 presents the owner's requirements;

Chapter 3 addresses rents;

Chapter 4 summarizes tenant certification, student eligibility, verifications, etc.;

Chapter 5 addresses income, student financial assistance, income exclusions, etc.;

Chapter 6 addresses assets, necessary personal property, non-necessary personal property, real property, etc.;

Chapter 7 addresses recertification processes, move-out rules and allowable transfers;

Chapter 8 gives a summary of audit/inspection requirements, Extended Use requirements and Fees associated with having a Housing Credit project.

Chapter 1– PROGRAM FUNDAMENTALS

Project Lifecycle

The owner agrees to comply with the restrictions required under the specific year's Qualified Allocation Plan (QAP), related points the owner received in order to obtain credit allocation, and the Land Use Restriction agreement (LURA).

Before Credit Period

The credit amount allocated to each building in a project is partially calculated on the following factors:

Eligible Basis

In general, the Eligible Basis of a building is equal to the building's adjusted basis for acquisition, rehabilitation or construction costs for the entire building, subject to certain conditions and modifications set forth in Section 42 (d). As a general rule, the adjusted basis rules of Section 1016 apply, with the exception that no adjustments are made for depreciation. Some of the special provisions for determining eligible basis under Section 42 (d) are:

Buildings located in areas designated as a "qualified census tract" or "difficult development area" may be eligible for an increase in allowable basis.

If non-Housing Credit units are of a quality standard greater than that of Housing Credit units in the building, the costs of non-Housing Credit units generally are not included in eligible basis. The cost of depreciable property used in common areas or provided as comparable amenities to all residential units (e.g. carpeting and appliances) is included in determining eligible basis. The cost of tenant facilities (e.g. parking, garages, swimming pools, etc.) may be included in eligible basis if there is no separate charge for use of the facilities and they are made available on a comparable basis to all tenants in the project.

Eligible Basis is reduced by federal grants, residential rental units which are above the average quality standard of the low-income units, any historic rehabilitation credits, and non-residential rental property.

The eligible basis, as of the end of the first year of the credit period, is reported to the IRS on Part II of the form 8609, and does not change from year to year.

Claiming Credits

Tax credits may be taken annually for 10 years, which is known as the "credit period" and are based on a percentage of the qualified costs of the building. Check with the QAP or 8609 form to determine the rate that applies to your project.

Owners of qualified residential rental projects must satisfy the minimum set-aside and gross rent requirements for a minimum 15-year initial compliance period, and an extended use period that is determined at the time of application for Housing Credits, and codified in the LURA.

Prior to issuance of 8609 form, the owner must certify to the total project costs. The owner must also certify that all Program requirements have been met. Any violation of the requirements of the Program could result in the loss of tax credits to the owner.

LURA

A Land Use Restriction Agreement (LURA) is to be executed by the project owner and UHC and is to be recorded at the county recorder's office against the project's property. The LURA commits the project owner to operate in accordance with the agreements (rent and income limits, special uses of units and extended use restrictions, etc.) made between the Applicant and UHC as inducements for the Housing Credit allocation. The LURA shall be recorded at the time the sponsor or project owner obtains an ownership interest in the site and is to be superior to all other liens.

Credit Period

The owner is under certain requirements and obligations once credits are awarded and during the credit, compliance and extended use periods. Please see Chapter 2.

In exchange for the investment in low-income housing, the owner will receive tax credits for each of ten years, which is known as the credit period. The credit period begins with the taxable year in which the building is placed in service or, at the election of the owner (which is irrevocable), the succeeding taxable year.

Units do not automatically generate tax credits. A unit will only begin to generate tax credits once initially occupied by a qualified low-income household and other specifications are met within a specific timeframe.

IRS Form 8609

Form 8609, Low-Income Housing Credit Allocation and Certification documents the allocation of Housing Credits.

Part I of Form 8609 must be completed only by UHC and will be sent to the owner after the project is placed in service and all documentation required by UHC (Final Cost Certification) is reviewed and approved. If UHC becomes aware that an owner or its agent has filed a self-prepared 8609 with the Internal Revenue Service, UHC reserves the right to determine that all parties involved will not be eligible for future participation in Utah's Housing Credit Program for a period determined by the Corporation.

Part II of the Form 8609 is completed and signed by the Project Owner. Upon completion, Owner files the original document(s) with the IRS at the Philadelphia Service Center for the first Taxable Year in which the credit was claimed. A copy of the executed form must be sent to UHC. See the instructions on IRS Form 8609 and Schedule A for details.

For the first year of the credit period only, a complete owner's certification (PartII) of IRS Form(s) 8609 must be submitted to UHC. For projects in subsequent years of the compliance period, it is not necessary to submit the first-year 8609 form to UHC. However, the owner must submit copies of IRS Form 8609-A and 8586 to UHC for each year of the 15-year compliance period (Federal Compliance Period). For more information, see Annual Reports.

Owners should consult with their legal and/or tax advisors for advice on completing and filing the IRS tax forms. UHC cannot give legal or tax advice on the filing or completion of tax forms as this falls outside UHC jurisdiction.

Minimum Set-Aside Election

To participate in the program, the project must dedicate (set-aside) at least:

1. 20/50 - No less than 20% of the project units must be set-aside for tenants whose incomes are 50% or less of the area median income (AMI); or

2. 40/60 - No less than 40% of the project units must be set-aside for tenants whose incomes are 60% or less of the AMI; or

3. Average Income at 40/60 - No less than 40% of the project units must be both rent-restrictions and be occupied by tenants whose average income limit in the project is 60% or less of the AMI.

The Minimum Set-Aside determines both the minimum percentage of tax credit units at the project and the income limit used to determine tenant eligibility. The Minimum Set-Aside must be maintained for the entire compliance period and through the extended use period.

The Project Sponsor specifies the Minimum Set-Aside when applying for a tax credit allocation and elects the Minimum Set-Aside on IRS form 8609. This election is irrevocable and sets the applicable income limit for all Housing Credit units in the project. Managers and owners must confirm the Minimum Set-Aside established in the first year of the credit period in order to remain in compliance, and the project must continue to comply with that set-aside. For example, 40/60 Minimum Set-Aside, if the applicable fraction for building "A" is 100%, all tax credit units must adhere to the 60% rent and income restriction.

Average Income

The Consolidated Appropriations Act of 2018 signed into law on March 23, 2018 established Average Income (AI) as a third minimum set-aside election for Housing Credit (HC) developments. This new election allows developments to designate units as low as 20%, and up to 80% of Area Median Income (AMI) as long as the average AMI level of the HC units in the project, as defined in line 8b on IRS Form 8609, is 60% or less of AMI. The IRS finalized the regulation on October 12, 2022.

Section 42, Low-Income Housing Credit Average Income Test Regulations

- A development meets the requirements of the AI test if the owner's project contains a qualified group of units that constitutes a minimum of 40 percent or more of the residential units in the project. When there are more than the minimum percentage number of HC units, one unit going out of compliance will not cause a project to fail the minimum set-aside test.

- The average of the designated imputed income limitations for the units taken into account for meeting the minimum set-aside test must not exceed 60% of AMI.

- AI applies to the designated income and rent levels of the units, not the incomes of individual resident households. The designations must be in 10% increments, up to 80% of AMI, i.e., 20% AMI, 30% AMI, 40% AMI, 50% AMI, 60% AMI, 70% AMI, or 80% AMI.

- AI applies to both income and rent limits. If a unit has a designated limit of 20% of AMI, the maximum rent level that may be charged to a household in that unit is 30% of 20% of AMI.

- The minimum set-aside election is irrevocable once made on Form 8609. Therefore, existing developments already placed in service are not eligible to change their minimum set-aside/income election to Average Income.

- Next Available Unit (NAU) rule for AI developments, (i) provides that a unit is over income if an income-eligible household initially qualifies at move-in and in a subsequent year of occupancy, the household's income exceeds 140% of the applicable income limit and (ii) the unit is part of a qualified group of units where the average of the imputed income limitations of all units in the group originally did not exceed 60% AMI. The final guidance in Treasury Regulation Section 1.42-19 in October 2022 effectively requires that the next available unit of comparable or smaller sized unit be rented (A) to a tenant whose income does not exceed the designated limit applicable to the new unit, if it was previously a low-income unit or (B) to a tenant at an income level that would not cause a violation of the 60% average for the qualifying grouping of units, if the new unit had not previously been a low-income unit. Suppose multiple units are over-income simultaneously in a project that has elected the AI set-aside (average income project) and has a mix of HC and market-rate units. In that case, the owner need not comply with the NAU in a specific order concerning occupancy. Instead, renting any available comparable or smaller vacant unit to a qualified tenant maintains all over-income units' status as a low-income unit until the next comparable or smaller unit becomes available. Additionally, each qualifying grouping of units must also be reviewed to ensure compliance with each building's applicable fraction is maintained.

- The 30% of AMI income and rent level under the Housing Credit for purposes of AI is not the same as the Extremely Low-Income and rent restriction under the National Housing Trust Fund. The Housing Trust Fund statute and regulation define "Extremely Low-Income" as the greater of 30% of AMI or the federal poverty line for applicable household size. AI unit designation is based solely on AMI.

Owners will designate units at a specific AMI by unit type (e.g., 5 two- bedroom units at 80% AMI) at the time of application. Income/Rent designations must be equally distributed among bedroom sizes and unit types. Refer to UHC's QAP for requirements on equitable distribution of units and targeting categories. The initial designation of a unit is to be made no later than when a unit is first occupied as a HC unit.

Under the AI election, AMI designations are permitted to float between units of the same unit type in the project.

An owner may change the imputed income designation of a previously designated HC unit in any of the following circumstances:

- To enhance protections outlined in the Americans With Disabilities Act of 1990 (ADA), the Fair Housing Amendments Act of 1988, the Violence Against Women Act of 1994, the Rehabilitation Act of 1973, or any other Utah, Federal, or local law or program that protects tenants and that is identified by the IRS or an Agency.

- A household's unit designation may be changed to a higher designation only if household income at annual recertification exceeds 140% of the current income limit for the original designation.

- To restore the required AI income limitation for identifying a qualified group of units to satisfy the AI set-aside or determine the units to be used in computing applicable fraction(s). The rule is limited to newly designated or redesignated, vacant units or occupied by a tenant that would satisfy the new, lower imputed income limitation.

Owners electing the AI as the minimum set-aside for developments with more than one building can elect to treat each building as part of a multiple building project by selecting "yes" on line 8b of the IRS form 8609. Selecting "yes" under 8b on the IRS 8609 form means that AI applies across the entire project rather than building by building.

The management company for a development that elects the AI set-aside will be required to provide certification of additional 3rd party Average Income training certification prior to lease-up of the development.

In addition to other reporting required by the IRS and/or by UHC under the QAP, owner/management must report on an annual basis a complete matrix of all buildings, the qualified grouping of units for the minimum set-aside and the qualified grouping of units for each of the buildings applicable fractions, imputed units, income/rent AMI% designation, redesignations, unit type, units over 140%, excluded units, manager/model units, ineligible units and the AI percentage for the development. Owner/management also must report the qualified grouping of units for each building(s) Applicable Fraction, and must include unit designations as listed above for the AI percentage.

UHC will make a determination of non-compliance the same as it does with the other minimum set-asides. If an owner elects AI and fails to meet the Average income standard at the end of a year, it is not a qualified low-income housing development for the year under IRC Section 42(g)(1)(C), and this non-compliance must be reported to the IRS with Form 8823 and the owner could be subject to a loss of Credits.

Due to the complexity of the AI election, all developments that are not 100% LIHTC and elect the AI minimum set-aside may be subject to an increased compliance monitoring fee. The monitoring fees for AI can be found under Chapter 8 – Audit.

Multi-Building Projects

Under IRC Section 42(g) (3)(D), each building is considered a separate project and the minimum set-aside applies separately to each building. Alternatively, an owner may elect to treat individual buildings as part of a multiple-building project. In such cases, the minimum set-aside applies on a project-wide basis. Form 8609, line 8b, documents the owner's election to treat the building as part of a multi-building project. If the election is made (the "Yes" box is checked), the owner must identify all the buildings to be included in the project on an attachment to the Form 8609. The buildings should be identified by name, address, BIN, and the amount allocated to each building. See instructions for Form 8609, line 8b for details.

Federal Income and Rent Limit

The income necessary to be eligible to rent a unit is based on the household income limits adjusted for family size for the area in which the project is located. Income determination is similar to Section 8 income qualifications as described in 24 Code of Federal Regulations (CFR) 813.106.

Federal Income limits are released annually from HUD. Find the MTSP (Multifamily Tax Subsidy Project) HUD Income limits here https://www.huduser.gov/portal/datasets/mtsp.html

For properties receiving tax credits in 1990 and subsequent years, the formula for computing gross rent is based on 1.5 persons per bedroom, not to exceed 30% of the corresponding income election.

IRS Revenue Ruling 94-57 allows taxpayers to rely on the old income limits and maximum rents until 45 days after the effective date published by HUD in connection with revised income limits.

For additional guidance regarding the appropriate income and rent limits for your specific project, UHC approves properties to utilize the Novogradac & Company's "Rent and Income Limit Calculator" for assistance in calculating the applicable rent and income limits for their property. UHC approves this tool only as a courtesy as it is the responsibility of the owner(s) to ensure correct income and rent limits are used.

Gross Rents

Gross rents for the Program are rent amounts paid by tenants (excluding federal or state rent assistance such as Section 8), plus an allowance for utility costs paid directly by tenants, and any other mandatory charges (minus telephone, internet and cable). Please note that any fees charged may affect your Gross Rent and the Max Allowable Rent you may charge to tenants. The total Gross Rent cannot exceed the limits for the county where the development is located based on the respective 50%, 60%, or designated level based on average income if elected by owner of AMI and LURA specified limits

Any non-refundable charges, regardless of the frequency charged or paid, must be included in the Gross Rent calculation and not cause the Gross Rent for the unit to exceed the Maximum Rent Limits for the property for any given month.

Please see Chapter 3 for more information regarding Rents.

Applicable Fraction

The applicable fraction is the lesser of:

- The unit fraction, which is the number of qualified Housing Credit units in a building divided by the total number of residential rental units in the building; or

- The floor space fraction, which is the total floor space of the qualified Housing Credit units in the building divided by the total floor space of the residential rental units in the building.

When determining which units to include in the numerator (Housing Credit units), and in the denominator (total units) of the applicable fraction, please note:

- Units that have never been occupied (empty units), or are occupied by a non-qualified household, cannot be included in the numerator, but must be included in the denominator;

- Vacant units that were last occupied by a non-qualified household cannot be included in the numerator, but must be included in the denominator.

- Units not suitable for occupancy, including Housing Credit units being rehabilitated in the first year of the credit period, cannot be included in the numerator, but must be included in the denominator.

- Common space units (units for FT manager, FT maintenance or Security) are not included in either the numerator or denominator. (Only if approved at time of application, or if approved in writing by UHC and occupied by a full-time employee, working for the property on which they reside).

Empty Units VS. Vacant Units

Units that have never been occupied are referred to as “empty” units rather than vacant units. Empty units cannot be counted as Housing Credit units. However, they must be included in the building’s total unit count for purposes of counting the Applicable Fraction.

To be considered as a Housing Credit unit, an eligible tenant must occupy the unit on the last day of the month.

A vacant unit cannot be counted as a Housing Credit unit simply because it is held or pre-leased to a qualified tenant. If a Housing Credit unit becomes vacant during the year, the unit remains eligible for the tax credit for the purposes of the Minimum Set-Aside and determining the Qualified Basis of the project as long as the unit is ready for occupancy and habitable as defined by NSPIRE (National Standards for the Physical Inspection of Real Estate) and State and local codes and owner is making all attempts to re-rent the unit.

If a Housing Credit unit becomes vacant, reasonable attempts must be made to rent that unit or the next available unit of comparable or smaller size to a qualifying household before any units can be rented to non-qualified households. The owner or manager must document reasonable attempts to rent the vacant units to eligible tenants.

Only units that have been previously occupied by an eligible household may be included as a qualifying low-income unit for compliance purposes. Under IRS rules, if a unit has never been occupied by an eligible household, has been vacated by a market rate household, or otherwise did not qualify as a Housing Credit unit prior to being vacated, that unit cannot be counted as a qualifying Housing Credit unit.

Special Needs and Set-Aside Units

At initial lease up, and throughout the extended use period, the owner(s) must work with service providers to fill the Special Needs set-aside units (as listed on the application and LURA) with qualified tenants. Units must be held for specific special needs as outlined in the project application and LURA for at least 60 days before renting units to the general public. All attempts made by the owner must be documented (newspaper and internet ads, signs, flyers, records of communication with service provider, etc.) and kept in a file for tracking and to be presented for review at the time of each UHC audit or upon other request from the agency. Failure by the owner to fill these units with qualified tenants, or lack of sufficient efforts to do so, and failure to report these units within the required software systems may result in a "Not in Good Standing" status with UHC. The requirement for Special Needs set-aside units will remain effective throughout the life of the project. Special Needs units include but are not limited to:

- Chronically Homeless
- Developmentally Disabled
- Domestic Violence
- Homeless
- Long Term Mobility Impaired
- Maturing Foster Children
- Mentally Ill
- Persons with HIV/AIDS
- Refugees
- Veterans

All Special Needs units must be tracked and reported in both the Certification Portal Website and the Special Set-Aside Tracker at least quarterly. Failure to track, report or provide required Special Needs documentation in accordance with this section may result in Non-Compliance.

Special Needs and Set-Aside Tracker Website: NOTE – Only projects with special needs and set-aside units are required to use this website. If you are unsure as to whether your project has any special needs or set-aside units, please refer to your LURA or contact our office. It is strongly recommended the information be entered on the same day the household occupies the unit. Compliance auditors will use information provided on the website when conducting on-site audits. This website was created to assist service providers in referring tenants to Housing Credit projects.

The website is located at https://utahhousingcorp.org/multifamily/set-aside/login Anyone uncertain about how to access and use this website should contact our office.

In addition, all special set-asides must be listed under the household in the CP system.

Initial Audit

The first compliance inspection for new projects will occur no later than the end of the second year of the credit period. This initial inspection will consist of at least 20% file review and a physical inspection according to the sample size chart listed under Chapter 8 – Audit.

Compliance Period

The compliance period begins in conjunction with the start of the credit period, however, while the credit period has a duration of 10 years, the compliance period extends an additional 5 years beyond the end of the credit period, for a total of 15 years. Owners must maintain all compliance during the entire 15-year compliance period to prevent possible recapture by the IRS.

Determining the End of the Compliance Period

The owner must provide UHC with a copy of the signed first-year IRS Form 8609 for each building in order to determine the end of the 15-year compliance period. Should the owner not provide the signed form as required, UHC will determine the end of the compliance period as 15 years after the last building was placed in service.

Extended Use Period

The Extended Use Period requirement is defined in the LURA, which is recorded in the office of the County Recorder in the county in which the project is located. The LURA records the commitments and obligations of the project owner concerning the specific occupancy and affordability requirements for the project as well as their duration. From a compliance perspective, special attention is given to all the provisions of the LURA.

Under IRS rules and to preserve affordable housing, Project Owners must commit to extended compliance with the section 42 guidelines, for a minimum of 15 years or more, as determined by UHC and recorded in the LURA. This period is in addition to the initial 15-year compliance period and is termed the extended use period. Please refer to your LURA for the extended use time period, commitments and obligations for your specific project.

1.1 FAIR HOUSING & DISCRIMINATION

Fair Housing

Housing Credit properties are subject to Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. See 42 U.S.C. Sections 3601 through 3619.

With the passage of the Omnibus Budget Reconciliation Act of 1993, owners are prohibited from refusing to lease to a prospective tenant based solely of the fact that the applicant holds a Section 8 rental voucher or certificate.

Effective March 5, 2012, HUD published a final rule entitled Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity adding a person's marital status, sexual orientation or gender identity to the Fair Housing discrimination list. See 24 CFR Parts 5, 200 Docket No. FR 5359–F–02.

IRS also requires Housing Credit properties be otherwise available to the general public. Under Treas. Reg. 1.42-9(b), if a residential unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for credit under Section 42. Residential rental units either designated for a single occupational group, or through a preference for an occupational group, also violate the general public use requirements.

The Fair Housing Act also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities. The failure of Housing Credit projects to comply with the requirements of the Fair Housing Act will result in the denial of the housing tax credit on a per unit basis.

The Department of Housing and Urban Development (HUD) enforces the Fair Housing Act. UHC will refer complainants to HUD for follow-up and/or investigation. Any finding of discrimination, adverse final decision by HUD, adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a federal court is a violation that UHC must report to the Internal Revenue Service.

You can read more about the Fair Housing Act here:

https://www.justice.gov/crt/fair-housing-act-2

Anyone with questions regarding the accessibility requirements can obtain the Fair Housing Act Design Manual at www.huduser.org/portal/publications/destech/fairhousing.html

Fair Housing, Disparate Impact and Criminal History

On April 4, 2016, HUD released guidance regarding disparate impact, criminal history and fair housing concerns within landlord policies. This guidance identified policies, which, in design, are neutral, but in application may have an adverse effect on one group of people of a protected characteristic or class more than another. UHC will require owners to certify fair housing compliance annually and the use of an affirmative fair housing marketing plan that will be evaluated at the time of audit review. UHC will refer any fair housing complainants, including both disparate treatment and disparate impact of protected classes to the appropriate state fair housing enforcement agency and to HUD's Region VIII Denver office. In addition, UHC will report any discrimination findings to the IRS as required by the IRS Form 8823. For more information see Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions.

On June 10, 2022, HUD released a memo further clarifying Disparate Impact and Criminal History

Violence Against Women Act (VAWA)

On November 16, 2016, HUD published the final rule regarding the implementation of housing protections authorized in the Violence Against Women Reauthorization Act of 2013. The 2013 VAWA legislation and resulting final rule expands the number of affordable housing programs subject to VAWA protections, which now includes properties funded with Low Income Housing Tax Credits. This final rule was effective on December 16, 2016.

VAWA provides protections for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and which must be applied consistent with all non-discrimination and fair housing requirements. A domestic violence incident does not constitute good cause for eviction of the victim if the victim otherwise meets tenant occupancy rules.

In addition to this final rule, HUD published a notice titled the Notice of Occupancy Rights under the VAWA that LIHC owners must provide to tenants and applicants to ensure they are aware of their rights under VAWA and these implementing regulations. In addition, this Notice provides the following to housing providers:

- a model emergency transfer plan that may be used to develop their own emergency transfer plans,
- a model emergency transfer request form that must be provided to tenants requesting an emergency transfer under these regulations, and
- a certification form for documenting incidents of domestic violence, dating violence, sexual assault, and stalking.

Compliance with the rule with respect to completing an emergency transfer plan and providing emergency transfers and associated recordkeeping and reporting requirements, is required to be in place. HUD released four Model forms for use on HUD properties to ensure compliance with the requirements of VAWA.

These forms are accepted by UHC and may be modified but must retain the same information and language. These model forms are:

1. Notice of Occupancy Rights Under the Violence Against Women Act (HUD Form-5380).

2. Model Emergency Transfer Plan (HUD Form-5381).

3. Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternated Documentation (HUD Form-5382).

4. Emergency Transfer Request Form (HUD Form-5383)

HUD Form-5380 and HUD Form 5382 are required to be given to applicant/resident at time of application, application denials and anytime an eviction or termination of tenancy notice are given.

VAWA protects HC tenants and applicants from being denied housing based on or as a direct result of being a victim of domestic violence, dating violence, sexual assault, and stalking. There are three different times a Notice of Occupancy Rights (HUD form – 5380) must be included and given to all applicants and tenants:

1. Denial of Tenancy: Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452 (b)(1).)

2. Move-in. Owners must include the HUD Form-5380 Notice of Occupancy Rights to tenants and HUD Form 91067 in addition to the lease if the current lease does not include VAWA protections. All adult household members must complete separate 91067 forms.

3. Eviction: Owners cannot evict for incidents or threats of domestic violence, dating violence, sexual assault, or stalking. These are not to be considered serious or repeated lease violations by the victim or good cause to terminate the tenancy of the victim. Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of the tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)). HUD Form -5380 must be included with any eviction notice.

a. VAWA requirements do not limit Owners from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking. As long as the Owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

b. VAWA requirements do not limit Owners from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking). If the owner can demonstrate an actual and imminent threat would be present to other tenants or staff if the tenant or lawful occupant is not evicted.

"Actual and imminent threat" consists of real physical danger that would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include the duration of the risk, the nature, and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.) An Owner should only utilize "actual and imminent threat" when there are no other actions that could be taken. To reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).) If there is an incident of housing discrimination based on domestic violence, dating violence, sexual assault, or stalking, a housing discrimination report can be filed with HUD at https://portalapps.hud.gov/FHEO903/Form903/Form903Start.action

For more information, see Violence Against Women Reauthorization Act.

You are responsible to know Tenant rights under VAWA. For more information please, see https://www.hud.gov/program_offices/fair_housing_equal_opp/VAWA

Compliance with VAWA must be demonstrated by Owner at time of file audit to avoid non-compliance. Non-compliance could result in an 8823 sent to the IRS.

1.2 PROPERTY TYPES

Property Types

When a project is awarded funds from multiple funding sources or is designated as a specific type of housing, additional compliance and monitoring levels may be added. As an owner/manager, it is your responsibility to stay in compliance with all types of housing, sources and funding requirements. Please understand one is not more important than another. Compliance with all is required.

There are many 'types' of properties in addition to different types of funding sources and each require different compliance adherence; here are just a few with a description:

Assisted Living Project

(Note: Tax Credits are no longer awarded for these types of projects)

Assisted living units are units in projects developed for elderly residents who are of retirement age or older with project-based assistance. These units, whether publicly or privately operated, may not be part of, on the grounds of, or immediately adjacent to a public institution, hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, hotels, motels, dormitories, fraternity & sorority housings, rooming houses, sanitariums, rest homes, trailer parks and courts, or for use on a transient basis, or any other setting having the effect of isolating individuals receiving Medicaid Home and Community Based from the broader community of individuals not receiving Medicaid.

Units must be similarly constructed to housing, having separate, private and complete facilities for living, sleeping, eating, cooking, bathing and sanitation (specifically a cooking range, refrigerator and sink). Units must be the principal place of residence and rentable under a lease to provide the same responsibilities and protections from eviction other multifamily tenants have under landlord/tenant law. Each unit must have entrance doors lockable by the tenant, with only appropriate staff having access to keys. The units must be physically accessible to the tenant and rented in a manner consistent with the housing policy governing non-discrimination by HUD.

Tenants sharing units must have a choice of roommates in that setting. Each tenant must have the freedom to furnish and decorate their units within the lease or other agreement, have the freedom and support to control their own schedules and activities, have access to food at any time and must be able to have visitors of their choosing at any time. Each tenant must be able to enter into a lease agreement for the unit.

Assisted Living: Supportive Services

Usually, the cost of services, which are required as a condition of occupancy, must be included in gross rent, even if federal or state law requires the service be offered to tenants by building owners. The exception to the rule is certain fees paid for supportive services. Supportive services are any service provided under a planned program of services designed to enable tenants of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped.

To qualify for this exception, assisted living units must have a person-centered- planning process for services. These services must be separately defined and may not be open ended in scope and cannot limit a beneficiary's access to, or free choice of providers. If the assisted living unit is in a mixed project, the person- centered service plan must include the mixed-use facility. Please note the allocable portion of the facility in which continual or frequent nursing, medical, or psychiatric services are made available is defined by the IRS as non-residential rental property and therefore is not eligible for tax credits.

"Basic Supportive Services" can include: laundry; housekeeping; regular daily meals in a common dining area; 24 hour monitored emergency call service using call buttons and two-way communication devices in units; planned social activities; and scheduled transportation to various sites in the vicinity including commercial areas, shopping centers, hospitals, and doctor's offices.

Additional supportive services may include: medication management by a technician, maintenance of detailed medication records; consultation with a nurse as needed about health concerns and medication plans; assistance by non- medically certified aides each day during waking hours in activities of daily living including getting in and out of bed and chairs, walking, using the toilet, dressing, eating and bathing; and routine checks by staff to insure the resident's general well-being. Tenants can have incapacitating infirmities requiring continual assistance as long as the assistance needed is not continual or frequent nursing, medical or psychiatric services.

Please note: If a facility makes available continual or frequent nursing, medical or psychiatric services, the facility will not be considered a residential rental property and is not eligible for tax credits. The nature and degree of the services provided by the facility controls if it is labeled as an assisted living or a health care facility.

Assisted Living: Rents

Each rental amount can vary according to the level of care provided and is made in exchange for use of the unit and supportive services.

The HAP portion of payments may only be applied toward rental costs of the dwelling unit, and not for covering any portion of the cost of any supportive service relating to assisted living. This rent can include maintenance and management charges related to the dwelling unit and tenant-paid utilities, but not any charges attributable to supportive services relating to assisted living. The payment standard for the market area must be used.

Gross rent does not include any fee for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the tenant of the unit) by any governmental program of assistance (or by any 501(c)(3)) if such program or organization provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services. Section 42(g)(2)(B)(iii).

Assisted Living: Non-Optional Fees or Services/ Mandatory Fees

Charges for non-optional services, such as a washer and/or dryer hookup fee and built in/on storage sheds or lockers (paid month-to-month or in a single payment) must always be included within gross rent, and not cause the Gross Rent for the unit to exceed the Maximum Rent Limits for the property. **Fees are considered non-optional when they are a condition of occupancy or when no reasonable alternative is available, even if state or local laws require the services be provided.**

When completing the Tenant Income Certification form include the amount in the Other Non-Optional Charges column. On Self Certification TIC(S) (UHC Form) – If applicable to your property – include the amount in the Mandatory Charges column.

Assisted Living: Income

Annual income at an assisted living unit must include:

- The SSI payment a tenant receives or the facility receives on behalf of the tenant; plus
- All other income the tenant receives from sources other than SSI that are not excluded from income by HUD regulations;
- Any income from assets; and

The personal allowance of an individual IS NOT included in annual income.

The local agency responsible for Medicaid provides funds directly to assisted living providers for services. Annual income DOES NOT include the enhanced benefit portion of the SSI that is provided to pay for services.

Acquisition and Rehabilitation

An *acquisition* occurs when an owner applies for a tax credit allocation to purchase an already existing building. A *rehab* occurs when the owner applies for a tax credit allocation to make upgrades to an already owned existing building. In both an acquisition and rehab, the building will not have previously had tax credit funding, but may have had other types of funding.

Re-syndication occurs when project has previously been allocated tax credits and has entered its extended use period (or beyond), and the owner applies for additional tax credits to rehab the project. See re-syndication below for additional details.

In order to receive tax credits all units must be considered suitable for occupancy. Units not suitable for occupancy, including tax credit units being rehabilitated, in the first year of the credit period, cannot be included in the numerator for the applicable fraction, but must be included in the denominator for each building.

Please see Applicable Fraction for more information.

Project Owners/Management Companies should be aware that compliance with the Americans with Disabilities Act (ADA) and federal Lead-Based Paint requirements (applicable to acquisition/ rehabilitation projects) and is an important consideration in determining the project's suitability of occupancy.

In some cases, a building(s) that was not originally designed as residential housing, such as a warehouse or a school, may be re-purposed as affordable housing. In such cases, there are no existing tenants in the building and lease up will be done like a regular new construction project.

If a building was originally designed as housing and has current tenants in the building(s) this is known as an 'in-place' acquisition/rehab.

‘In-Place’ Acquisition/ Rehab

In cases of acquisition/rehab projects with in-place tenants, all existing tenants must be certified. A key date managers must know is the date of acquisition (the date the new owner/newly formed partnership purchased the property). This is the date that will be the ‘effective date’ for all the in-place tenants on the TIC form.

In-place certifications must be completed within 120 days of the date of acquisition, and residents must qualify, in order to count the unit towards the applicable fraction, and ‘lock-in’ their qualified household income in accordance with the IRS Safe Harbor Rev. Proc. 2003-82, 2003-2 C.B. 1097. If an in-place tenant is not certified and qualified within 120 days of the acquisition date, and their income increases above the applicable income limit, there is no protection by the IRS Safe Harbor.

Note: evictions or not renewing leases (forcing non-qualified households out of the unit so it can be rented to a qualified household) is not considered good cause. (See IRS 8823 guide, Chapter 7 for a detailed explanation of the good cause requirement).

If, for any reason, verifications cannot be completed for in-place tenants within the 120 days of the acquisition date, these tenants, once qualified, will have an effective date matching the date that all the certification paperwork is completed and signed. These households’ income is not protected by the IRS Safe Harbor rule.

It is for this reason, UHC highly recommends certifying all in-place tenants within the 120 days (can be up to 120 days before or after) the acquisition date.

Tenant Relocation Plan

Projects with tenants in place at the time of Application must submit a relocation plan, describing the extent to which current tenants will be relocated or dislocated either temporarily or permanently, the amount of funds and assistance being provided to relocated/dislocated tenants, and the effort that will be made to bring relocated/dislocated tenants back to the project upon completion. Federal funded programs and projects that require acquisition of real property are required to comply with The Uniform Relocation Assistance and Real Property Act.

Income Limits Inside 120 days

For all in-place tenants whose certifications are completed within the 120-day window surrounding the date of acquisition, use the income limits in effect on the date of acquisition.

Outside 120 days

For all certifications completed outside the 120-day window, use the income limits effective as of the date the certification is completed and TIC is signed. If the acquisition date falls within the 45 day grace period after new income limits are released (but not yet mandatory), the owner is free to choose the higher of the two available income limits.

Rent Limits

In most cases, the rent limits to be used will correspond to the income limits. However, there is the possibility that higher rent limits can be used if the owner received the initial allocation of credit in prior year(s) to the acquisition date (re- syndication). If this is the case, another key date managers must know is the Gross Rent Floor election date.

Resyndication

The term “Resyndication” describes an existing LIHTC project that receives a subsequent allocation of Tax Credits, only after the property completes the initial 15-year compliance period. Resyndication is handled similar to a rehab with the following exceptions:

1. In-place tenants, who originally qualified at move-in and are over the 140% income limit at Resyndication, are subject to "Income Grandfathering." To document a household that falls under this protection, the file must contain one of the following:

a. The complete, original move-in certification file placed in the new Resyndication file.

b. If the original move-in certification file is not available (or complete), the owner may apply to UHC for a waiver for the household only if household's AMI% is less than the owner's minimum set-aside election. Please note, documentation must accompany this request showing all steps taken to retrieve original move-in paperwork for the in-place household. If the waiver is given, it must be placed in the household's file, applies only to the named household, and the waiver applies to the household's income only. A new full-certification for the household as of the Resyndication placed in service date must also accompany the waiver.

2. Income Limits must correspond to the new placed in service date of the Resyndication. This may result in using lower income limits than in previous years.

3. Gross rent floor limits of the 2nd allocation of Tax Credits when initially allocated may be used for rent limits if:

a. At time of allocation, rent limits are higher than limits at placed in service date, and only if owner elects to UHC in writing at time of allocation.

4. Extended Use Period: For Housing Credit Projects previously restricted by a LURA, the new LURA will require a 15-year initial Compliance Period plus a 35-year Extended Use Period.

5. Projects that have a lower weighted average AMI than what would be achieved by maximizing the rent tiering structure for the same number and configuration of rent restricted under units may apply under the current rent tiering structure at Resyndication. Note that such projects may only raise rents to the new income and rent limits as units turn over. No existing

tenant household may experience a rent increase as a result of higher rent limits as approved by UHC.

6. Projects may increase the number of units that were included in the original LURA, but may not reduce the number of units. In addition, Special Set-aside units and other special restrictions will still be enforced from the original allocation.

Mixed Income Properties

Mixed income properties contain both Housing Credit qualified units and conventional units with no income/rent/student restrictions (market rate units).

Qualified Units rented to, or reserved for, eligible tenants:

- Must have substantially the same equipment and amenities (excluding luxury amenities such as a fireplace) as other units in the Project;
- Must be substantially the same size as other units in the Project; and
- Cannot be geographically segregated from other units in the Project.

Housing Credit units must be suitable for occupancy under National Standards for the Physical Inspection (NSPIRE) and local health, safety and building codes. Units that are not suitable for occupancy, including previously qualified Housing Credit units being rehabilitated in the first year of the credit period, are considered "out of compliance". The non-compliance is corrected when the unit is again suitable for occupancy, and the unit's character will be determined based on the household that occupies the unit immediately preceding the rehabilitation.

NSPIRE does not supersede or preempt local health, safety and building codes. A Housing Credit project under Section 42 must also satisfy State and local standards.

- Compliance with the Americans with Disabilities Act (ADA) https://www.ada.gov/ and federal Lead- Based Paint requirements https://www.epa.gov/lead/real-estate-disclosuresabout-potential-lead-hazards (applicable to acquisition/ rehabilitation projects) is an important consideration in determining the project's suitability of occupancy.

Mixed Use Recertification's

Owners of mixed income properties are required to recertify eligibility annually as to the gross annual income of Housing Credit households. Income recertification should be performed in accordance with the verification requirements for an initial certification. See the 'Initial Certification', 'Recertification', '140% Rule' and 'Next Available Unit Rule' sections in this manual for further information.

Project owners and managers should be aware the 140% and Next Available Unit Rules have important application to mixed income and Average Income properties, impacting continuing resident qualification.

Permanent Supportive Housing

Permanent Supportive Housing, or PSH, is a model that combines low-barrier access to affordable housing and dedicated supportive services in an effort to help individuals and families lead more stable lives. PSH targets people, particularly the homeless or chronically homeless, with psychiatric disabilities, chronic health challenges, or other barriers to accessing or retaining stable housing. PSH provides robust supportive services to reduce instability in housing. PSH projects will deliver supportive services through a combination of on-site services and linkages to available community services. PSH projects will have tenant selection policies that prioritize people who have been homeless the longest or have the highest service needs as evidenced by vulnerability assessments.

Tax-Exempt Bond

Tax-Exempt Certificate of Continuing Program Compliance

The Tax-Exempt Bond project owner or authorized representative must prepare and submit a Certificate of Continuing Program Compliance to UHC; the due dates are specified in the Tax Regulatory Agreement for the project.

Please Note: The Certificate of Continuing Program Compliance is a separate report from those listed in this manual. Please send all Tax-Exempt Certificates of Continuing Program Compliance to the Multifamily & Development Assistant.

HUD(Project Based)/RD

Projects under these funding types may be subject to NSPIRE inspections and may be part of the Alignment Program between HUD and UHC. Additionally, the **Funding Combined with LIHTC** utility allowance used will depend on the various funding and may differ from those allowed under a strictly tax credit project. Projects under these funding guidelines may also receive subsidy payments and such payments are not counted towards the household rent portion for tax credit purposes. It should also be noted Rural Housing projects must use the Section 8 method of calculating income based on “annual income”, not the RHS method of " adjusted annual income" for Housing Credit qualified tenants

The paperwork, documentation and calculations required for the RD/HUD does not satisfy all of the Housing Credit requirements. Do not rely on the RD/HUD file to successfully pass a Housing Credit review.

Section 8 (Housing Choice Voucher)

Tenants can receive tenant-based subsidy aka Section 8 Voucher. This subsidy can be carried with the resident to help subsidize their rent wherever they would like to live.

There are a few things to take special note of regarding Section 8 and Tax Credit:

- Owners/management will not refuse to lease a unit to the holder of a Section 8 voucher because of the status of the prospective tenant as such holder.

- The issuing public housing authority (PHA) utility allowance must be used for any Section 8 households.

- The Section 8 subsidy payment made on behalf of the tenant is not counted toward the household's portion of rent for the Tax Credit program. Section 42 (g)(2)(B)(i).

- The PHA will already have a file on the tenant. This is completely separate from the Tax Credit file and it is possible all new verifications may be required to be obtained.

- The contract lease rental amount between the owner and the PHA must match the sum of the tenant payment and the HAP payment.

- Tenants with project based and tenant-based vouchers or like subsidies should include HAP letters with the current certifications.

Changes under HOTMA, allow income verifications using 50058, 50059 or other approved program income verification letters and forms from the agency, as long as all family and gross income information is disclosed as part of the income determination for the tax credit file. If family income has been determined by another assistance agency and a letter form is unable to be obtained, the use of the Safe Harbor Verification form can be used as long as the family composition from the agency matches the family composition listed on the lease. Please see Means-Tested Income Verification under Income Documentation Verification Hierarchy Preference in chapter 4.

Chapter 2 – OWNER REQUIREMENTS

Each owner has chosen to utilize the Housing Credit Program to take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met.

Owner Liability: Compliance with the requirements of Section 42 is the responsibility of the owner of the building for which the credit is allowable. UHC's obligation to monitor for compliance with the requirements of Section 42 does not make the Agency liable for an owner's non-compliance (Reg. 1.42-5(g)).

On-going Compliance

The owner is responsible for compliance with the Section 42 Code. Owner must take any lawful action to comply fully with the Code and with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States Department of the Treasury, or the Internal Revenue Service, or the Department of Housing and Urban Development from time to time pertaining to Owner's obligations under Section 42 of the Code.

UHC is assigned the responsibility for monitoring compliance. Any and all financial consequences to the owner as a result of non-compliance, whether identified by UHC or the IRS, will be the responsibility of the owner.

Record Keeping & Record Retention Requirements

At a minimum, owners are expected to maintain clear and accurate records of the following information:

- The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit).

- The number of occupants in each Housing Credit unit and the household's student status.

- The number and percentage of residential rental units in the building that are Housing Credit units, offices, management units, and common units.

- The rent charged on each residential rental unit in the building (including utility allowance) as well as any additional charges to tenants. Documentation must include rent rolls, leases, and utility allowances as required by the IRS.

- The Housing Credit unit vacancies in the building, marketing information, and information which shows when and to whom each of the next available units were rented.

- The initial qualifying certification for the family and household, the annual income certification of each Housing Credit family and household.

- Documentation to support each Housing Credit Tenant's Income Certification including application/recertification questionnaire, and verifications. Anticipated income that is known and verifiable of all adult persons expecting to occupy the unit must be verified and included on a Tenant Income Certification prior to occupancy and recertified annually for continued eligibility.

- The character and use of the non-residential portion of the building included in the building's eligible basis under Section 42(d) (e.g. tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

- The eligible basis and qualified basis of the building at the end of the first year of the credit period.

- Records demonstrating that any state established set-aside elected by the owner has been complied with for each year of the compliance period and throughout the extended use period.

- If the Average Income minimum set aside is elected, a complete listing of all units, qualified grouping of units, minimum set-aside and building applicable fraction based on qualified grouping of units. Additionally, the AMI designation, redesignation, household move-in dates, recertification dates, units over 140%, move-out dates and the average income percentage for the property at the end of each year must be documented and maintained by the Owner.

An owner is required to retain the records described in this section for at least six years after the due date (with extensions) for filing the federal income tax return for the year.

Records from the first year of the Compliance period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

See Revenue Ruling 2004-82, published August 30, 2004, which clarifies that owners may comply with the record retention provisions under IRC Section 1.42- 5(b) by using an electronic storage system instead of maintaining hardcopy (paper) books and records, provided that, the electronic storage system satisfies the requirements of Revenue Procedure 97-22.

Owners must maintain applicant and tenant information in a way to ensure confidentiality. Any applicant or tenant affected by negligent disclosure or improper use of information may bring civil action for damages and seek other relief, as appropriate. Owners must dispose of records in a manner that will prevent any unauthorized access to personal information, e.g., burn, pulverize, shred, etc.

Special Needs and Set Asides

As part of owner required record keeping, Special needs / Special set aside units must be tracked and the documentation to fill units with appropriate populations must be kept. Please see Special Needs and Special Set Asides in chapter 1.

Change of Ownership/ Management

When a Project Owner proposes to sell, transfer or convey all or any part of the Project, the Project Owner agrees that the project will not sale, transfer or convey all or any part of the Project without first obtaining written consent of UHC, which consent shall not be unreasonably withheld. The new owner must then contact UHC within 30 days of the sale and include a copy of the recorded Statutory Warranty Deed indicating the change of ownership or a copy of the title policy indicating the new owner as the vested owner of the property.

UHC will recognize a new owner or ownership entity only after all required documentation has been submitted. Until such time, all compliance requirements will be the responsibility of the owner of record and any compliance violations will be reported to the IRS under the name of the owner of record.

The IRS has also suggested in Reg. 1.42-5 that, if a building is sold or otherwise transferred by the owner, the transferee should obtain from the transferor all information related to the first year of the credit period so the transferee can substantiate credits claimed.

Owners are also required to notify UHC in writing when there is a change with the management company. The written notification including a management agreement must be received by UHC no later than 30 days prior to the change taking place. Management companies “Not in Good Standing” with UHC will not be approved to take on new properties. Owners may contact UHC prior to changing management companies to obtain verification of a new management company’s status with UHC.

Casualty Loss

The determination that a unit is suitable for occupancy is based on its physical condition, without regard for the cause of the non-compliance, at the end of a taxable year. However, there are relief measures in place when the damage is the result of a casualty event within the meaning of IRC §165.

CCA 200134006 provides the definition of “casualty loss” under IRC §42(j)(4) would be the same as the definition utilized in Publication 547, Casualty, Disaster, and Thefts, and Publication 584, Casualty, Disaster, and Theft Loss Workbook; i.e., damage, destruction, or loss of property resulting in identifiable event that is sudden, unexpected, or unusual.

While no credit is allowable, IRC §42(j)(6)(E) provides relief from the credit recapture provisions to the extent the loss is restored by reconstruction or replacement within a reasonable period established by the Secretary. CCA 200134006 clarifies that a period of up to 2 years following the end of the tax year in which the casualty loss occurred is consistent with general replacement principles involving casualties.

If the property is within an area where the President has declared a Major Disaster Area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U. S. C. 5121 et seq. and is within its first year of the credit period, UHC has the discretion to treat the allocation as returned credit in accordance with the requirements of § 1.42-14(d)(3), or may toll the beginning of the first year of the credit period under § 42(f)(1). The tolling time period cannot be more than 24 months after the end of the calendar year in which the President declared the area a major disaster area. No qualified basis shall be established until the building is restored and no Housing Credit shall be claimed during the restoration period of such first-year buildings.

Reporting any reduction in qualified basis is required under Section 1.42-5(c)(1), even if units are restored within the reasonable timeframe.

Within 14 days of the casualty loss event, the Owner/Agent managing the Project at which a casualty loss occurred must complete and email the “Casualty Loss Report” form to Utah Housing Corporations Multifamily Finance & Development Asset Manager. This form can be found under “Compliance Forms” on the UHC website.

Vacant Units – More Than 60 Days

For vacant units that have been vacant more than 60 days but vacancy is not a result of casualty loss, complete the "Offline More Than 60 Days" form found under "Compliance Forms" on UHC website and email Utah Housing Corporations Multifamily Finance & Development Asset Manager. This form is required at the end of each quarter until offline units are filled.

Training

Successful operation of a Housing Credit development is management intensive; the owner is responsible for ensuring that the project is properly administered. Thorough understanding of Housing Credit requirements and compliance monitoring procedures requires training of owners and managers. This training should occur before a development is occupied, and should be provided to the on- site property management staff. At a minimum, such training should cover key compliance terms, fair housing, qualified basis rules, determination of rents, tenant eligibility, file documentation, available unit procedures and unit vacancy rules, agency reporting and record retention requirements, and site visits. Continuing education each year or at a minimum every other year is required in order to keep up with regulatory and procedural changes.

Training will be presented or sponsored by UHC Multifamily compliance regularly. Quarterly online trainings will be available at no cost and will be available on the UHC website in a recorded video format for review at any time.

Staff members who have never been responsible for, or have no prior experience with completing, tracking, and follow-through, or documenting certifications for the Program are required to attend mandatory training.

Furthermore, if UHC staff determines there are issues such as untimely, inaccurate, and/or incomplete certifications or submission of documentation, mandatory training is required for property staff.

Reporting

The IRS and UHC require owners to file specific forms for compliance and reporting purposes. Failure to submit required forms as outlined in this Manual to either the IRS or UHC as appropriate will constitute non-compliance and may make the owner subject to recapture, ineligible for credit and or “Not in Good Standing” status with UHC.

Certification Portal

UHC’s compliance reporting portal is Certification Portal (CP), reporting to CP is mandatory for all Housing Credit projects. Failure to update project information, through this site, in a timely manner, will constitute a “Not In Good Standing” status with UHC and may result in the issuance of 8823 form to the IRS. To access the CP manual click here.

Annual Reporting Requirements

Owners must use the mandatory CP website for all reporting. Should you have problems with the CP website, please contact our office.

Project owners are required to submit Housing Credit program reports throughout the compliance and extended use periods as outlined below. These reports are submitted both annually and intermittently depending on the circumstance. The owner shall also maintain a copy or original as appropriate on file at its business office or that of its agent.

Annual Reports - <u>Due April 30th:</u> Project owners are required to submit annual reports during the calendar year after the IRS Form(s) 8609 are issued and each subsequent year thereafter, including the end of the calendar year of the end of the extended use period of the project. *For example, if a project received Form(s) 8609 in 2024, annual reports must be submitted by April 30, 2025, and each year thereafter until the end of the extended use period.*

Annual Owner Certification - The Annual Owner Certification form must be submitted in CP and a signed copy submitted to UHC in PDF format. All certification questions must be answered and forms must be signed and dated by a **PROJECT OWNER** only, to be accepted by UHC. This form certifies that annual income certifications and supporting income and asset documentation has been received from each Housing Credit tenant and that the project is otherwise compliant with general program requirements.

Annual Reporting Requirements – Documentation

Audited/Unaudited Financials – In conjunction with the annual owner certification, UHC additionally requires submission of either audited/CPA-Prepared or unaudited financial reports, containing the Balance Sheet and Operating Statement to the CP system in PDF format. This information is utilized as supporting documentation to the annual financial template submission outlined below, and should be reflective of the financial status as of December 31 for the prior calendar year. This supporting submission must be entered and completed no later than April 30 of every year.

Balance Sheet – UHC requires every project to upload a completed balance sheet on the CP website containing YTD financials as of December 31 of the prior calendar year. This submission is completed using the UHC provided template located under Document Templates/Financial Audit in CP.

Operating Statement – UHC also requires every project to upload a completed operating statement on the CP website containing YTD financials as of December 31 of the prior calendar year. This submission is completed using the UHC provided template located under Document Templates/Financial Audit in CP.

Utility Allowance Documentation – Copy of documentation used during the prior calendar year to calculate a project's applicable utility allowance is also required as part of the annual reporting. Along **with appropriate calculations shown by highlighting amounts used and totaling, to arrive at amounts actually used which should match those used on the CP**

website. If the project owner pays all utilities, a letter stating such must be enclosed in lieu of utility allowance documentation. The utility allowance documentation or 'project owner pays all utilities' letter must be uploaded in the 'Miscellaneous' section of the Document Templates in CP and are due April 30th with all other annual owner reporting requirements.

Annual Certification of Qualified Nonprofit Organization - Projects who received an allocation of credits from the nonprofit set-aside pool are required to submit the Annual Certification of Qualified Nonprofit Organization form. This form is available on-line in CP under Document Templates/Miscellaneous.

IRS forms 8609, Schedule A, and 8586 - These must be submitted to UHC at the time they are filed with the IRS. For projects that are in subsequent years of the compliance period (post 15 projects) it is not necessary to submit the above IRS forms.

Annual owner reporting, along with all supporting documentation is due no later than April 30th of each year following the end of the program year throughout the compliance and extended use periods. Upon receipt, UHC will review each annual report via a "desk audit". This review will identify missing items or substantial errors. If errors or missing items are found, UHC will inform the Project Owner/management and provide a correction period of 30 days to rectify the reports. For missing items or corrections not made within the 30-day period, UHC will take further actions including 1) extensions for extenuating circumstances if requested by the Project Owner/management, 2) Place project/owner Not in Good Standing, And/or 3) notification to the IRS of an event of non-compliance via form 8823.

Budget - UHC requires every project to upload a projected budget for the upcoming year to be completed and uploaded not later than December 1 of the prior year. For example, the budget for 2025 will be due on December 1, 2024. This submission is completed using the UHC provided template located under Document templates/Budget in CP.

Quarterly Reporting Requirements – Tenant Data

Project managers are required to use CP to submit all transactions (move-in, move-out, re-certifications and transfers) and other project information on a quarterly basis (or as otherwise advised by UHC). All submissions must be entered and completed no later than 30 days following the end of each quarter, as outlined below.

Tenant Data Reporting			
Quarter:		Period:	Due by:
1st Quarter	Enter transactions covered in reporting period:	January 1st through March31st	4/30
2nd Quarter	Enter transactions covered in reporting period:	April 1st through June 30th	7/30
3rd Quarter	Enter transactions covered in reporting period:	July 1st through September 30th	10/30
4th Quarter	Enter transactions covered in reporting period:	October 1st through December 31st	1/30

Quarterly Reporting Requirements – Financial Data

In addition to quarterly tenant data submissions through CP, UHC also requires project management to submit, on a quarterly basis, project financials as outlined below and due no later than 30 days following the end of each quarter. This submission is completed using the UHC provided template located under "Available Document Templates" section in CP.

Financial Data Reporting – Operating Statement			
Quarter:		Period:	Due by:
1^{st} Quarter	Enter actual figures covering period:	January 1^{st} through March 31st	4/30
2^{nd} Quarter	Enter actual figures covering period:	April 1^{st} through June 30^{th}	7/30
3^{rd} Quarter	Enter actual figures covering period:	July 1^{st} through September 30th	10/30
4^{th} Quarter	Enter actual figures covering period:	October 1^{st} through December 31^{st}	1/30

Operating Statement - Actuals - Quarterly Must be entered and completed no later than 30 days after the end of each quarter. *For example, the 1st quarter actual operating financials for quarter ending March 31, 2025, will be due on April 30, 2025. Reported figures should reflect the actual financials for the reported quarter, not YTD aggregate figures.* In addition, any negative expenses reported must have a note as to what occurred and caused the credit to the expense account.

HUD Demographic Collection Requirement

The Housing and Economic Recovery Act of 2008 (HERA) included a provision directing UHC to collect and report demographic and economic information regarding tenants living in Low Income Housing Credit properties to HUD. Owners are responsible for collecting Race and Ethnicity data for each household member by using HUD form 27601-H or a form that contains similar language. **Parents or guardians are to complete the form for children under 18.**

This information is reported for each household member, and includes, but is not limited to, Race: Ethnicity; Family composition; Income; Use of Section 8 (or similar) Rental Assistance; Disability status; and Date of birth. There is no penalty or non-compliance reported for persons who decline to complete the form.

However, the owner or manager must document the file of the attempt made to collect the household data. The owner must comply with the HUD reporting requirements in a timely manner. The tenant data is reported in UHC's CP compliance system.

IRS Form 8586

Low Income Housing Credit (IRS Form 8586) **must be completed to claim credits for the first Taxable Year in which credit is taken and every year thereafter in the Compliance Period.** This form is required as part of the Annual Owner Report submission every year.

IRS Form 8611

Recapture of Low Income Housing Credit (IRS Form 8611) **is used by taxpayers who must recapture tax credits claimed in previous years. A copy of Form 8611 must be filed with the IRS upon completion by the owner.**

Chapter 3 – RENTS

Reminder!

The allowable rent amount the tenant can pay will be based on the Gross Rent Limit for your property based on your minimum set-aside (50%, 60% or Average Income), any LURA rent restrictions agreed to by the owner at application for credits, and further reduced by any utility allowance, non-optional/condition of occupancy fees, non-refundable fees, and any non-allowable charges.

Rent Increases

Annual rent increases for current tenants are generally limited to a maximum of 10% of the current gross rent. Only one rent increase per household is permitted per year, with the following exceptions:

- An additional rent adjustment is allowed if the utility allowance decreases, in order to maintain compliance with maximum gross rent limits.
- Rent adjustments are allowed to comply with income and rent limits from other housing programs not governed by tax credit MTSP, such as HOME, provided they do not exceed the tax credit maximum gross rents.
- Newly leased-up projects may implement more than one rent adjustment within the first 2 years to align with approved project financing, lease-up schedules, or regulatory requirements.

If the proposed rent increase exceeds 5% of the current gross rent, tenants must be provided with at least 60 days written notice prior to the effective date.

Any rent increase exceeding 10% requires prior approval from UHC. Such requests must provide documented evidence of financial hardship affecting the project, submitted by the owner or property management.

Exemptions:

This Rent increase policy does not apply to units or projects with rental assistance payments, including but not limited to:

- Tenant-Based Section 8 (Housing Choice Vouchers)
- Project-Based Section 8
- USDA Rural Development (RD) Rental Assistance

In these cases, rent is determined based on the tenant's income and governed by the applicable program's rules.

Please note that no rent increase may exceed the maximum gross rent allowed under the unit's designated Area Median Income (AMI) percentage.

Fees

In general, additional fees are not allowed in the LIHTC program. However, the IRS has clarified some additional fees may be allowed. Any fees specifically addressed in this manual may have limitations to the allowable amount to be charged to tenants. If limitations are not followed, fees will be considered non-allowable and must be included in gross rents. Failure to follow these requirements or charging non-allowable fees or failure to follow the minimum lease requirements in regards to fees will prompt non-compliance and may result 8823's filed with the IRS and a "Not in Good Standing" status with UHC.

Security Deposits

Management companies are required to have established policies regarding security deposits that apply equally to all tenants, ensuring fairness and transparency in how deposits are collected, handled, and returned, adhering to local laws and regulations regarding security deposit amounts and usage.

It is permissible to charge eligible tenants up to the first and last months' rent, as a fully refundable security deposit, if the same is charged to other tenants.

All security deposits paid should be fully refundable, minus any tenant-caused damages or outstanding balances.

Condition of Occupancy Fees

Any fees that are a condition of occupancy, even if state or local laws require the services be provided, must be included in the Gross Rent calculation and not cause the Gross Rent for the unit to exceed the Maximum Rent Limits for the property.

Non-optional or condition of occupancy fees must be included in the rent calculation section of the TIC under "other non-optional charges and mandatory fees".

Lease Initiation Fees

An eligible tenant cannot be charged for a fee for the work involved in completing the additional forms or documentation required, such as the Tenant Income Certification. This also includes the customary forms such as the lease.

Unit Preparation Fees

Decorating fees or fees for preparing a unit for occupancy must not be charged; owners are responsible for physically maintaining units in a manner suitable for occupancy. This includes any amounts offered by tenants to expedite their move-in date. These amounts may not be charged or accepted by the owner/management company.

Application Fees

Application fees may be charged to cover the actual cost of reviewing a prospective tenant's income, credit history, and landlord references. The fee may not exceed the average expected out-of-pocket actual costs of reviewing tenant qualifications at the project.

Pets/ Companion and Assistance Animals

The following are UHC's policies regarding (1) pets and (2) assistance animals.

Pets are considered an option for any tenant in the state of Utah if the landlord allows them.

Application fees may be charged to cover the actual cost of 3rd party verifications reviewing an application for approval for a pet. The fee may not exceed the average expected out-of-pocket actual costs of reviewing a pet application.

Any deposit (including pet deposits) paid to the owner or management company must:

a) Be fully refundable for the entire amount paid AND;

b) Be comparable to amounts charged for Housing Credit units as well as Market units AND;

c) Not be excessive.

If a tenant chooses to have a pet in their unit, pet rent charged to the tenant will be considered an optional, non-condition of occupancy charge by UHC as long as the fee is comparable for Housing Credit units as well as Market units AND not excessive.

Assistance animals are not pets and include service animals, emotional support/therapy and comfort animals. They provide assistance, perform tasks for the benefit of a person with a disability, or provide emotional support that alleviates one or more symptoms or effects of a person's disability. They do not need to be trained or certified to serve the function of alleviating the disability and are not just limited to dogs or cats.

Pet policies do not apply to assistance animals, so pet application fees, pet deposits and pet rent may not be charged for assistance animals.

Assistance animals, however, may not become a threat or a nuisance to other tenants, and owners or management companies can require the tenant to clean-up after and maintain control of the assistance animal. In addition, for all pets and assistance animals, if the animal causes damage, charges to the tenant for the actual damage are allowable.

Please see FHEO-2013-01 for more information.

Month-to- Month Fees

Month-to-Month fees are considered a condition of occupancy fees and are permissible fees as long as:

(a) the fee is included in the Gross Rent calculation (regardless if the tenant is actually being charged the fee) AND;

(b) the fee doesn't cause the Gross Rent for the unit to exceed the Maximum Rent Limits for the property. Refer to your LURA limits for these Maximums.

Non-optional or condition of occupancy fees must be included in the rent calculation section of the TIC under "other non-optional charges and mandatory fees".

Eviction Turnover Fees

A property may charge a tenant who is being evicted an eviction turnover fee IF the following three conditions exist:

1. The fee cannot be an upfront fee. The fee may only be charged and collected when an eviction is necessary AND;

2. The fee is paid to the management company for the actual costs of preparing the file for eviction. This fee is not an additional fee paid to the eviction attorney AND;

3. The fee amount is reasonable and does not exceed the actual costs. For the purposes of this condition, UHC will assume that a fee of no more than $50 is reasonable.

Please note; if any one of these conditions is not met, the fee is not considered allowable and will be required to be included in the gross rent calculation.

Required Renters Insurance

Required renter's insurance is considered a condition of occupancy fees and is a permissible fee/charge as long as:

(a) the fee/charge is included in the Gross Rent calculation (regardless if the tenant is actually being charged the fee) AND;

(b) the fee doesn't cause the Gross Rent for the unit to exceed the LURA Maximum Rent Limits for the property.

Non-optional or condition of occupancy fees must be included in the rent calculation section of the TIC under "other non-optional charges and mandatory fees".

Non-Optional Service Fees

Charges for non-optional services such as a washer and/or dryer hookup fee and built in/on storage sheds or lockers (paid month-to-month or in a single payment) must always be included within gross rent. Additionally, any non-optional fees or services provided by the property, or any fees that are a condition of occupancy must also be included in Gross Rent. Please note: A service/fee is considered optional only when:

a) It is not a condition of occupancy AND;

b) There is a reasonable alternative.

Project Amenity Fees

Please Note: If tenant facilities (e.g. parking, garages, swimming pools, etc.) were included in the eligible basis, they must be made available to all tenants on a complimentary basis, and a separate fee must not be charged for their use. Please refer to your specific property's LURA, Final Cost Certification and Tax Credit Application before charging fees for any amenity. If you need assistance determining if an amenity/facility was or was not included in eligible basis, please contact UHC.

Subsidy Payments

Subsidy payments to an owner under various HUD Section 8 programs or any other comparable program are excluded and not considered in determining gross rent. The tenant's portion of the rent payment, plus the applicable utility allowance and any mandatory charges are considered in determining if the rent exceeds the gross rent maximum for the county (Section 42 (g)(2)(B)(i)). Similarly, when considering rent- to income ratios, managers must compare income only to the tenant paid portion of the rent – not including the subsidy payment.

Federally Assisted Units with Gross Rent in Excess of Maximum LIHTC Rent

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

- The household originally qualified for a Housing Tax Credit,
- The household is a participant in a housing subsidy program, and
- The household still receives at least one dollar of subsidy from Section 8 or any comparable rental assistance program.

Importantly, the exception permitting rent to exceed LIHTC limits only applies while the household receives ongoing subsidy and continues to pay no more than 30% of their adjusted income toward rent. If the rental assistance ends, the unit must revert to full compliance with the applicable LIHTC rent limit.

The contract lease rental amount between the owner and the PHA must match the sum of the tenant payment and the HAP payment.

Tenants with project based and tenant-based vouchers or like subsidies should include HAP letters with the current certifications.

Rural Development Rent (RD)

Gross Rent does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the USDA Rural Housing Service under section 515 of the Housing Act of 1949. As long as the owner pays back the overage amount (above LIHTC limits) to Rural Development, that unit is considered in compliance.

For additional guidance on how rental assistance and RD Rents affects LIHTC compliance, refer to the IRS 8823 guide.

Utility Allowance

The Maximum Rent payable by a tenant is reduced by any applicable utility allowance. Under Section 42 (g)(2)(B)(ii) and Treas. Reg. Section 1.42-10, Gross Rent includes any utility allowance for the cost of any utilities, other than telephone, cable television, or Internet, paid directly by the tenant(s) and not by or through the owner of the building. Notice 2009-44 clarifies that utility costs paid by a tenant to the owner based on actual consumption in a sub-metered rent-restricted unit are treated as paid directly by the tenant, and not by or through the owner of the building. See Utility Allowance Options below for more information.

Utility Allowance Options

The Internal Revenue Service requires that utility allowances be set according to 26 C.F.R. 1.42-10 (April 24, 1994), effective May 2, 1994. Please read this notice carefully.

Section 42 lists the different sources of utility allowances for tax credit projects. The following is a summary of the sources of utility allowances:

A. **RHS Utility Allowance** - USDA Rural Housing Services (RHS) financed projects, or units with tenants receiving RHS assistance.

B. **HUD Utility Allowance** – All HUD-regulated buildings. Buildings without RHS or HUD assistance:

C. **Public Housing Authority (PHA) Allowance** - Use the Utility Allowances as given by the local Public Housing Authority (PHA) for building type. Note any rent-restricted unit occupied by tenants receiving HUD rental assistance payments use the applicable PHA utility allowance schedule.

D. **Utility Company Estimate** - An interested party may request the utility company's estimated utility cost for each unit of similar size and construction in the building's geographic area. Such an estimate must be in writing, signed by a local utility company official, prepared on the utility company's letterhead, and maintained in the Project File. In the case of deregulated utility services, the owner is required to obtain an estimate from only one utility company even if multiple companies can provide the same utility service to a unit. However, the utility company providing the estimate must offer service to the building. Use of the actual utility rates, whether higher or lower, is required once they have been requested and must be updated annually.

The Internal Revenue Service published new utility guidance in the Federal Register

–Vol. 81, No. 42, effective March 3, 2016, which impacted Section 42 Utility Allowance Regulations by adopting a sub-metering provision from IRS Notice 2009- 44 and providing temporary guidance on energy obtained from renewable energy sources.

E. **Energy Consumption Model -** An Energy Consumption Model using an energy and water and sewage consumption and analysis model. Owners must submit a written request to UHC requesting to use this option. The model must at a minimum take into account specific factors including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances, and characteristics of the building location. The utility consumption estimates must be calculated by a qualified mechanical engineer properly licensed or other qualified professional. The engineer or other qualified professional and building owner must not be related within the meaning of IRC section 267(b) or 707(b), to which the engineer or other qualified professional and building owner must certify. The owner and engineer or other qualified professional must also certify that the model complies with the minimum requirements described above. Use of the energy consumption model is limited to a building's available historical data including, but not limited to, unit size, building orientation, design and materials, mechanical systems, appliances and characteristics of the building location. Utility rates used for this model must be no older than the rates in place sixty days prior to the effective date of the utility allowance.

Ration Utility Billing Systems (RUBS) – RUBS uses a formula when there are no sub-meters, that allocates a property's utility bill among its units based on the units' relative floor space, number of occupants, or some other quantitative measure, but not actual consumption by the tenant(s) in the unit. Under this model, any amount paid by a tenant for utilities must be included in gross rent and the owner or owner's agent must be able to prove for each month, all Housing Credit units were below the applicable rent limit.

1. **Actual Consumption Sub-Metering** – Treas. Reg. 1.42-10(a): “If the cost of a particular utility for a residential units is paid pursuant to an actual-consumption sub-metering arrangement within the meaning of paragraph (e)(1) of this section, then that cost is treated as being paid directly by the tenant(s) and not by or through the owner of the building.” §1.42-10 Utility Allowances.

a. Inclusion of utility allowances in gross rent. If the cost of any utility (other than telephone, cable television, or Internet) for a residential rental unit is paid directly by the tenant(s), and not by or through the owner of the building, the gross rent for that unit includes the applicable utility allowances determined under this section. This section only applies for purposes of determined gross rent under section 42(g)(2)(B)(ii) as to rent- restricted units.

2. **Energy Acquired Directly From a Renewable Source** (Temporary until March of 2019) – This model assumes sub-metering principles to electricity generated from renewable sources by the building owner or by some other person from whom the building owner purchases it directly. Qualification for this sub-metering treatment requires the charges to the tenants for this energy to be comparable to local utility rates. To the extent that tenants consume this energy, charges by the building owner must not exceed the rates the local utility company would have charged the tenants if they had acquired the energy from that company instead of the building owner.

F. **HUD Utility Schedule Model** - This model can be found on HUD’s website at www.huduser.org/portal/resources/utilmodel.html Utility rates using the HUD utility model must be no older than the rates in place 60 days prior to the effective date of the utility allowance.

G. **Agency Estimate** – please note: UHC will not be implementing the Agency Estimate Model.

Contact the appropriate agency to request current utility allowance information. UHC does not collect or maintain the various utility allowances.

Any increase in the utility allowance will increase the total apartment rent and may cause the rent to exceed the limit.

For example, assume the rent charged on an apartment is at the maximum allowable rent; if the $50 utility allowance is increased to $60, the rent paid by the tenant must be lowered by $10 in order to remain below the rent limit.

The utility allowances must be reviewed at least once during each calendar year. Any changes to the utility allowance must be implemented within 90 days of the new utility allowance effective date. The utility allowance requirement is satisfied when:

- The appropriate utility allowance is used;
- The utility allowance is properly calculated;
- Gross Rent includes the utility allowance; and
- The Maximum Gross Rent is not exceeded.

UHC does not typically allow for alteration to the utility allowance calculation method used by a property or management company. However, if a change is needed, please contact UHC for prior approval.

Chapter 4 – TENANT CERTIFICATION

Minimum and Maximum Household Size

While IRS regulations do not specifically address occupancy requirements, UHC encourages maximum utilization of space. Therefore, it is UHC's recommendation that written occupancy policies be established which reflect maximum utilization.

UHC suggests that owners set a maximum standard of no fewer than two persons per bedroom. In situations where there is more than one qualified applicant for a unit, UHC recommends giving preference to the household that is most suitable to the unit size. Owners should comply with state and local laws, regulations and financing requirements (e.g. if Rural Housing Service, use RHS regulations).

Household vs. Family

For compliance with HOTMA and HUD guidance, it is important to understand the distinction between **"household"** and **"family,"** although these terms may be used **interchangeably** in some contexts. A **household** includes all individuals residing in the unit, such as the head, co-head or spouse, dependents, live-in aides, foster adults, foster children, and, if applicable, individuals permanently confined to a care facility. However, certain household members—such as live-in aides, foster children, and foster adults—are **excluded from income and asset calculations** but may still affect occupancy standards. A **family**, by contrast, includes only those members whose **income and assets are counted** for eligibility and rent determination, such as the head of household, spouse, dependents, and others expected to live in the unit within 12 months. While the terms "household" and "family" may at times be used interchangeably in general language or documentation, for compliance purposes they have distinct definitions that impact income qualification, rent calculation, and unit size standards.

Household Definition

Household" members, while included in the determination of occupancy for bedroom size standards, their earned, unearned, asset income and assets are not included when determining appropriate income limits or the qualifying family income. Household members include:

- Live-In Aides

- Definition of a Live-In Aide: A Live-In Aide is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities AND who:

a. Is determined to be essential to the care and well-being of the person(s),

b. Is not obligated for the support of the person(s) and will not contribute materially to the household; AND

c. Would not be living in the unit except to provide the necessary supportive services.

“a live-in attendant may never be a dependent of the household.” Please note that a spouse can qualify as a live-in aide as long as they qualify for all three, especially “C” above.

Managers must obtain verification of the need for a live-in care attendant and should not add the attendant to the lease but should add the live-in aide to the TIC form and complete the Live-In Aide/Attendant Verification (Eligibility). form according to the appropriate instructions.

- Foster Adults

- Definition of a Foster Adult: A foster adult is a member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgement, decree, or other order of any court of competent jurisdiction.

- Foster Children

- Definition of a Foster Child: A foster child is a member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

For Foster Adults or Foster Children, documentation from the placement agency is required to be able to determine household or family status for this occupant. In addition, Foster Adults and/or Foster Children should be listed on the TIC, but not on the lease. See Foster Care Verification Form (Eligibility).

Neither Live-in aides or Foster Adults are required to sign the TIC.

- *Permanently Confined to a hospital or care facility Household Member

- When a household member is permanently confined to a hospital or care facility, the household determines whether to count the absent member as a household member.

*If the absent member is counted as part of the household, they will be considered a “Family Member” and their income and assets are also included in the family income.

Family Definition

“Family Members” will have all earned, unearned, asset income and assets (as applicable), counted toward the determination of the qualifying income limit and total annual income and assets. “Family Members” exclude above household members but will include all others expected to live in the unit in the next 12 months such as:

- Head, Spouse, and/or Co-head

- For households with married persons not living together in the unit, the file must document whether the absent spouse is “permanently” or “temporarily” absent and the absent spouse must be accounted for appropriately. See Marital Separation Status Affidavit (Eligibility).

- Other Adult Household Member (except a live-in aide or foster adult)

- Child Under 18 (except a foster child) who physically reside in the household 50% or more of the time

- Children who are away at school who live with the family during school breaks

- Children who are temporarily absent and placed in a foster home

- Children who are in the process of being adopted

- Unborn children of pregnant women; when a pregnant woman is an applicant, the unborn child is included in the size of the household, and may be included for purposes of determining the maximum allowable income. The rental application should ask the following question: “Will there be any changes in household composition within the next 12-month period?” If an applicant answers that a child is expected, the manager should explain to the tenant that in order to count the child as an additional household member and use the corresponding income limit, a self- certification of pregnancy must be provided. See Affidavit of Pregnancy Form (Eligibility).

- Full-Time Student over the age of 18 who is not the head, co-head or spouse

- Temporarily Absent Household Member

- Military that are assigned out-of-area and that have a spouse or child(ren) in the unit are included.

- Child(ren) of a military member deployed on active duty and the child(ren) are temporarily under the care of their grandparents can be excluded as well as the military member can be excluded

- Members in a rehab facility who will be returning home

- A known future spouse or roommate

Family Members will also be included in the determination of occupancy bedroom size standards.

* Permanently Confined to a hospital or care facility. (See above). If the household determines to count a permanently confined household member as part of the family, the absent member's income and assets must also be included in the family income and included in calculations for income eligibility.

Tenant Fraud

Situations that a "reasonable person" would consider questionable need to be addressed in the file. The owner may not be held responsible for tenant fraud, but this fraud is required to be reported to UHC and may be reported to the IRS. To report tenant fraud contact the HUD office of Inspector General at 800-347-3735.

False, misleading or incomplete information may result in the termination of the lease agreement.

Income Initial Certification / Recertification

It is the owner's responsibility to select and rent to qualified tenants. UHC will not qualify or approve eligible tenants. The Tenant Income Certification is to be completed, signed and dated by the owner or manager and signed and dated by all adult family members (adults include persons under the age of 18 who are treated as adults because they are the head, spouse or co-head of household).

The Forms listed at the end of this chapter are provided to assist you in qualifying eligible tenants. Applicable verifications and forms must be completed and returned, included in the certification file, and information from the verifications and forms must be listed on the Tenant Income Certification.

Electronic Signatures

UHC permits but does not require electronic signatures for all eligibility documentation in the application and certification process. Owners/management choosing to use electronic signatures, electronic transmission, and storage of electronic documents must do so in compliance with federal, state, and local laws. Applicants and tenants must have the option to utilize wet signatures and paper documents upon request.

Tenant Income Certification

The Tenant Income Certification (TIC), UHC Form, has been provided for your use in certifying a project's eligible tenants. The use of this Tenant Income Certification is required in order to ensure the continuity necessary for accurate monitoring of these projects. The form is a legal document which, when fully executed, qualifies the applicant to live in a Housing Credit unit. It is not to be used as a rental application. For further instructions on how to fill out a TIC, See Instructions for Completing Tenant Income Certification form located on UHC website

After all income and asset information has been verified and computed, management personnel must prepare the Tenant Income Certification. This TIC must be signed and dated by all family members over age 18 (or family members treated as adults as described above), and by the owner or owner's agent at initial move-in and upon annual recertification.

The TIC must be signed no later than the move-in date for new tenant files, with re-certifications being signed and effective no more than 12 months from the move-in date or effective date of the last certification. Management must use tenant’s legal name(s) as it appears on the lease and management should instruct the prospective tenant(s) to sign the Tenant Income Certification exactly as such. Units cannot qualify for tax credits unless the household is certified using the TIC and under lease with a term of at least 6 months at initial move-in.

An Initial Certification done after the move-in date is considered late and would cause a non-compliance event.

If a recertification has been performed retroactively, the recertification documents should be dated with the current date. All adult members of the household should sign the recertification using the current date. Backdating any documents is considered non-compliance. When entering the recertification into the Certification Portal system, the last signature date must be used as the effective date. Management may complete the next year's recertification early to re-align the effective date with the move in date or lease date. If a tenant is under a lease but not certified as qualified, non-compliance may be sited.

A TIC that is unsigned, undated, or completed late, either after the date the household occupied the unit, or after the anniversary date of the previous certification, will cause the unit to be considered out of compliance until a proper and complete certification or recertification is performed. To avoid issues of non-compliance, UHC strongly advises owners and managers to certify and recertify on a timely basis.

Application

HUD released guidance for using Artificial Intelligence for application screening and the use of online platforms on 05/02/2024.
https://www.hud.gov/press/press_releases_media_advisories/hud_no_24_098 .

As the Housing Credit program uses special definitions for families, households, income and assets; standard property management forms may not collect sufficient information to determine tenant eligibility. Owners and managers must ensure their forms collect all necessary information.

Information furnished on the application should be used as a tool to determine all sources of income, including total assets and income from assets. The application is critical to accurate determination of tenant eligibility. An application should be, fully completed by the applicant:

- In his or her own handwriting, unless assistance is requested or required, (clarifying documentation explaining this request or need should be provided in the file), or

- Electronically with confirmation the digital signature is valid and the application has not been altered.

The following minimum items should be included in the application:

- The full name and birth date of each person that will occupy the unit (legal name should be given just as it will appear on the lease and tenant income certification).

- The Relationship to the Head of Household

- The student status of each applicant and any student income.

- All sources and amounts of current and known and verifiable anticipated annual income expected to be received during the twelve-month certification period.

- All family assets, Assets income. Assets are broken into three categories Necessary Personal Property, Non-Necessary Personal Property and Real Property. For more information regarding assets, Please see Chapter 6 – Assets.

- The name of any person not listed on the application and expected to move into the unit during the next 12 months.

- The signature of all family members age 18 and older, or those under 18 who are head, co-head or spouse, and the date the application was completed. It may be necessary to explain to the applicant that all information provided is considered sensitive and will be handled accordingly.

When having applicants complete the application and forms, it is correct to first have potential tenants disclose their income and assets, family and household composition, etc., on an Eligibility Application and complete applicable portion of necessary forms.

In addition, the Annual Student Self-Certification Form must be completed at the time of application. Please see 'Documentation Requirements – Student' Section for more information.

Initial Eligibility Determination

Initially, tenant eligibility is determined at the time of move-in certification. Before a family takes occupancy, owners or managers must determine that the family will cause the unit to be a qualifying Housing Credit unit.

Minimum Lease Requirements

All tenants occupying Housing Credit units are required to be certified and to execute at least an initial six-month lease. (Exceptions single room occupancy is listed below). The six-month requirement may include free rental periods of one month or less. Succeeding leases are not subject to a minimum lease period.

The lease must reflect the correct date of move-in, or the date the tenant takes possession of the unit.

At a minimum, the lease must include:

- the legal name of parties to the agreement and all other family members
- a description of the unit to be rented (number of bedrooms)
- the date the lease becomes effective
- the term of the lease
- the full amount of rent including the tenant and Public Housing Authority portions
- Outline of all applicable fees and charges, along with their amounts; both optional and non-optional
- the use of the premises

- the rights and obligations of the parties, including the obligation of the family to annually recertify its income as defined under the Program.

- the signatures of all family members 18 years of age or older and/or persons under the age of 18 who are the head of household, co-head or spouse

- a statement explaining that the development is participating in the Program, and that tax credit units are under certain program regulations including income eligibility, student eligibility, and annual recertification of household income

- VAWA language or Addendum HUD Form #91076.

A unit does not qualify for tax credits unless the family is certified and under a lease.

Single Room Occupancy

Single room occupancy (SRO) housing must have a minimum lease term of one month. Tenants in SRO housing may share bathrooms, cooking facilities, and dining areas. Federal rules allow for month-by-month leases for the following types of SRO housing for homeless individuals:

- SRO units in projects receiving McKinney Act and Section 8 Moderate Rehabilitation assistance;

- SRO units intended as permanent housing and not receiving McKinney Act assistance;

- SRO units intended as transitional housing that are operated by a governmental or nonprofit entity and providing certain supportive services.

Documentation Requirements

All income sources, including asset income, must be verified. A quality application must be used as a basis for determining which verifications may be necessary. UHC staff will review applications, along with all supporting documentation and the Tenant Income Certification, during a tenant file review.

Each family file must have a fully executed Tenant Income Certification with supporting documentation and an Annual Student Self-Certification for each year of occupancy. For more information regarding file documentation requirements please see Verifying Family Income, Assets and Supporting Documentation further in this chapter.

Student Eligibility

Under Section 42 Regulations, most families in which all occupants are full-time students, are not eligible and units occupied by these families may not be counted as Housing Credit units.

IRS Code Section 151(c)(4) defines a "student" as an individual, who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student at an educational organization described in IRC Sec 170(b)(1)(A)(ii). Treas. Reg. Sec. 1.5 1-3(b) further provides that the five calendar months need not be consecutive. It should also be noted that any amount of time, even a single day, within a given month where an occupant is considered a full-time student, counts that month towards the 5 months.

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

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

There are five exceptions to the limitation on households where all members are full- time students. Full-time student households that are income eligible and satisfy one or more of the following conditions are considered eligible:

1. Students are married and entitled to file a joint tax return;

2. The household consists of a single-parent with child(ren) and the parent is not a dependent of someone else, and the child(ren) is/are not dependent(s) of someone other than a parent;

3. At least one member of the household receives assistance under Title IV of the Social Security Act (formerly Aid to Families with Dependent Children (AFDC), now known as Temporary Assistance for Needy Families (TANF); or

4. At least one member of the household participates in a program receiving assistance under the Workforce Innovation and Opportunity Act or other similar federal, state, or local laws*.

5. At least one member of the household was previously in foster care**. See Foster Care Verification Form (Eligibility).

*Workforce Innovation and Opportunity Act (WIOA), Includes programs such as adult literacy, English as a second language, General Education Diploma (GED) courses, vocational services for the blind, employment and training programs for Native Americans and migrant and seasonal farm workers, job corps, veterans employment programs, summer youth employment and training, employment and training for dislocated workers and displaced homemakers, etc. Students in those programs are eligible for the JTPA exemption provided the school or community education dept., verifies that the applicant/resident is a participant in a program similar to those funded under JTPA or WIA.

**The household includes a member who formerly received foster care assistance for whom a state agency had placement and care responsibility (that means they were a foster child or adult placed in the foster care system funded under part B or E of title IV of the Social Security Act). This does not include current foster children or adults living in the unit. Verification | Foster paperwork from the placing welfare agency.

In order to properly document student eligibility, all households must complete a Student Self-Certification (UHC Form) as part of the initial certification and at each recertification.

Verification also must be obtained, when applicable, to support the full or part-time student status.

Part-time students are not “students” for this section and their eligibility is not subject to special restrictions. However, verification of part time status is required for households comprised entirely of students that do not meet one of the five exemptions.

In addition, students (part-time or full-time) who receive student financial assistance must have that income reviewed to consider if it must be included in the family income or not. For more information on Student Financial Assistance, See Chapter 5 Income.

Income Documentation Verification Hierarchy Preference

Preference of income verification acceptability, listed from highest to lowest:		
	HOTMA Preference	Examples
Highest	Upfront Income Verification from a source database	The Work Number, web-based state benefits systems, etc.
High	Written, third-party verification from the source provided by the tenant	Paystubs, payroll summary reports, employer notices/letters of hire/termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment benefit notices
Medium	Written, third-party verification form provided directly by the third-party (If high verification is not available, documentation of attempts needed in file and self-declaration form stating details of attempts made needs to be provided)	* Use if the above two verification preferences are not available. (i.e. Employment Verification form) * Oral third-party verification with a detailed written clarification of the conversation.
Low	Self-Certification (If medium and High verification is not available, documentation of	* Self -Declaration of Income form with detailed explanation of how income was determined.

	attempts needed in the file and self-declaration form stating details of attempts made needs to be provided)	

UHC follows a standardized verification hierarchy to determine the acceptability of income and asset documentation, as required by HOTMA. Verification forms are available on UHC's website and are marked at the bottom right of each form by preference level: **High**, **Medium**, and **Low**.

Before using Medium or Low verification methods, staff must make every reasonable effort to obtain a higher level of verification. If a Medium or Low level verification is used, the file must include documentation of all attempts to obtain higher-level verification, along with a clarification detailing those efforts.

Additional verification preference details:

Fixed Income. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation." (Any income that has the ability to change throughout the year is not considered fixed income, i.e. SSDI, unemployment, etc.)

Pay stubs. Owners "are required to obtain a minimum of two current and consecutive pay stubs for determining annual income from wages. For new income sources or when two pay stubs are not available, the Owner should determine income based on the information from a traditional written, third-party verification form (See Employment Verification Form (Medium) or the best available information.")

> **Note:** A Year-to-Date (YTD) income calculation is not required when determining family income. However, if a YTD income amount is available in the file and is significantly higher than other calculations, particularly if it would place the family over the applicable income limit, it is recommended the Year-to-Date amount to be reviewed

carefully. A significantly higher YTD figure—particularly one that would place the family over the income limit—should be treated as a red flag and may warrant further investigation or clarification to ensure income is calculated accurately.

Income tax returns “Returns with all corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return files (such as the tax preparer’s transmittal receipt, a summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.”

Means-Tested Income Verification. In accordance with guidance under the Low-Income Housing Tax Credit (LIHTC) program and as supported by HUD’s verification hierarchy, owners and management agents may use **means-tested public assistance income verification** as an acceptable method to verify income when determining initial eligibility and continued compliance. Means-tested benefits such as Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), and Supplemental Nutrition Assistance Program (SNAP) may be used as income verification when reliable third-party documentation is provided. (See section J.4 of the 2023-10 HOTMA Implementation notice for more programs and information) This documentation must clearly identify the family size, composition and annual gross family income before deductions and be current (within 12 months of the effective date) of the certification. Use of means-tested documentation must still meet IRS requirements for reasonable attempts at verification and must be consistent with the HUD definition of income under 24 CFR §5.609. All documentation must be retained in the tenant file as part of the annual income certification process. If means tested income verification is not available and management would like to use this option, See Safe Harbor Income Verification form (medium).

HUD forms-50058 and 50059 can be used for families receiving a Housing Choice Voucher (HCV) or a Project Based Voucher (PBV) for income and asset verification and will be considered 3rd party verification as long as it provides the following information:

- Signed and dated,
- Current (i.e., within 12 months of the LIHTC certification effective date), and
- Verified by the PHA in accordance with HUD standards and the income definitions at 24 CFR §5.609.

The gross income reported on the form—prior to any PHA adjustments—is used for LIHTC income determination. If the owner or agent receives documentation directly from the PHA regarding family income and composition, it is considered valid third-party verification. The **HUD-50058 or HUD-50059** is the preferred documentation; however, if it is unavailable, a signed statement from the PHA listing all household members and the household's gross annual income may be accepted instead. See Safe Harbor Income Verification form (medium).

Any discrepancies or incomplete documentation must be addressed by obtaining clarification or additional verification from the PHA. All verification materials must be documented and retained in the tenant file.

If the required information cannot be obtained, the family income must be verified by other means.

Please note that if 50058 or 50059 are obtained, they can be used in the tax credit file for income determination purposes only. All other applicable tax credit paperwork is required.

Assets. When verification of assets is required, Owners are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts. *Please see Assets section for more information.

Validity of Verifications

All verifications, including applications, must be dated no more than 120 days prior to the effective date of the certification. Verifications older than 120 days from the effective or move-in date are no longer valid and the owner/management must obtain new verifications. Verifications dated after the move-in or effective date are considered late and will create a non-compliance event.

Please note the effective date of the TIC must be either the move-in date for the first year, or the anniversary date of the original move-in date for subsequent years.

Reminder: An Initial Certification that is done after the move-in date, or a recertification that is completed after the anniversary date, is considered late and causes a non-compliance event. Please see Tenant Income Certification section for more information

If verifications are not date-stamped, the signature on the verification, date of paystub, or another identifying date on the verification will be used to determine compliance with the 120-day timeline. This may limit a verification's useful life.

Fixed Income - Award letters for annual social security and other fixed-income sources are acceptable for certifications effective throughout the year the award letter covers, even if they are older than 120-days from receipt. This does not apply to SSI or other benefits which may change more often than once a year.

Supporting Documentation

Note: Supporting documentation (application/questionnaire, income verifications, asset verifications, etc.) is considered part of the Tenant Income Certification and must be added to the file each year. Missing or inaccurate documentation constitutes non-compliance.

Once the application, Student Self-Certification Form (Eligibility), and release of information on relevant forms has been completed, verification of income and assets should then take place.

Please see ”Income Documentation Verification Preference” section above for documentation requirements and 'Validity of Verifications' for the time frame in which supporting documentation is valid.

Upon receipt of all completed income verification and supporting documentation, owners or managers must calculate income and income from assets based on information provided on gathered documentation, complete the Tenant Income Certification, and determine if the tenant is qualified for participation in the Housing Credit Program. This process must take place prior to the effective date of the Initial Certification (move-in date).

All income and asset calculations are required to be shown in the file except when a Means-Tested income verification is used. Please see the Income and Asset Calculation Worksheet or use your own, provided it shows the calculation of income and assets for the entire family.

See Annual Income and Assets section of this manual for in-depth income and asset requirements.

Clarifications

If a verification form is incomplete and/or missing key information needed to establish eligibility, and owner/management may document a clarifying phone or email conversation with the verifier. If documenting a phone conversation, the clarification record must include the third party's name, position, and contact information, the information reported by the third party, the name of the owner/management staff who conducted the telephone interview and the date and time of the telephone call. UHC reserves the right to contact the third party to verify the content of the clarification and needs enough information to do so. See Clarification Record Form (Eligibility).

When clarifying information, it is important to be certain that the person clarifying is the party they claim to be. Email addresses and fax header information should be consistent with the source providing the information to be clarified and generally it is best to telephone the verification source rather than to accept verification for a source calling the property management office.

The tenant file must be documented to show failed attempts to obtain preferred verification before lower preferred verifications are used.

Corrections to Documents

While UHC understands that management may need to make changes and corrections to **documents, any documents altered with correction fluid/tape or “white-out” will not be accepted and must be re-done.** When a change is needed, the person making the correction should draw a single line through the incorrect information, write or type the correct wording or number, and have all parties who signed the document initial and date the change. It should be noted that this applies to all documentation contained in the file, regardless of the party that completed it (including the Tenant Income Certification and other forms signed by a household and/or the owner/management)

Any information needing correction on verifications received must be clarified with the correct information on a clarification record and additional information as stated in the “Clarifications” section in this manual. The completed clarification must accompany the original verification in the tenant file. Any original verification documents that have been altered will not be accepted and may cause non-compliance.

Extenuating Circumstances

If a tenant is unable to sign the forms on time due to extenuating circumstances, the owner must document the reasons for the delay in the tenant file and indicate how and when the tenant will provide the proper signature.

The extenuating circumstances document must stay in the file and once the tenant is able to provide their signature, should date their signature the date forms were actually signed.

Extenuating circumstances include unforeseeable or unavoidable situations that are outside of the persons control.

Forms

All UHC forms are available online and are updated periodically. It is a UHC requirement to use the most current form version(s) in tenant files. Forms can be found at: https://utahhousingcorp.org/multifamily/compliance/forms

Required Forms/Documents

Required forms must be included in every tenant move-in file and re-certification file for the duration of occupancy, regardless of household circumstances. These forms cannot be exchanged for management forms, even when questions and format are the same.

- Annual Student Certification form
- UHC Tenant Income Certification or UHC Self-Certification TIC (as appropriate).

If there are income or assets in the family, a calculation document needs to be in the file to show eligibility for the program. (Calculation worksheet, Showing income and assets calculations)

- Asset Self-Certification Form and Worksheet. Please see Asset Self-Certification form and worksheet under Assets chapter 6.

For more information regarding file documentation requirements please refer to Chapter 5

Additional Forms/Documents

The use of additional forms is not required for every file or under every circumstance. However, information gathered from a quality application and tenant interview will dictate which additional forms may be required as documentation of varying situations within each household/family.

All income and asset calculations are required to be shown in the file except when a PHA income verification is used.

Additional forms are provided by UHC on our website and are recommended as a best practice.

Inflationary Adjustments & Passbook Rate

The following amounts and rates are subject to change annually:

Income exclusion for earned income of dependent full-time students.

Income exclusion for adoption assistance payments.

Threshold above which the total value of non- necessary personal property is included in net family assets.

The amount of net assets for which the PHA/MFH Owner/Grantee may accept self-certification by the family.

Threshold above which imputed returns must be calculated on net family assets.

Passbook Savings Rate.

HUD will be publishing these amounts and rates no later than September 1st of each year to be effective January 1st of the following year. These amounts and rates can be found on HUD's website https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html

Chapter 5 - Income

Potential tenants for rent-restricted units should be advised early in the application process of the maximum income limits that apply to Housing Credit units.

Management should explain to potential tenants that the anticipated income of all persons 18 years of age or older and unearned income of minor children expecting to occupy the unit must be included, verified, and certified on a Tenant Income Certification. Certification from the owner that this has been performed for each Housing Credit tenant is required under IRS rules.

This section of the Manual explains the procedures for determination of income. This definition is very specific and is not simply the amount contained on tax returns. According to the Compliance Monitoring Regulations contained in Section 1.42-5 for the Housing Credit Program, "Tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937 (" Section 8"), not in accordance with the determination of gross income for federal income tax liability."

Annual Income

Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR SS 5.609 (Income Exclusions). All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker are included in annual income regardless of age, unless otherwise excluded in income exclusions.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not.

Annual income is the gross income the household anticipates (known and verifiable) it will receive from all sources, including all net income derived from assets, during the 12-month period following the effective date of the income certification or recertification. This includes income received by all adult members of the household (18 years of age and older, and earned income of full-time students who are not considered dependents), and unearned income of minor children. In addition, persons under the age of 18 who have entered into a lease under state law are treated as adults, and their annual income must also be counted. These persons will be either the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

Total Gross Income from all Sources = Annual Income

Annual income has two components: Earned/Unearned income and Asset income.

Earned/ Unearned Income	+	Income from assets	=	Annual Income

The following are examples of income that are included in Annual Income. Also listed are specific types of income that are excluded from income. <u>Generally, if a particular type of income is not specifically excluded, then it is included in Annual Income.</u>

Projecting Tenant Income and anticipated income

Housing Credit projects are both rent and income restricted, therefore, all applicants to be included in the family must have all current and anticipated (known and verifiable) income they expect to receive during the twelve-month certification period verified and included in the total family income calculation. This includes all family members under the age of 18 who are treated as adults because they are an emancipated minor, as well as unearned income of any household member (including minor children). Proper verification of all income sources must take place prior to occupancy. Families are further required to be re-certified annually for continued eligibility. As part of this income verification, management must convert all verified incomes to annual amounts.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not.

Owners and managers should use current circumstances of all actual income received, unless verifiable documentation indicates than an imminent change will occur. Information available regarding any anticipated changes that are known and have been verified, that the change will occur within the 12 month certification period should be used in determining anticipated income, from all known sources, in addition to current circumstances.

For guidance in this section and in determination of tenant income, the HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs, is used and is recommended as a reference guide. The HUD Handbook can be obtained by calling 1- 800-767-7468 or by visiting HUD’s website. In addition, The Housing Opportunity Through Modernization Act (HOTMA) as is applies to the tax credit program, must also be followed as of 01/01/2026, see HUD website https://www.hud.gov/program_offices/public_indian_housing/hotmaresources

For additional determination if a household meets the income test, look at the sources of income as stated in 24 CFR 813.106, which is the test for HUD Section 8 program (IRS Notice 88-80) and HOTMA (2023-10 Implementation Notice). If the amounts from these sources, when aggregated, **are equal to or less than** the applicable income limit for the county and family size, then the family is an income-qualified household.

Rural Housing Service projects must use the Section 8 method of calculating income based on “annual income”, not the RHS method of “adjusted annual income” for Housing Credit qualified tenants.

Earned/ Unearned Income

The following sources are examples of Earned/Unearned Income: gross wages and salaries including tips and overtime; gross income from social security or welfare; and payments in lieu of earnings (e.g., unemployment compensation, workers' compensation). There are certain mandated inclusions and exclusions which apply when determining earned/unearned income.

Employment

Employment income is calculated as the gross amount (before any payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services of all adults in the household (including persons under the age of 18 who are the head, spouse or co-head). This includes salaries of adults received from a family-owned business. UHC does not require Year to Date (YTD) calculations. If owners/managers use YTD to calculate income, the methods and policies on calculating YTD must be consistent and cannot be changed so that a household will or will not qualify.

1. To annualize full-time employment, multiply:

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

2. To annualize income from other than full-time employment, multiply:

- Gross amount on paystubs added together divided by number of paystubs used and multiplied by frequency of pay period.

- Hourly wages by the number of hours the individual is expected to work per week by 52. If verification shows a range of hours, use the average of hours (i.e., verification shows 30-35 hours per week, use 32.5 hours).

- Average weekly amounts by the number of weeks the individual is expected to work.

- Other periodic amounts (monthly, bi-weekly, etc.) by the number of periods the individual expects to work.

Use an annual wage without additional calculations. For example, if a teacher is paid

$23,000 a year, use $23,000, whether the payment is made in 12 monthly installments, 9 installments or some other payment schedule.

Self- Employment Income – Existing Business

Self-Employed Income Verification: The following documents show income verification for the previous year. Owners or their agents must consult with tenants and use this data to estimate income for the next 12 months:

a. Copy of individual federal income tax return (1040) including any:

- Schedule C (Small Business)

- Schedule E (Rental Property Income)

- Schedule F (Farm Income);

b. Copy of Corporate or Partnership tax return (if applicable);

c. Audited or unaudited financial statement(s) of the business (such as a recent profit and loss statement); and

d. Applicant's statement or affidavit as to net income realized from the business during previous year.

Self-Employment Verification (Existing Business) (High) can be used for documentation purposes under d. (In addition to net income from the business, if there are any salaries or other amounts distributed to family members from the business, who are in the household these distributions also need to be counted toward family income)

<u>Note: All tax returns and related documents must be signed and dated if not filed electronically.</u>

Self- Employment – New Business

If the business is new and the resident has not yet filed a tax return showing income from a business, a Self-Employment Verification – New Business should be completed.

a. The resident must self-certify the anticipated net income from the business; and

   Self-Employment Certification (for new business) (High) can be used for documentation purposes under a. (In addition to net income from the business, if there are any salaries or other amounts distributed to family members from the business, who are in the household these distributions also need to be counted toward family income)

b. Provide any applicable and available income source printouts.

Self-employment can be annualized for the current year business activity based on the number of full months in business. The formula is:

(Average Monthly Net Income) x 12 months

Family Business/ Employed by Management

If an applicant or tenant is employed by a business owned by their family or is employed by the property owner or the management company, a copy of the most recent pay stub(s) is required.

Unearned Income

The income of unemployed applicants with regular income from any source, such as Social Security, Pension, recurring gifts, etc., must be verified as covered below.

Please note if the applicant is not employed the applicant may or may not have source(s) of unearned income, and Certification of Non-Employed and/or Zero Income form must be completed (High).

Unemployed Income

Include payments in lieu of earnings, such as unemployment and disability compensation, and severance pay. Any payments that will begin during the next 12 months that are known and verifiable must be included. Unemployment compensation should be included when calculating the annual income and may be verified by:

- Records from unemployment office stating payment dates and amount. Unemployment compensation that may not last for a full 12 months should be calculated assuming current circumstances will last a full 12 months unless a known and verifiable source of earned income is set to replace it.

Printout from the 3rd party unemployment office provided by the tenants is the preferred verification method.

Delayed Periodic Payments

Delayed Social Security, SSI or VA payments are not counted towards income. If a family member receives SS, SSI or VA delayed income, count;

- The gross amount before Medicare or other deductions
- Minus out adjustments for past overpayments.

Example: A family member receives a gross amount of SS of $800. The actual payment is $700, reduced by $100 for a past overpayment. $700 monthly income should be counted.

Zero Income

If an applicant is currently unemployed, with no regular verifiable income from any source, and claiming zero (0) income, he/she must execute a Certification of Non-Employed and/or Zero Income form (High).

Social Security Income

The gross amount (before any deductions for Medicare, etc.) of periodic social security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support; The following item is required to verify the income derived from the above sources:

- Copy of award or benefit statement. This statement is issued when the benefit commences or when a change in the benefit occurs, such as a cost of living raise. If an eligible tenant does not have a benefit statement from Social Security, the eligible tenant (or rental applicant) may call 1-800-772-1213 (TTY 1-800-325-0778), or obtain a statement online at https://www.ssa.gov/myaccount/, or visit their local social security office.

The Cost of Living Adjustment (COLA) is released by the Social Security Administration each year, typically around mid-October, and takes effect the proceeding January. COLA adjustments will need to be accounted for if an increase is released and can affect government payments other than social security. The day after COLA is released, any new move in's and recertifications must prorate the new COLA amount for income calculations effective January 1 of the upcoming year.

Example: COLA is announced in October, a family is scheduled to move in on November 1st. November and December would be calculated prior to COLA increase and January through October would be calculated at the new amount with COLA increase.

Annuities/ Insurance/ Retirement Funds/ Pensions, etc.

The full amount of periodic amounts received from annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts (e.g. Black Lung Sick Benefits, Veterans Disability). The withdrawal of cash or assets from an investment received as periodic payments should be counted as income. If benefits are received through periodic payments, do not count any remaining amounts in the account as an asset. Please see Income Documentation Verification Preference for acceptable verifications.

Please see Investment, Pension, Annuity or Veterans Benefit Income Verification (Medium).

Periodic/Nonrecurring Income Definition

The definition of a periodic payment is a payment that is received at regular intervals (i.e. weekly, monthly, yearly) for a period of greater than 1 year, that can be extended. Periodic payment does not include income that has a discrete end date and will not be repeated beyond the coming year during the family's reexamination. (12 months following the effective date of the certification)

Examples of periodic payments that would be included in income would include unemployment, income received as an independent contractor, day laborer or seasonal worker.

Nonrecurring income will not be repeated beyond the coming year (the 12 months following the effective date of the certification) and is excluded from annual income. The following are excluded from income:

    - Payments from the U.S. Census Bureau for work on the decennial Census or the American Community Survey that is less than 180 days and does not result in a permanent position;
    - Direct Federal or State payments intended for economic stimulus or recovery
    - Amounts received directly by the family as a result of State or Federal refundable tax credits or refunds at the time they are received;
    - Gifts* for holidays, birthdays, or significant life events or milestones are excluded.
- Groceries given to the household (NOT the money to buy groceries, which IS counted).
- Childcare that is paid directly to the care provider for children in the household
- Amounts received in reimbursement of medical expenses.
- Non-monetary in-kind contributions such as food and toiletries from a food bank or similar organization.
    - Lump -sum additions to assets such as lottery or other contest winnings;
    - Amounts received as a result of a resolution of a civil rights matter including amounts received as a result of litigation or other actions such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlements agreements, or administrative or judicial orders under the Fair Housing Act, the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement, regardless of how the settlement or judgment is structured. (i.e. if the civil rights settlement is paid in a lump-sum or has a

payment schedule, this income is excluded). Back pay received by the family pursuant to a civil rights settlement or judgment is excluded from income.

- While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted towards the family's net family assets and the income generated after it has become a net family asset is included in income.

Example of Nonrecurring income would include but are not limited to nonrecurring gifts, payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

*Gifts that are simply provided to the family on a regular and routine basis would be included in income. See Verification of Regular Contributions form (High).

Clarification for Pensions in Divorce Situations

Clarifications regarding the calculation of annual income and income from assets for individuals with federal, state, or local government pensions.

Federal government pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are not counted as annual income. The state court has, in the settlement of the parties' marital assets, determined the extent to which each party shares in the ownership of the pension. That portion of the pension that is ordered by the court and authorized by the Office of Personnel Management (OPM), to be paid to the applicant's/tenant's former spouse is no longer an asset of the applicant/tenant and therefore is not counted as income. However, any pension funds authorized by OPM, pursuant to a court order, to be paid to the former spouse of a Federal government employee is counted as income for a tenant/applicant currently receiving such funds or will be receiving such funds in the next 12 months that is known and verifiable.

Other state, local government, social security or private pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are also not counted as annual income and should be handled in the same manner as above. The decree and copies of statements should be obtained in order to verify the net amount of the pension that should be applied in order to determine eligibility.

In instances where the applicant/tenant is a retired Federal Government/Uniformed Services employee receiving a pension that is determined by a state court in a divorce, annulment of marriage, or legal separation proceeding to be a marital asset and the court provides OPM with the appropriate instructions to authorize OPM to provide payment of a portion of the retiree's pension to a former spouse, that portion to be paid directly to the former spouse is not counted as income for the applicant/tenant. However, where the tenant/applicant is the former spouse of a retired Federal Government/Uniformed Services employee, any amounts received pursuant to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation are reflected on a Form-1099 and is counted as income for the applicant/tenant.

Other state, local government, social security or private pensions where pensions are reduced due to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation and paid directly to the former spouse are not counted as income for the applicant/tenant and should be handled in the same manner as above.

Gift Income

Recurring monetary and non-monetary contributions or gifts regularly received from persons not living in the unit is considered gift income and must be counted by owners as income. These sources may include rent and utility payments paid on behalf of the family, and other cash or non-cash contributions provided on a regular basis. For gift income exclusions, please see Periodic Non-recurring Income Definition section.

Documentation Required: Verification of continuing monetary and non-monetary gifts may be verified in one of two ways:

- A statement or affidavit, signed by the person providing the assistance, stating the purpose, frequency and value of the monetary gifts (See Verification of Regular Contributions); or

- A statement or affidavit from the tenant stating the purpose, frequency and value of the gifts. This is only a last resort when a signed affidavit from the provider could not be obtained.

Some temporary, non-recurring or sporadic “gift” incomes are specifically excluded as countable income, See periodic/non-recurring income definition section.

Alimony/Child Support Income

Alimony and child support payments that are received are considered income. Court-ordered amounts that are not received will no longer be counted, even if efforts are being made to collect them. This change is effective with HOTMA guidance from HUD. As a result, a court order is only valid as third-party verification if the full amount is being received. If the amounts received vary each month, the average of payments shown on the printout from the enforcement agency (up to 12 months) of actual amounts received will be counted.

<u>If unable to obtain payment history from enforcement agency, please see Alimony/Child Support Payer – Form (Medium), and Self Certification Natural Parent/Child Support / Alimony Affidavit form (Low).</u>

Alimony/Child Support: Paid by a member of the family

Alimony or child support paid by a member of the family is not deducted from income, even if it is garnished from wages.

Student Financial Assistance

HOTMA changes how student financial assistance is recognized in the total income.

Income from Student Financial Assistance

The treatment of student financial assistance depends on the program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

HOTMA expanded the sources to consider as student financial assistance and categorized these sources into types:

1. Higher Education Act (HEA) of 1965
2. Other Student Financial Assistance

Higher Education Act (HEA) of 1965
Federal Pell grants;
teach grants;
federal work study programs;
federal Perkins loans;
student financial assistance received under the Bureau of Indian Education;
Higher Education Tribal Grant;
Tribally Controller Colleges or Universities program;
employment training program under Section 134 of the Workforce Innocation and Opporunity Act (WIOA).
Other Student Financial Assistance
Grants or scholarships received from...
the federal government;
A state (inclusing U.S. territories), Tribe or local government;
A private foundation registered as a nonprofit under 26 U.S. C. 501(c)(3);
A business entityt (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust public benefit corporation or nonprofit entity); or
An institution of public education.

Other student financial assistance DOES NOT INCLUDE:

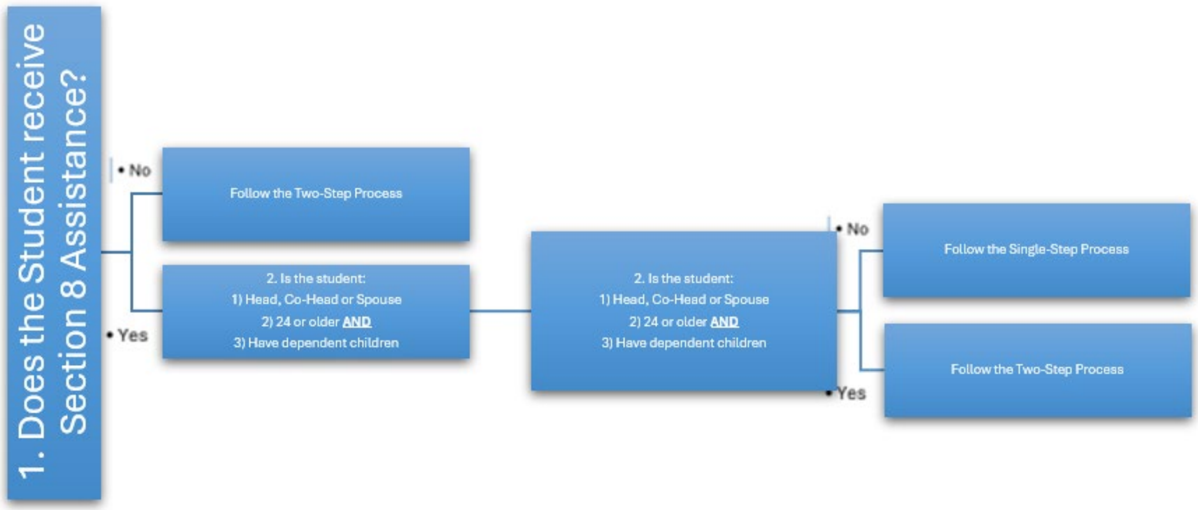
- Financial support provided to the student in the form of a fee for services performed (i.e. a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or

- Gifts, including gifts from family or friends. (If recurring gifts from family or friends to help pay for schooling is received, it is not counted as part of student financial assistance calculation, but should be counted as part of gift income for the families annual income on TIC)

Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. The owner must verify that the other student financial assistance is for the student's actual covered costs.

The student financial assistance rules apply to both full-time and part-time students.

Under HOTMA Student financial assistance is calculated differently for Non-Section and Section 8. Please see work flow and examples below for which process should be used.



Two Step Process:

Non-Section 8: The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under HEA from the total actual covered costs, because HEA assistance is intended to pay the student's actual covered costs.

Step 1: Subtract the **amount received under section 479B of the HEA** from the **actual covered costs** to arrive at the **amount of actual covered costs exceeding section 479B assistance**.

If the amount of assistance received under section 479B of the HEA exceeds the actual covered costs and the student did not receive any other student financial assistance, then step 2 is not necessary; none of the student financial assistance will be included in income, because the assistance received under section 479B of the HEA is excluded from income for students participating in the Public Housing and non–Section 8 programs administered by MFH.

Step 2: Subtract the **actual covered costs exceeding section 479B assistance** from the amount of **other student financial assistance** to arrive at the amount of **student financial assistance included in income**.

Step 2 requires the amount of other student financial assistance received by the student to be subtracted from the amount of actual covered costs paid by other means. If the resulting number in Step 2 is a positive amount, then that is the amount that should be included in the family's income. If the resulting number in Step 2 is zero or a negative amount, then there will be no student financial assistance included in income (i.e., all student financial assistance is excluded from annual income).

Example of treatment of Student Financial Assistance in non-Section 8 Programs:

Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: $25,000; University Scholarship: $15,000; Rotary Club Scholarship: $3,000.	
Total assistance received under 479B of HEA: $25,000 (Federal Pell Grant) Total other student financial assistance received: $18,000	Juan's actual covered costs: $28,000
Step 1: Determine amount of actual covered costs exceeding section 479B assistance. $28,000 (actual covered costs) **minus** $25,000 (total assistance received under 479B of HEA) **equals** $3,000	Step 2: Determine amount of student financial assistance to include in income. $18,000 (other student financial assistance received) **minus** $3,000 (actual covered costs exceeding section 479B assistance) **equals** $15,000 (if negative, then use $0)
Amount of student financial assistance included in Juan's income: $15,000	

Section 8 (including HCV & 202/8):

As a result of the Consolidated Appropriations Act of 2023, when the applicant participates in the Section 8 program, both the assistance received under HEA and other student financial assistance received by the student will be counted as income to the extent that it exceeds the total of tuition and any other required fees and charges. However, if the Section 8 student receiving the assistance is the head of household, co-head or spouse and is over the age of 23 (defined as at least 24 years old) with dependent children, then the process mirrors that of applicants that participate in Public Housing or non-Section 8 programs. Further, the amounts recognized as covered costs only include tuition plus required fees and charges.

There are two steps required as part of the calculation for Section 8 students:

1. Determine the student's relationship to the household, age and whether they have dependent children.

a. If the student receiving the assistance is head of household, co-head or spouse, is at least 24 years old and have dependent children, calculate student assistance in accordance with Public Housing and non-Section 8. **Two Step Process.**

b. If the student receiving the assistance is head of household, co-head, or spouse and is 23 or younger or does not have dependent children, then HEA assistance will be part of the total equation.

The formula for calculating the excess amounts of financial assistance included in annual income is a **one-step process** of subtracting the total tuition plus required fees and charges from the total student financial assistance from all sources.

Please see illustration below for Section 8:

Subtract total tuition plus required fees and charges from the total student financial assistance from all sources to arrive at excess amount of student financial assistance. If the excess amount of student financial assistance is a positive number, then include that amount in annual income. If the excess amount of student financial assistance is zero or negative, then do not include that amount in annual income. If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no excess amounts of student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.

Please see example of a Section 8 household who meets the qualifications:

Roberto is a 22-year-old full-time student without dependent children. Since Roberto is a Section 8 participant head of household who is not over 23 with dependent children, the PHA/MFH Owner follows the Appropriations Act policy to determine if Roberto receives student financial assistance in excess of tuition from both HEA and other sources. Roberto received the following amounts to cover his first year of college: Federal Pell Grant: $12,000; University Scholarship: $22,000; City Scholarship: $3,000.	
Total assistance received under 479B of HEA: $12,000 (Federal Pell Grant) Total other student financial assistance received: $25,000 Total student financial assistance from all sources: $37,000	Total tuition + required fees and charges: $27,000
Subtract the total cost of tuition + required fees and charges from the total amount of student financial assistance: $37,000 – $27,000 = $10,000	
The total amount of student financial assistance from all sources received by Roberto exceeds the total amount of tuition and required fees and charges.	
Excess student financial assistance: $10,000	
Amount of student financial assistance included in Roberto's income: $10,000	

For more information and examples for calculating Student Financial Assistance for Section 8 and non-Section 8 households, please see G.16 of the 2023-10 HOTMA Implementation notice. Additionally, UHC has provided a Student Financial Assistance Work Sheet for managers to work through these calculations.

Earned Income of Dependent Full-Time Students:

(See 24 CFR SS 5.609(b)(14)

Earned income of dependent full-time students in excess of the amount of the deduction for a dependent is excluded from annual income. Full-time students must be dependent family member for this exclusion to apply and does not apply to the head of household, spouse or co-head. This means that the first earned income of a dependent full-time student up to the current deduction for a dependent full-time student, (currently $480 as of the writing of this manual), and as adjusted for inflation, will be included in the family's income and any earned amounts in excess of this amount earned by the dependent full-time student will be excluded from income.

The dependent deduction will be adjusted annually in accordance with the CPI-W and it is owner's responsibility to implement new amounts for the proceeding year, by January 1st.

https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.htmlSee HUD notice 2023-10 for more information.

Loan Proceeds

Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (i.e. proceeds received by the family to finance the purchase of a car) are excluded from annual income. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable.

Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

* Note this does not include the Federal Perkins Loan. Federal Perkins Loan is part of the Higher Education Act (HEA).

For more information on Student Financial Assistance, please see HOTMA 2023-10 implementation notice.

Armed Forces/Military Reserve Pay

All regular Military and armed forces pay, special pay, and allowances of a member of the Armed Forces are counted as income for Section 42 purposes. Hostile Fire pay is excluded. For verification see, Income Documentation Verification Preference section. Military pay stubs are called Leave and Earnings Statements (LES).

GI Bill education benefits are excluded from annual income for purposes of the Tax Credit Program in Utah.

Relocation Payments

All relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are excluded from income.

Trust Funds

A trust is a relationship in which one person holds title to property (not necessarily real property but real property can be included in a trust), subject to an obligation to keep or use the property for the benefit of other persons. This section applies to all trusts, including special needs trusts.

Whether the value of a trust is a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

1. Is the trust under the control of the family;
2. Are distributions made from the trust's principal; and
3. What is the purpose of any distributions made from income earned by the trust.

For a revocable trust to be excluded from net family assets, no family or household member may be the account's trustee.

Any trust (both revocable and non-revocable) not under the control of the family or household, should be excluded from assets.

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust like interest, dividends, or other earnings on the trust's principal, are included in income unless the distributions are used to pay for the health and medical expenses for a minor.

For a revocable trust under the control of the family or household, include the value of the trust in net family assets. If a revocable trust is determined to be included in net family assets, actual income earned on the trust must be included in the family's income from assets at the time it is received by the trust. If actual income cannot be calculated from the trust and Non Necessary Personal Property is more than the required inflationary amount (at the time of writing this manual, the inflationary amount is $51,600), income is required to be imputed on the revocable trust.

Trust Type	Is the trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

Exclusions to Annual Income

*Please note: unless specifically excluded, any source of income should be considered included and must be added to annual household income.

The HUD 2023-10 Implementation notice expands income exclusions. For a full list of income exclusions, see 24 CFR §§ 5.609(b)

- Earned Income of children under the age of 18 years;

- Meals on wheels or other programs that provide food for the needy; groceries provided by persons not living in the household; and amounts received under the School Lunch Act and the Child Nutrition Act of 1966, including reduced lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC);

- Grants or other amounts received specifically for medical expenses, including Medicare premiums paid by an outside source, set-aside for use under a Plan to Attain Self Sufficiency (PASS) and excluded for purposes of Supplemental Security Income eligibility, out of pocket expenses for participation in publicly assisted programs (such amounts must be made solely to allow participation in these programs. These expenses include special equipment, clothing, transportation, child care, etc.);

- Earnings in excess of $480 ($480 - As adjusted for inflation, see HUD annual inflationary adjustments) for each full-time student 18 years of age or older (excluding the head of household, co-head or spouse);

- Adoption assistance payments in excess of $480 ($480 - As adjusted for inflation, see HUD annual inflationary adjustments) per adopted child;

- Amounts received by the household in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;

- Special pay to a household member serving in the armed forces who is exposed to hostile fire;

- Amounts received under training programs funded by HUD;

- Compensation from state or local employment training programs and training of a household member as resident management staff. Amounts excluded under this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for a limited period as determined in advance under the program by the state or local government;

- A resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol,

hall monitoring, lawn maintenance, and resident initiatives coordination.

No resident may receive more than one such stipend during the same period of time.

- Reparation payments made by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. Examples include payment by the German and Japanese governments for atrocities committed during the Nazi era.

- Deferred adjustments for past overpayments of supplemental security income and social security benefits that are received in a lump sum payment or payment schedule.

- Payments received for the care of foster children or foster adults.

- Amounts received on behalf of someone not living in the unit as long as the amounts are (i) not inter-mingled with the family funds, and (ii) used solely to benefit the person not residing with the family. For such amounts to be excluded, the individual must provide the owner with an affidavit stating that the amounts are received on behalf of someone who does not reside with the family and the amounts meet the conditions above.

- Recurring childcare payments paid directly to a provider by persons not living in the unit.

New exclusions under HOTMA

- Nonrecurring Income Regulation: 24 CFR §§ 5.609(b)(24) and CFR 891.105 Summary: The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad exclusion of temporary, nonrecurring, or sporadic income. Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies. Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

- The following list of exclusions is codified at 24 CFR § 5.609(b)(24) as nonrecurring income. Please note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment;

- Direct federal or state economic stimulus payments;

- Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received;

- Amounts directly received by the family as a result of federal refundable tax credits or federal tax refunds at the time they are received;

- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts);

- In-kind donations (e.g., food, clothing, or toiletries received from a food bank or similar organization); and

- Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.). PHAs/MFH Owners may accept a self-certification from the family stating that the income will not be repeated in the coming year
- Income Earned on Amounts Placed in a Family's Family Self Sufficiency (FSS) Account

• Income of Live-in Aides, Foster Children, and Foster Adults

• Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments.

• Insurance Payments or Settlements.

• Civil Action Recoveries or Settlements.

• Earned Income of Dependent Full-Time students.

• Adoption Assistance Payments.

• Veterans Regular Aid and Attendance

• Home-Based Care Payments for a Family Member(s) with a Disability(ies)

• Loan Proceeds Regulation: 24 CFR § 5.609(b)(20)

- Certain Payments Received by Tribal Members
- Cobell Settlement
- Tribal Trust Settlements
- Exclusions from Other Federal Statutes
- Replacement Housing Gap Payments
- Student Financial Assistance (For more information and examples, see Student Financial Assistance section and HUD HOTMA implementation notice 2023-10)
- Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)
- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Higher Education Tribal Grant;
- Tribally Controlled Colleges or Universities Grant Program;
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).
- Other Student Financial Assistance
- The Federal government;
- A state (including U.S. territories), Tribe, or local government; A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

- An institution of higher education. Other student financial assistance does not include:
- 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 under section 479B of the Higher Education Act HEA); or
- Gifts, including gifts from family or friends.
- Non–Section 8 Programs Subject to this Notice

See Student Financial Assistance Section.

- Section 8 (Including HCV and 202/8)

See Student Financial Assistance Section.

- Achieving a Better Life Experience (ABLE) Accounts
- Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and "Baby Bond" Accounts
- Gross Income from Self-Employment or Operation of a Business
- Civil Rights Settlements or Judgments

Exclusions to Annual Income by Federal Statute

- The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.
- Payments received under Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions).

- Interests of individual Indians in trust or restricted lands, and the first $2,000 per year of income received by individual Indians that is derived from trust or restricted lands.

- Payments received under the Alaska Native Claim Settlement Act (43 U.S.C. 1626(c)) received from a Native Corporation, Including:

- Cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum.

- a partnership interest.

- land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution of stock); and

- an interest in a settlement trust.

- Payments from certain sub-marginal U.S. land held in trust for certain Indian tribes.

- The First $2,000 of per capita shares received from judgments awarded by the Indian Claims Commission or the Court of Claims or from funds the Secretary of Interior holds in trust for an Indian tribe.

- Payments, rebates or credits received under Federal Low-income Home Energy Assistance Programs. Includes any winter differentials given to elderly.

- Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for native Americans and migrant and seasonal farm workers, Job Corps, veterans' employment programs, State job training programs, career intern programs, AmeriCorps.

- Payments received under Title V of the Older Americans Act (Green Thumb, Senior Aides, Older American Community Service Employment Program).

- Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 9z Stat. 1785).

- Any earned income tax credit to the extent it exceeds income tax liability. (26 U.S.C. 32(j)).

- The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (CCDBGA) (42 U.S.C. 9858q).

Chapter 6 - Assets

Assets/Overview

As a reminder, the assets under $5,000 is no longer used. Assets under $50,000 is now adjusted annually for inflation. In this manual this amount will now be referred to as Net Family Asset Threshold. These amounts are planned to be updated August of each year. Make sure you are using the correct amount based on the effective date.

Passbook rate may be adjusted annually for inflation.

See HUD's website on Annual Inflationary Adjustment and Passbook rate: https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html

Assets are defined as items of value that may be turned into cash. The Market value of an asset is the money a person would likely pay to acquire the asset. While the Cash value of an asset is the market value less the costs to convert the asset to cash.

The value of assets owned by a household is not crucial to eligibility and there is no limit on the assets a household may own for the LIHTC program. The factor that is important to the qualification process is the income that is generated from the assets. This income is added to total household income and thus may affect household income eligibility.

NOTE: For assets that have income calculated based on an interest rate, the rate is applied to the market value. Assets with negative equity are still considered assets. If the cash value of real property or other assets have negative equity, $0 value must be assigned to that asset for purposes of calculating net family assets. Negative numbers are never used in the calculation of asset value.

HUD Regulation 24 CFR 5.603 definition "Net Family Assets"

Assets include all amounts that are not specifically excluded by HUD regulation. HUD Regulation 24 CFR 5.603 definitions of "Net Family Assets" provides a complete list of exclusions. Effective 1/1/24, this replaces the HUD Handbook 4350.3 Exhibit 5-2.

Under HOTMA, assets are split into three different categories and can be treated differently:

1. Necessary Personal Property (NPP):

NPP is totally excluded from the household's assets. These items are defined as "items essential to the family for the maintenance use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. NPP also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. NPP does not include bank accounts, other financial investments, or luxury items. . .” Whether an item is considered as NPP depends on the family’s circumstances and requires a case-by-case analysis.

Items of personal property that do not qualify as Necessary Personal Property will be classified as Non-Necessary Personal Property. Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore an owner/agent must gather enough facts to qualify whether an asset is necessary or non-necessary personal property.

2(a). Non-Necessary Personal Property (NNPP):

Under Net Family Asset Threshold

NNPP are items of personal property that do not qualify as necessary personal property. The value of NNPP is excluded if the total of all non-necessary personal property does not exceed Net Family Asset Threshold.

Any income the NNPP actually earns must be counted towards family income.

2(b). Non-Necessary Personal Property (NNPP):

Over Net Family Asset Threshold

- If the total of all NNPP exceeds Net Family Asset Threshold

The value of the items are counted as assets. Any actual income the NNPP earns must be counted towards family income. Additionally, if any NNPP has income that is difficult or impossible to determine, that asset will have asset income imputed at the current passbook savings rate. Third Party documentation is required for assets that exceed the Net Family Assets Threshold. See Income Documentation Verification Preference.

HUD’s passbook savings rates data: https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html

Necessary Personal Property and Non-Necessary Personal Property examples: (Not an exhaustive list).

Table F1: Examples of Necessary and Non-Necessary Personal Property

Necessary Personal Property	Non-Necessary Personal Property
• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies • Religious and cultural items • Medical equipment and supplies • Health care–related supplies • Musical instruments used by the family • Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books • Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities • Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	• Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business • Items such as gems/precious metals, antique cars, artwork, etc.

3. Real Property

Defined as provided under the law of the State in which the property is located and can include homes, land, etc. The value of Real Property is always included in the asset calculation. Likewise, any income from Real Property is included in the income calculation.

Disposed Assets

In determining net family assets, owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but **not in a foreclosure or bankruptcy sale**) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Assets given away for less than Fair Market Value are tracked for 2 years from the disposition date.

For disposed-of assets, the cash value is the market value less the cost to convert the asset to cash. Assets that have been lost because of a division of property in a divorce, separation settlement, bankruptcy, or foreclosure are not disposed of assets and are not included in net family assets.

EXAMPLE: An applicant applies for a unit at an elderly Section 42 property. The house they currently live in was sold to their son last month for $200,000. The market value of the property is currently listed at $548,000. The costs to sell is determined to be $40,000. Marke value ($548,000) – Sale Price ($200,000) – Cost to sell ($40,000) = Disposed of asset value ($308,000).

*$308,000 would be the asset value on TIC. The income of this asset would be $308,000 * .045% (as adjusted for annual inflation) = $138.60.* This is the amount of income to put on the TIC.

Verification and document requirements

1 . Necessary Personal Property

No further documentation or verification needed.

2. Non-Necessary Personal Property:

Cash/Savings/Checking/etc.

Cash held in savings and checking accounts, safe deposit boxes, etc. For savings and checking accounts, the current balance is used. Assets held in foreign countries are considered assets. If the total of all Non-Necessary Personal Property totals exceeds Net Family Asset Threshold, one, most recent statement must be gathered. If a bank statement is unable to be obtained, the use of Checking/Savings Asset Verification form is acceptable (Medium).

Direct Express Card

Many benefits (such as social security, SSI, unemployment, or welfare) are paid to recipients on a "Direct Debit Express" or similar debit card, For accounts of this type, this debit card is the only evidence that the asset exists. The balance on the direct express card is an asset and the current balance should be used. Documents such as ATM slips showing the balance can be used. Note that the original ATM slips will fade very quickly and should be photocopied to preserve the information.

Cash apps and digital wallets that hold balances are also assets. Examples of these internet-based accounts include Venmo, PayPal, GoFundMe, Cash App, Apple Pay, Samsung Pay, Google

Wallet, and Google Pay. Individual stores, such as Wal-Mart and Starbucks may also have cash-holding apps.

Apps that simply facilitate the transfer of funds from on account to another and do not themselves hold any money are not assets. An example of a transfer app is Zelle.

Trusts

See trust table F2 under income.

Crypto Currency

A cryptocurrency is a digital currency, which is an alternative form of payment created using encryption algorithms on the internet. To manage cryptocurrencies, a person needs an online crypto wallet. These are tracked on an online ledger called a blockchain. According to HUD, "assets are items of value that may be turned into cash." Cryptocurrencies meet this definition.

A printout from a person's crypto wallet, showing the date it was verified, the name on the account and the current market value of the account is preferred. There may or may not be a conversion fee if a person were to turn the currency into cash. If they can document that there is a conversion fee, the fee is subtracted from the value to get the cash value. If unable to obtain a printout from person's crypto wallet with all required information the Self-Certification Cryptocurrency form (Low) may be used.

Stocks/Bonds/ CDs

When assets are stocks, bonds, treasury bills, certificates of deposit or money market accounts, etc., the value can vary from one day to another. The value of these assets may go up or down the day before or after income is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received.

Documentation Required: Broker's quarterly statements showing value of stocks or bonds and any earnings or dividends, or quotes from a stock broker as to net amount the family or household would receive if they liquidated securities. Ensure earnings, dividends or quotes are annualized. Note: Any interest or dividends earned from asset, is counted as income even when these earnings are re-invested. If unable to get a brokers statement, see Stock/Bonds Verification form (Medium).

3. Real Property

Equity in rental property or other capital investment. Include the current fair market value less;

(a) Any unpaid balance on any loans secured by the property; and

(b) Reasonable costs that would be incurred in selling the asset (i.e., penalties, broker fees, etc.). Must have verification in the file if over Net Family Asset Threshold.

See Real Estate Verification form (Medium).

Note: If the person's main business is real estate, then count any income as business income. Do not count it as an asset and as business income.

Documentation Required: Only the interest portion of the monthly payment received by the tenant is included. For interest income from the sale of real property, if said property was sold on an installment sales contract, request:

- A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for the next 12 months. (A copy of the check(s) paid by the buyer to the tenant is NOT sufficient since appropriate breakdowns of interest and principal are not included.); or

- Amortization schedule showing interest for the 12 months following the date the purchaser intends taking occupancy.

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

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

Jointly Owned assets

For assets jointly owned by the family and one or more individuals outside of the assisted family, Owners must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded, or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded, or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset. If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Income from Assets – Special Cases:

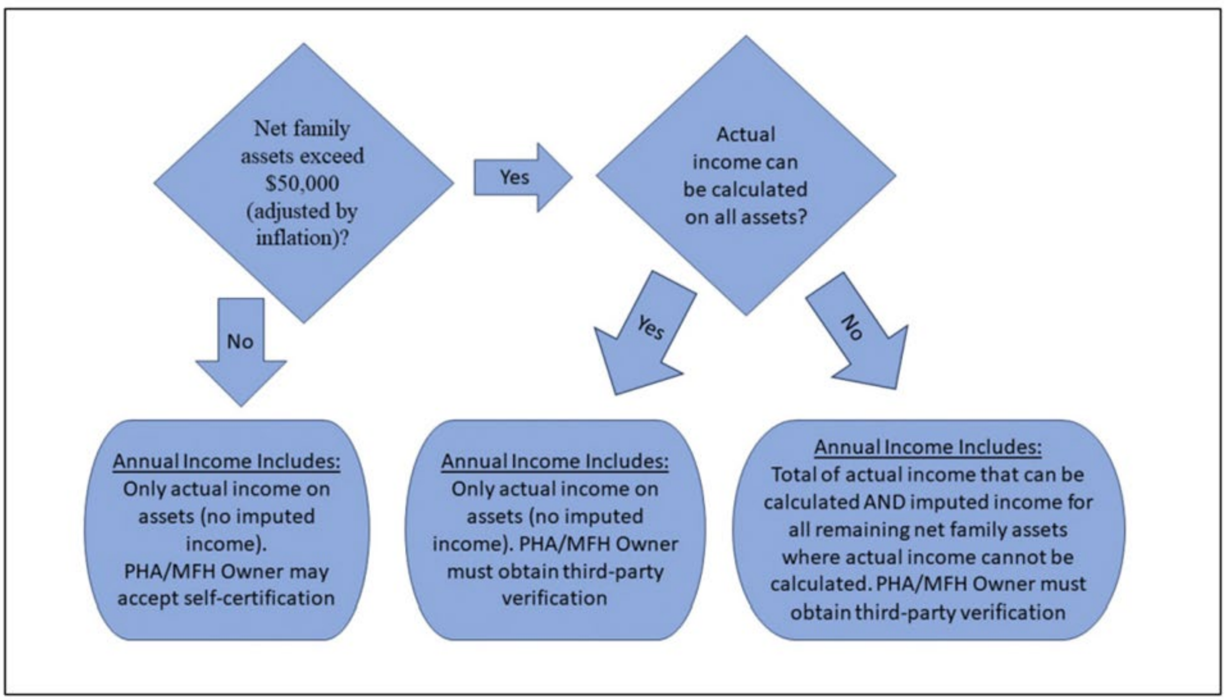
Many sources of income under HOTMA may be excluded, but may still represent an asset if the income is deposited into an asset that is not excluded. For instance, worker's compensation benefits are excluded. However, if the worker's compensation benefits are placed into a checking account and remain in that account the day it is verified, the checking account is still an asset. Similarly, the value of a source of income may be excluded once placed in an excluded asset. Wages placed into an ABLE account represent income that disappears once it is in the ABLE account. Some monies are excluded from both income and assets.

Asset Self-Certification Form and Worksheet

UHC Form Asset Self-Certification and Asset Self-Certification Worksheet is required if self-certifying on full certifications.

UHC's monitoring procedure and IRS Revenue Procedure 94-65 do not permit an owner to rely on a Housing Credit tenants signed, sworn statement of annual income from assets, if a reasonable person in the owner's position would conclude that the tenant's income is higher than the tenant's represented annual income.

In this case, the owner must obtain other documentation of the Housing Credit tenant's annual income from assets to satisfy the documentation requirement of third party asset verification.



Net Family Assets Exclusions

Net Family Assets Exclude: 24 CFR SS 5.603 definition "Net Family Assets"

Excluded from the calculation of net family assets are:

1. The value of ***necessary items of personal property.***

2. The combined value of all ***non-necessary items of personal property if the combined total value does not exceed*** Net Family Asset Threshold https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html

3. The value of 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.

a. Individual Retirement Arrangements (IRAs)

b. Roth IRAs

c. 401(k) Plans

d. SIMPLE 401(k) Plans

e. 403(b) Plans

f. SIMPLE IRA Plans

g. SEP Plans

h. SARSEP Plans

i. Payroll Deduction IRAS

j. Profit-Sharing Plans

k. Defined Benefit Plans

l. Money Purchase Plans

m. Employee Stock Ownership Plans (ESOPs)

n. Governmental Plans

o. 457 Plans

p. Multiple Employer Plans

4. The value of ***real property that the family does not have the effective legal authority to sell*** in the jurisdiction in which the property is located.

5. 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 family member being a person with a disability.***

6. The value of any ***Coverdell education savings account*** under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section ***529*** of such Code, the value of any ***Achieving a Better Life Experience (ABLE) account*** authorized under section 529A of such Code, and the ***value of any "baby bond" account*** created, authorized, or funded by Federal, State, or local government.

7. Interest in Indian trust land.

8. Equity in a manufactured home where the family receives assistance under 24 CFR part 982.

9. Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982.

10. Family Self-Sufficiency Accounts.

11. Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. Note: The HOTMA Implementation Notice F.4.e instructs us to ***subtract the value of***

any tax return that a household ***has received in the last 12 months*** from net family assets. This applies if the account has a value assigned because the total non-necessary personal property exceeds Net Family Asset Threshold.

If net family assets exceed the Net Asset Threshold, a copy of the Federal tax refunds or refundable tax credits is required to be in the file.

Life Insurance

Count the cash value of life insurance policies available to the individual before death (i.e., the surrender value of a whole life policy or a universal life policy). Do not include a value for term insurance, which has no cash value to the individual before death. See Life Insurance Verification Form (Medium).

Lumps Sums

Count as an asset, any lump sum receipts or one-time receipts that are held in an account or other investments that are considered as net family assets.

Mortgage or Deed of Trust

With a mortgage or deed of trust held by an applicant (e.g., contract for deed); payments are often received as one combined payment of principal and interest with the interest portion counted as income from the asset.

To calculate the actual income, this combined figure must be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)

To count the cash value of this asset, determine the unpaid principal as of the effective date of the certification. Each year this balance will decline as more principal is paid off.

Valuing Assets

In computing assets, owners must use the cash value of the asset; that is, the amount the family or family would receive if the asset were converted to cash. Cash value is the market value of the asset minus reasonable costs that were or would be incurred in selling or converting the asset to cash. Expenses which may be deducted include:

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

For non-liquid assets, enough information should be collected to determine the current cash value. This can be understood to mean the net amount the family would receive if the asset were converted to cash.

Three Asset Rules with Asset Thresholds

See HUD Inflationary Adjustments (Currently 2025 is $51,600).

1. Threshold above which the total value of non-necessary personal property is included in net family assets (Only non-necessary personal property).

2. The amount of net assets for which the PHA/MFH Owner/Grantee may accept self-certification by the family (Self-Certification is allowed when all household net assets are below the asset threshold).

3. Threshold above which imputed returns must be calculated on net family assets (When all family assets are over the Asset Threshold. Only impute assets which income cannot be determined).

Calculating Asset Value and Income

Three Steps to Asset Success | Calculating Asset Value and Income

Prep work: Examine family self-certification of asset values and income collected during the application process. Identify the three asset types listed:

1] Necessary personal property [NPP] 2] Non-necessary personal property [NNPP] 3] Real property.

Step 1 | Address NPP & Excluded Assets

Identify and ***exclude any necessary personal property or 24 CFR 5.603 excluded assets*** listed by the household.

Step 2 | Address NNPP

Based on self-certification, determine ***if the net value of all NNPP exceeds the asset threshold***.

If yes | Since NNPP alone totals over the asset threshold, total net family assets also exceed the asset threshold. Verify all NNPP and any real property values and income with third-party documentation. List each asset's value and actual income on the TIC Part IV B (in most states).

If no | Value each item of NNPP asset as $0 but include actual income for each.

Step 3 | Address Real Property and Imputed Income

Add the value of any real property to the NNPP (as counted in step 2) and determine if total net family assets exceed the asset threshold.

Note: If a federal tax refund or refundable credit was received in the last 12 months, subtract this amount from the value of total NNPP and real property assets before determining the total net asset [this may be skipped if total net assets are already below the asset threshold].

If yes | Verify all asset values and income with 3rd-party documentation (to the extent not already done in Step 2). Impute income on non-financial account assets for which income cannot otherwise be determined and add it to other income.

If no | Use self-certification to verify asset values and income. Do not impute asset income on any assets.

(Image/Source Courtesy of Costello Compliance)

Example 1. NNPP only

Type of Asset	Cash Value	Interest Rate %	Annual Income
Checking	$3,500	0%	$0
Savings	$10,000	2.5%	$250

NNPP is less than the Asset Threshold. Value is $0 and Actual Income is $250.

Net Family Assets are under the Asset Threshold. 3rd party Verification not required.

Enter $250 actual income from assets in (F) on TIC under Part IVA.

PART IV. ASSETS						
PART IVA. INCOME FROM ASSETS - LESS THAN OR EQUAL TO IMPUTED INCOME LIMITATION						
Total net value from Non-necessary Personal Property (NNPP), Real Property, and Federal Tax Refunds/Credits has been verified as ***LESS*** than or ***EQUAL*** to the Imputed Income Limitation						
Enter Total of **ACTUAL INCOME** earned from all Assets **(F)**						$ 250.00
PART IVB. INCOME FROM ASSETS – GREATER THAN IMPUTED INCOME LIMITATION						
Total net value from Non-necessary Personal Property (NNPP) and Real Property has been verified as ***GREATER*** than the Imputed Income Limitation.						
HH Mbr#	(G) Type of Asset	(H) C/D	(I) NNPP / Real/ Tax Relief	(J) Cash Value of Asset	(K) A/I	(L) Annual Income from Asset
Enter Total Income from all Assets **(M)**						$

Example 2. NNPP & Real Property

Type of Asset	Cash Value	Interest Rate %	Annual Income
Checking	$3,500	1%	$35
Savings	$48,000	2.5%	$1,200

Description of Property	Cash Value	Income
House	$30,000	$2,400

NNPP is less than the Asset Threshold. Value is $0 and Actual Income is $1,235.

Net Family Assets are under the Asset Threshold (NNPP $0 + Real Property $30,000 = **$30,000**. 3rd party Verification not required.

Total Net Family Assets are under the Asset Threshold. Do not impute any asset income. Use $3,635 income that tenant provided. (NNPP $1,235 + Real Property $2,400).

Enter $3,635 actual income from assets in (F) on TIC under Part IVA.

<table>
<tr><th colspan="7">PART IV. ASSETS</th></tr>
<tr><th colspan="7">PART IVA. INCOME FROM ASSETS - LESS THAN OR EQUAL TO IMPUTED INCOME LIMITATION</th></tr>
<tr><td colspan="7">Total net value from Non-necessary Personal Property (NNPP), Real Property, and Federal Tax Refunds/Credits has been verified as LESS than or EQUAL to the Imputed Income Limitation</td></tr>
<tr><td colspan="6">Enter Total of ACTUAL INCOME earned from all Assets (F)</td><td>$3,635</td></tr>
<tr><th colspan="7">PART IVB. INCOME FROM ASSETS – GREATER THAN IMPUTED INCOME LIMITATION</th></tr>
<tr><td colspan="7">Total net value from Non-necessary Personal Property (NNPP) and Real Property has been verified as GREATER than the Imputed Income Limitation.</td></tr>
<tr><td>HH
Mbr#</td><td>(G)
Type of Asset</td><td>(H)
C/D</td><td>(I)
NNPP / Real/
Tax Relief</td><td>(J)
Cash Value of Asset</td><td>(K)
A/I</td><td>(L)
Annual Income from Asset</td></tr>
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<tr><td colspan="6">Enter Total Income from all Assets (M)</td><td>$3,635</td></tr>
</table>

Example 3. NNPP only

Type of Asset	Cash Value	Interest Rate %	Annual Income
Checking	$12,000	1%	$120
Savings	$52,000	2%	$1,040

NNPP is more than the Asset Threshold. Value is $64,000 and Actual Income is $1,160.

Net Family Assets are over the Asset Threshold. 3rd party verification is required. Make sure you use the value and actual income of the assets based on the 3rd party verification.

3rd party verification provided the checking cash value to be $15,000 with a 1% interest

rate and savings to be $60,000 with a 2.5% interest rate.

Enter all the Asset information on TIC under Part IVB.

PART IV. ASSETS						
PART IVA. INCOME FROM ASSETS - LESS THAN OR EQUAL TO IMPUTED INCOME LIMITATION						
Total net value from Non-necessary Personal Property (NNPP), Real Property, and Federal Tax Refunds/Credits has been verified as *LESS* than or *EQUAL* to the Imputed Income Limitation						
Enter Total of **ACTUAL INCOME** earned from all Assets **(F)**						$
PART IVB. INCOME FROM ASSETS – GREATER THAN IMPUTED INCOME LIMITATION						
Total net value from Non-necessary Personal Property (NNPP) and Real Property has been verified as *GREATER* than the Imputed Income Limitation.						
HH Mbr#	(G) Type of Asset	(H) C/D	(I) NNPP / Real/ Tax Relief	(J) Cash Value of Asset	(K) A/I	(L) Annual Income from Asset
1	Checking	C	NNPP	$15,000	A	$150
1	Savings	C	NNPP	$60,000	A	$1,500
Enter Total Income from all Assets **(M)**						**$1,650**

Example 4. NNPP and Real Property

Type of Asset	Cash Value	Interest Rate %	Annual Income
Checking	$3,500	1%	$35
Savings	$48,000	2.5%	$1200

Description of Property	Cash Value	Income
Land	$150,000	0

NNPP is less than the Asset Threshold. Value is $0 and Actual Income is $1,235.

Net Family Assets are over the Asset Threshold. 3rd party verification is required. The NNPP value would be $0 and total Net Family Assets would be $150,000 (NNPP $0 + Real Property $150,000) use actual income based off the 3rd party verification and impute income (Passbook Rate 2025 0.45%) on non-financial account assets.

Income from Land $150,000 * 0.45% = $675. Add $675 to Actual income from NNPP $1,235 = $1,910.

Enter all the Asset information on TIC under Part IVB.

PART IV. ASSETS						
PART IVA. INCOME FROM ASSETS - LESS THAN OR EQUAL TO IMPUTED INCOME LIMITATION						
Total net value from Non-necessary Personal Property (NNPP), Real Property, and Federal Tax Refunds/Credits has been verified as *LESS* than or *EQUAL* to the Imputed Income Limitation						
Enter Total of **ACTUAL INCOME** earned from all Assets **(F)**						$
PART IVB. INCOME FROM ASSETS – GREATER THAN IMPUTED INCOME LIMITATION						
Total net value from Non-necessary Personal Property (NNPP) and Real Property has been verified as *GREATER* than the Imputed Income Limitation.						
HH Mbr#	(G) Type of Asset	(H) C/D	(I) NNPP / Real/ Tax Relief	(J) Cash Value of Asset	(K) A/I	(L) Annual Income from Asset
1	Checking	C	NNPP	$0	A	$35
1	Savings	C	NNPP	$0	A	$1,200
1	Real Property	C	Real	$150,000	I	$675
Enter Total Income from all Assets **(M)**						**$1,910**

Example 5. NNPP and Real Property and Federal Tax Return

Type of Asset	Cash Value	Interest Rate %	Annual Income
Checking	$3,500	1%	$35
Savings	$48,000	2.5%	$1200

Description of Property	Cash Value	Income
Land	$53,000	0

Amount of Federal refund/credit:	$5,000

NNPP is less than the Asset Threshold. Value is $0 and Actual Income is $1,235.

Net Family Assets are over the Asset Threshold. A tax refund was received during the previous 12-month period preceding the effective date of the certification and the property manager 3rd party verified it. The $5,000 federal refund can be deducted from total Assets.

Total Assets = $48,000 (NNPP $0 + Real Property $53,000 – Federal tax refund $5,000).

Adjusted Net Family Assets are under the Asset Threshold. 3rd party verification is not required.

Total Adjusted Net Family Assets are under the Asset Threshold. Do not impute any asset income. Use $1,235 income that tenant provided. (NNPP $1,235 + Real Property $0).

Enter $1,235 actual income from assets in (F) on TIC under Part IVA.

PART IV. ASSETS						
PART IVA. INCOME FROM ASSETS - LESS THAN OR EQUAL TO IMPUTED INCOME LIMITATION						
Total net value from Non-necessary Personal Property (NNPP), Real Property, and Federal Tax Refunds/Credits has been verified as ***LESS*** than or ***EQUAL*** to the Imputed Income Limitation						
Enter Total of **ACTUAL INCOME** earned from all Assets **(F)**						$1,235
PART IVB. INCOME FROM ASSETS – GREATER THAN IMPUTED INCOME LIMITATION						
Total net value from Non-necessary Personal Property (NNPP) and Real Property has been verified as ***GREATER*** than the Imputed Income Limitation.						
HH Mbr#	(G) Type of Asset	(H) C/D	(I) NNPP / Real/ Tax Relief	(J) Cash Value of Asset	(K) A/I	(L) Annual Income from Asset
Enter Total Income from all Assets **(M)**						$1,235

Chapter 7 - RECERTIFICATION

The recertification process can begin as early as 120 days prior to the effective date of the previous recertification. The recertification is based on the effective date of the previous certification.   Residents must complete a recertification application/questionnaire to disclose income, assets, family composition and student status. Completion of the annual student certification is also required.

Third party verification should follow the verification hierarchy with any incomplete, inconsistent or missing information followed up by the manager and clarified by the tenant and added to the tenant file as needed.

Similar to move-in files, owners/managers must calculate income and income from assets, based on information provided on the verification forms, and complete a Tenant Income Certification (TIC). The TIC is to be signed after receipt of all verifications, but must be signed and effective on or before the anniversary date of the previous certification. Management must also sign certifications after completion and signature of the tenant, but also on or before applicable anniversary due date. It is acceptable to complete a recertification before the anniversary date (to conform to the annual recertification date for a Section 8 household, for example).

100% Tax Credit Property Recertification

For 100% Tax Credit properties, all households that initially qualified and have completed one full re-certification on the first anniversary of their original move-in date, can complete a ‘self-certification’ on the move-in anniversary every year thereafter.

An application and the Annual Student Certification Form are requirements of the self-certification every year along with the Self-Certification TIC. Please see the Self-Certification TIC instructions for more information on how to correctly complete the Self-Certification TIC form.

UHC reserves the right to discontinue the automatic recertification waiver if a trend of non-compliance is observed.

Late Recertifications

Re-certifications completed after the anniversary date cause a non-compliance event.

However, projects will be considered in compliance when the owner/management made sufficient efforts to complete the recertification paperwork in a timely manner. Efforts are documented in the tenant file, such as tenant notices, record of phone calls or other contact efforts. If at the time of audit, no re-certification has been completed, due to move-out or circumstances otherwise out of the control of management, the unit will not be considered out of compliance. In such cases, the actual date of move- out should be noted.

Change in Household Composition

<u>For all properties in the first 6 months of tenant move-in</u>; if there is a change in household composition, owners or managers must certify the household as if it were a new move-in. This requirement to certify does not apply in cases of natural changes in household composition such as birth, adoption, or death. The combined household income must be at or below the applicable move-in income limit for the new household size. The purpose of this rule is to prevent the addition or removal of household members in order to “manipulate” move-in eligibility.

<u>After six months of occupancy</u>, the addition of a person to a low-income unit requires the income certification for the new member, including income and asset verification and Annual

Student Certification, prior to occupancy. The new member's income is added to the income disclosed on the most recent TIC. This new certification is an "Other Cert." The effective date of the "Other Cert" is the date the new member moves in. The household continues to be considered income-qualified; however, if the combined income exceeds 140% of the applicable income limit, owners must apply the available unit rule. Note that an "Other Cert" done in conjunction with adding a member does not "reset" the due date for the annual recertification. The annual recertification will be due on its regular anniversary date.

UHC strongly recommends owners apply the same screening criteria as any new move-in (e.g., credit check, landlord reference) prior to allowing a new member to occupy a unit and to add them to the lease at the time they move in.

Decreases in family size do not trigger an immediate income certification. Subsequent annual income re-certifications will be based on the income of the remaining members of the household. Managers must document all decreases in household composition.

A household may continue to add and remove members as long as at least one member of the original low-income household continues to live in the unit. Once all original members have moved out of the unit, the remaining occupants must be income-qualified unless the remaining occupants were part of an income-qualified household at the time they moved into the unit. For this reason, managers must document all decreases in household composition even where an annual income recertification is not required.

Above 140% income limit within the first six months

If in the initial six-month period after occupancy, the income of the household increases to exceed the income limit for the unit, non-compliance is not immediately identified as long as owners can show due diligence was used at the time of move-in by asking necessary follow-up questions when the income certification process revealed unusual circumstances suggesting additional sources of income. Please note if a household's income does exceed the limit, the next available unit rule may apply.

140% Rule

This rule is applied on a building basis and goes hand in hand with the Next Available Unit Rule.

Under IRS rules, when the household income in a qualified Housing Credit unit increases to more than 140% of the applicable income limit, the unit is considered an **"Over-Income Unit." Once** a unit becomes an "Over-Income Unit," the Next Available Rule IRC §42(g)(2)(D) is applied.

Note: For all properties, it is not considered "good cause" to move out tenants based solely on exceeding 140% of the applicable limit, if the household qualified at move- in.

Next Available Unit Rule

Following initial certification, an eligible household's income can increase to 140% of the maximum income level. A household whose income exceeds the maximum income level by more than 140% (an "over-income" household) will remain in compliance as long as:

- the 'over-income' unit continues to be rent restricted and
- the next available unit or any available unit of comparable or smaller size in the same building is rented to an eligible household at the qualifying rent.
- The owner must continue to rent any available comparable units to qualified households until the percentage of Housing Credit units in a building (excluding the over-income units) is equal to the percentage of Housing Credit units on which the credit is based. At that point, failure to maintain the over- income units as Housing Credit units has no immediate significance.

If any comparable unit that is available or that subsequently becomes available is rented to a non-qualified household, all over-income units for which the available unit was a comparable unit within the same building lose their status as Housing Credit units; thus, comparably sized or larger over-income units would lose their status as Housing Credit units.

100% Tax Credit

The Next Available Unit Rule applies separately to each building in a project containing more than one Housing Credit building and is administered differently depending on whether the project has market rate units.

The Next Available Unit rule applies to 100% Housing Credit Projects, because all of the units in the Project must be rented to income-eligible tenants, and be rent restricted, as its application differs from mixed properties. As the next available unit is always rented to a qualified tax credit household, no special action with swapping unit types is required to be compliant with this rule. Units that are over-income at the time of recertification will continue to be rent restricted and count towards the applicable fraction.

Mixed Project

Mixed unit project (both tax credit and market units) - Under this rule, a current tenant whose income exceeds the applicable limitation may move to a different unit within the same building without changing the Housing Credit status of the project. In effect, IRS permits the Project Owner to transfer the qualified Housing Credit unit status of the former unit to the newly occupied unit even though the household income exceeds the 140% limit.

Moreover, because the status of the unit does not change as a result of the move under these limited circumstances, the move does not cause any other over-income Housing Credit units in the same building, to lose their status as qualified Housing Credit units. This rule is violated if the unit vacated by the over-income household is rented to a non-qualified tenant. If this occurs, all over-income Housing Credit units within the same building lose their status as low-income units. **Caution: Violating this rule means losing the credits on all 140% units. These units would no longer count toward the Minimum Set-Aside**

Unit Transfer: Same Building

When a current household moves to a different unit within the same building, the newly occupied unit adopts the status of the vacated unit. Thus, if a current household whose income exceeds the applicable income limitation moves from an over-income unit to a vacant unit in the same building, the newly occupied unit is treated as an over-income unit. The vacated unit assumes the status the newly occupied unit had immediately before it was occupied by the current resident. For buildings within Average Income properties, transfers swap AI designations.

Unit Transfer: Different Building – Non-Multiple BIN Project

If a household moves to a building that is part of another project within the same property (per the 8609s for the development), the transfer must be treated as a move-out for the vacant unit. To treat the newly occupied unit as a qualified LIHTC unit, the household must be certified and meet initial eligibility requirements as a new move-in. If Average Income applies to the project, the household must qualify for the designation applicable to the new unit.

Unit Transfer: Different Building – Multiple BIN Project

When a household moves to a LIHTC unit in a different building within the same 8609 project, the vacated unit assumes the status the newly occupied unit had immediately before it was occupied by the current resident. This is limited to households whose income is not greater than 140% of the current applicable LIHTC income limit for the family size. If a family whose income exceeds 140% of the applicable income limit wishes to move to a different building in the same project, the newly occupied unit would be treated as a non-qualifying unit. Mixed-income properties can rely on the most recent income certification of family income to determine if the household exceeds the 140% limit. Properties that are 100% LIHTC may allow transfers between building in the same project, even if the family’s income exceeds 140% of the current applicable LIHTC income limit.

Move-outs

Notices to vacate, move-out dates and reason for move must be in the tenant files along with all legal paperwork served to the tenant, security deposit disposition and ending balance of tenant ledger.

Good Cause Eviction

If, after occupying a unit, an eligible tenant cannot pay the rent or is otherwise in violation of the lease provisions, the owner has the same legal rights in dealing with the eligible tenant as with any other tenant. Note however that, during the compliance period, extended use period and for three years after expiration of the Declaration of Land Use Restrictive Covenants in the event of a foreclosure, households in qualified Housing Credit units may not be evicted or tenancy terminated other than for good cause.

‘Good cause’ depends on State and local laws. UHC recommends consultation with an attorney knowledgeable with Utah landlord law, the local laws applicable to your property and the Tax Credit Program.

Marijuana Use

The use of marijuana in any form, is illegal under the Controlled Substances Act (CSA) and therefore is an illegal controlled substance under Section 577 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA).

QHWRA requires owners/agents to establish lease standards that prohibit admission to assisted housing for any household with a member determined to be illegally using a controlled

substance. Further, owners may not establish lease provisions or policies that affirmatively permit occupancy by any member of a household who uses marijuana. Owners must establish polices which allow the termination of tenancy of any household with a member who is illegally using marijuana or whose use interferes with the health, safety or right to peaceful enjoyment of the residents. Section 577 of QHWRA affords owners the discretion to evict or not evict current tenants for their use of marijuana. Please see 'Use of Marijuana in Multifamily Assisted Properties' released from HUD on December 29, 2014 for more information.
http://portal.hud.gov/hudportal/documents/huddoc?id=useofmarijinmfassistpropty.pdf

Vacant Unit Rule

Under IRS rules, Project Owners/Management Companies cannot count a vacant unit as a Housing Credit unit if the unit did not qualify as a Housing Credit unit prior to being vacated.

A vacant unit cannot be counted as a Housing Credit unit simply because it is being held for a qualified tenant. A vacant unit is not available for purposes of the vacant unit rule when the unit is no longer available to rent due to contractual, binding agreements such as a lease.

If a Housing Credit unit becomes vacant during the year and was previously occupied by a qualified household, the unit remains eligible for the tax credit for purposes of the Minimum Set-Aside requirement and determining the Qualified Basis of the project. The unit will continue to qualify as long as:

- Reasonable attempts are made to rent the unit or the next available comparable or smaller size unit (in the project) to an eligible household.
- The vacant unit is kept habitable and 'rent ready'.

Reasonable Attempts means that efforts toward marketing and renting a unit that is suitable for occupancy must be made. This includes but is not limited to newspaper advertisement, vacancy posting at project site, internet, telephone outreach, etc.

Project Owners are required to keep records for each qualified Housing Credit building in the project showing for each year of the compliance and extended use period the Housing Credit unit vacancies and data for when, and to whom, the next available units were rented.

Chapter 8 - AUDIT

Compliance Inspection Procedure

UHC is required to inspect each property eligible for monitoring a minimum of once every three (3) years. However, depending on the level of non-compliance found in the previous audit/inspection (see Non-Compliance Section), UHC reserves the right to change the frequency of audits or conduct an unannounced visit to the project when Auditors are within the project area.

Under most circumstances, UHC will send a letter notifying the owner of an inspection 15 days before the inspection date. This letter will indicate the date, time, and place of the meeting. Information, such as a copy of the Utility Allowance used during the prior year and supporting documentation that covers the full compliance period under review, rent rolls, and other information, must be provided to UHC at the time of the audit.

Note: UHC does not make it common practice to re-schedule audits. For extenuating circumstances, please contact our office at the earliest opportunity. This does not guarantee an audit will be re-scheduled and failure to appear as scheduled will result in a non-compliance event and/or IRS form 8823's, and could generate additional fees for re-scheduling and re-inspection. (Such fees will be dependent on various factors such as distance, time, size of audit, etc.).

Compliance inspections include a sampling of tenant files as well as review of physical condition standards and analysis of overall compliance with all program requirements.

Minimum Audit Requirements

The minimum requirements addressed during property review include, but are not limited to:

- A review of the current and last 12/31 rent record;

- Current and prior year utility allowance on file;
- Current policies regarding VAWA emergency transfers;
- Rental Criteria and Disparate Impact;
- Rental applications in files, completed, including certification of assets and disposal of assets, if applicable;
- Tenant income certifications completed for move-in and current year, including all required signatures and dates;
- Income verification(s), including anticipated income (known and verifiable), completed and properly documented;
- Assets properly documented and verified if total assets are more than the Net Family Asset Threshold;
- Student eligibility documented;
- Lease and lease addendum completed at move-in;
- Special Needs/Set Aside documentation;
- Tenant ledgers and move-out files/dates;
- Applicable Fraction for each BIN (for mixed projects);
- Average Income Test (for average income projects);
- Physical inspection of Outside of property (Site, parking lot, etc.) Inside (Common areas, building systems, etc.) and Units.

File Audit

Under the UHC review process, owners must maintain ongoing tenant records on UHC-approved forms for each unit in the project. These forms provide a historical record of tenant compliance for each unit. A typical file review will include an in-depth review of the prior calendar year. However, review of items from other years, particularly move-in and current re-cert year, is not uncommon. For tenants who have moved out prior to the file review, management should have access to tenant move-out files to make available for review.

Special Needs and Set-Aside Units review

As part of the file review, management will provide pertinent information regarding special set-aside units, if applicable, as outlined under the special needs and set- asides section of this manual.

Utility Allowance

A copy of the most recent and prior year utility allowance(s) in use at the property must be made available during the audit. This includes a copy of the backups for the utility allowance(s) from the appropriate source, i.e., the Public Housing Authority, RHS, Energy Consumption Model (full report) or the utility company. Along with appropriate calculations shown by highlighting amounts used and totaling, to arrive at amounts actually used which should match those used on the CP website.

Audit Sample

As part of recurring UHC site visits, our office shall inspect the physical condition of the property as well as a sampling of tenant units. Physical reviews conducted according to standards governed by the Department of Housing and Urban Development’s National

Standards for the Physical Inspection of Real Estate (NSPIRE). These standards require properties to be in “functionally adequate, operable and free of health and safety hazards”.

Effective July 9th, 2020 IRS Reg. 123027-19 amended the compliance monitoring requirements with respect to low-income housing properties. The minimum number of low-income units for inspection and file review will be the lesser of (1) or (2) below:

1. 20% of the low-income units in the low-income housing project, rounded up to the nearest whole number of units, or

2. The Minimum Unit Sample Size set forth in the following Low Income Housing Credit Minimum Unit Sample Size NSPIRE Reference Chart.

Assisted Units in Property	Inspected Units Sample
1	1
2	2
3	3
4	4
5	5
6	6
7	6
8	7
9	8
10	8
11-12	9
13-14	10
15-16	11
17-18	12
19-21	13
22-24	14
25-27	15
28-30	16
31-35	17
36-39	18
40-45	19
46-51	20
52-59	21
60-67	22
68-78	23
79-92	24
93-110	25
111-133	26
134-166	27
167-214	28
215-295	29
296-455	30
456-920	31
921+	32

Please note the sampling numbers above are minimums. UHC reserves the right to increase the sample size if needed.

In 2014, UHC became a participant in the Interagency Physical Inspection Alignment Pilot Program with HUD. In becoming a participant of this program, properties in Utah which have both HUD funding and Tax Credit funding, and have inspections which ‘align’ for both funding sources for the year, have the possibility of the physical inspections for both funding sources to be combined into one single physical inspection. File inspections for both funding sources may still need to occur separately during that same year.

NSPRIE (previously REAC) inspections which are part of the Pilot Program with HUD will satisfy the UHC inspections as long as vacant units are inspected if, included in the sampling; the most recent NSPIRE (previously REAC) inspection software is used during the inspection, the inspection is conducted by a NSPIRE (previously) REAC certified inspector, and the results of the inspection are sent to and scored by HUD.

The first inspection for new projects will occur no later than the end of the second calendar year following the year the last building is placed in service. This initial inspection/audit sample size will be conducted according the guidelines above.

The Housing Credit units inspected or reviewed are chosen in a manner that will not give owners of Housing Credit projects advance notice that their records will or will not be inspected, to prevent alteration of inspection results. UHC may give an owner reasonable notice that an inspection will occur so that the owner may assemble records. However, during the inspection/audit, after management is notified of the units to be inspected, apartment staff may not pre-walk or alter either selected files or units. If an inspector becomes aware, at any time during the visit, that such is occurring, new units and or files may be selected for review.

As selection of tenant files is random, all tenants should be properly notified, at least 24 hours in advance, of the possibility of entry into their unit for the scheduled date.

Suitable for Occupancy

Under IRS rules, a unit shall not be treated as a Housing Credit unit unless it is suitable for occupancy. Additionally, each building in a Housing Credit project must also be suitable for occupancy, in accordance with state and local health, safety, and building codes, for credits to be claimed. The Project Owner/Management Company is responsible for correcting the violations if state or local officials have cited the building for health, safety, and/or building code violations.

Uncorrected violations may render the building or low-income units unsuitable for occupancy. For units deemed to be not habitable, no tax credits can be claimed. Such violations will typically generate a non-compliance event.

NSPIRE Inspectable Areas

NSPIRE requires agencies to inspect the following three inspectable areas:

(1) **Outside** – "Outside" refers to the building site, building exterior components, and any building systems located outside of the building or unit. This includes things like playgrounds, sidewalks, and air-conditioning units. The site must be free of health and safety hazards and be in good repair.

(2) **Inside** – "Inside" refers to the common areas and building systems within the building interior and are not inside a unit. This could include interior laundry facilities, workout rooms, and so on. These areas must be free of health and safety hazards, operable, and in good repair

(3) **Units** – A "Unit" refers to the interior components of an individual dwelling, where the resident lives.

Each dwelling unit within a building must be structurally sound, habitable, and in good repair. All areas and aspects of the dwelling unit (for example, the unit's bathroom, call-for-aid, ceiling, doors, electrical systems, floors, hot water heater, HVAC (where individual units are provided), kitchen, lighting, outlets/switches, patio/porch/balcony, smoke detectors, stairs, walls and windows) must be free of health and safety hazards, functionally adequate, operable, and in good repair.

For Additional information please refer to the HUD NSPIRE website
https://www.hud.gov/program_offices/public_indian_housing/reac/nspire/standards

The housing must comply with all 26 Revised APR/2016 regulations and requirements related to the ownership of pets, and the evaluation and reduction of lead-based paint hazards and have available proper certifications of such. Please refer to EPA website https://www.epa.gov/lead/lead-renovation-repair-and-painting-program-rules

Notwithstanding the above inspection requirements, all Housing Credit projects under Section 42 must continue to satisfy State and local health, safety, and building codes.

Note: Although an item is not specifically identified as inspectable under NSPIRE standards, its presence implies intended functionality. As such, deficiencies observed in installed features or equipment—such as a non-operational garbage disposal—will be documented as a finding. Items provided by design or installation are subject to assessment for functionality and safety, regardless of NSPIRE applicability.

All repairs must be performed in accordance with industry standards and best practices. Materials used in the repair process must match the existing materials in quality, type, and appearance (i.e., 'like-for-like') to ensure consistency, durability, and integrity of the repaired area.

Non Compliance

In January 2024, the Internal Revenue Service issued its Updated Guide for Completing Form 8823, Housing Credit Agencies Report of Non-compliance or Building Disposition (8823 Guide), which provides instructions for monitoring agencies to determine non-compliance, what constitutes correction, and how and when non-compliance and property dispositions are to be reported.

Owners and property managers are encouraged to read the guide and refer to it when questions arise as to how non-compliance should be corrected. The 8823 Guide can be found on the IRS website at:

https://www.irs.gov/pub/irs-pdf/p5913.pdf

Please note as of the date of this manual, the 8823 guide has not been updated to include HOTMA regulations. However, per treasury regulations 1.42-5, LIHTC tenant income is calculated in a manner consistent with the determination of annual income of section 8 of the United States housing act of 1937.

UHC is required to provide a written notice to the owner detailing any file and physical exceptions discovered during the on-site visit and annual review of owner report.

UHC is required to file Form 8823, "Low Income Housing Credit Agencies Report of Non-Compliance or Building Disposition," with the IRS no later than 45 days after the end of the correction period (including permitted extensions) and no earlier than the end of the correction period.

UHC must check the appropriate box on Form 8823 indicating the nature of the non-compliance or failure to certify and indicate whether the owner has corrected the non-compliance or failure to certify. If the non-compliance or failure to certify is corrected, UHC will provide a date on which the non-compliance was corrected. If UHC cannot determine that an owner's actions have corrected all non-compliance, no correction date will be provided. Any change in either the applicable fraction or eligible basis under paragraph (c)(1)(ii) and (vii) of Reg. 1.42-5, respectively, that results in a decrease in the qualified basis of the project under Section 42 (c)(1)(A) is non-compliance that must be reported to the IRS. UHC will send the owner a copy of the form 8823 at the time it is filed with the IRS.

If uncorrected non-compliance is reported to IRS, a corrective 8823 cannot be filed until all instances of non-compliance are corrected for that building.

If the management agent and/or the owner determines that a building or entire project is not in compliance with program requirements, UHC must be notified immediately. The management agent and/or the owner must formulate a plan to bring the project back into compliance, and advise UHC in writing of such a plan.

UHC typically determines the frequency of re-inspection dependent on the percentage of non-compliance, as outlined below. UHC reserves the right to expand any audit or sample, or to conduct audits on a more frequent basis if deemed necessary.

Percentage of Non-compliance For Files and Physical Combined	Next audit year
0-15%	**3 years**
16%-34%	**2 years**
35% or More*	**1 year**

These percentages are rounded up to the nearest whole number.

***The audit may be expanded. Additional fees apply to audit expansions and follow-up inspections.**

Non- Compliance Through Credit/ Compliance Period

Generally, during the Compliance Period a project is out of compliance and recapture may apply if:

A building is disposed of or ownership interest in a building is disposed of; or A decrease in the qualified basis of a building from one year to the next; or

A building no longer meets the minimum set-aside requirements of Section 42(g)(1), the gross rent requirements of Section 42(g)(2), or the other requirements for the units.

Vacant units that were previously occupied by Housing Credit tenants can continue to be counted for minimum eligibility as long as the owner/manager has made reasonable attempts to rent the unit to an eligible tenant. See Revenue Ruling 2004-82, Q9 https://www.irs.gov/irb/2004-35_IRB#RR-2004-82 for guidance on what constitutes reasonable attempts.

If the project is out of compliance, a penalty will apply to all units in the Project (IRS Form 8611). Penalties may include:

- Recapture of the Accelerated Portion of the tax credits for prior years;
- Disallowance of the credit for the entire year in which the non-compliance occurs; and
- Assessment of interest for the recapture year and previous years.

If the non-compliance is due to a reduction in qualified basis and the minimum eligibility requirements of twenty percent (20%), forty percent (40%), or forty percent (40%) average income are still met, recapture and disallowance of credit will apply only to units not in compliance.

The above information has been provided for informational purposes only in order to give a general understanding of recapture procedures. The Internal Revenue Service bears the responsibility for determining whether a building owner has claimed the correct amount of credit each year and whether a building owner is subject to recapture. UHC is not responsible for determining whether or not a specific event of non- compliance is a recapture event.

If rent and/or income limits are found to be over Program limits, UHC must issue IRS Form(s) 8823.

IRS Form 8823

Report of Non-compliance or Building Disposition (IRS Form 8823) Form 8823 is used by UHC to fulfill its responsibility under Section 42(m)(1)(B)(iii) to notify the IRS of non-compliance with Housing Credit provisions or any building disposition. Form(s) 8823 are to be filed with the IRS no later than 45 days after (1) the building was disposed of or (2) the end of the time allowed the building owner to correct the condition(s) that caused non-compliance.

Any project receiving an IRS Form 8823 reportable violation may be required to provide its manager with professional independent compliance training at its own cost within 90 days from the date the non-compliance was discovered. UHC strongly recommends that the owner provide professional compliance training for on-site managers at least every 2 years. Please see the training section of this manual for further information.

Bright Line Date

In general, non-compliance that is identified and corrected by the owner ***prior to notification*** of an upcoming compliance review or inspection need not be reported to IRS. IRS considers the date of the notification letter a “bright line” date. However, more serious violations, such as over charges on rent, may still be reportable via form 8823.

Correction Period

The correction period will be established by UHC and set forth in the notice of non- compliance and will be a period of up to 30 days from the date of the notice to the owner described in paragraph (e)(2) of Reg. 1.42-5. UHC is permitted to extend the correction period for up to six months, but only if UHC determines there is good cause for granting the extension. Severe and or Life Threatening physical findings have a correction period of 24 hours from notice.

Requests for an extension must be in writing, must be received by UHC no later than the last day of the correction period identified on the Notice of Non-compliance, and must include an explanation of the efforts to correct the non-compliance and the reason the extension is needed. Include an estimated date the extension is needed through. UHC will review and determine if the time-frame and extension is appropriate.

UHC will review the owner's response and supporting documentation, if any, to determine whether the non-compliance has been clarified or corrected.

Extended Use Period Background

Post Year 15 compliance monitoring ensures that properties comply with the requirements of the Extended Use Period specified in the Land Use Restriction Agreement (LURA). Pursuant to its Post Year 15 policy, UHC provides owners a waiver of some compliance and monitoring restrictions beginning year 16. Owners are reminded that properties may continue to be required to be in compliance with more restrictive rules associated with programs such as Section 8, RD and other federally or state sponsored programs.

The Extended Use Period for each property is specified by the LURA. It is, at minimum, fifteen years, or may extend to eighty four years after the close of the compliance period (minimum low-income housing commitment of 30 years). The Extended Use Period begins at the same time as the compliance period, but the rules regarding the Extended Use Period do not go into effect until after the compliance period ends.

See Owner Responsibilities for determination of the end of the Compliance Period.

Protections to tenants under the Extended Use Period

Under IRS Section 42(h)(6)(E)(ii) the termination of an Extended Use

Period due to foreclosure or deed in lieu, or for failure to present a qualified contract, shall not be construed to permit before the close of the 3-year period following such termination:

The eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or any increase in the gross rent with respect to such unit not otherwise permitted by the applicable rent limits.

Owner Responsibilities under the Extended Use Period

Under the UHC LURA, the Owner agrees to comply with the following during the extended use period:

- Maintain the minimum set aside by leasing units to individuals or families whose income is 50%, 60%, or the Average Income of 60% as irrevocably elected by the owner at the time of allocation, or less of the area median gross income as determined in accordance with IRC Section 42;

- Maintain the applicable fraction for each building in the project.

- Maintain the Section 42 rent and income restrictions;

- The owner agrees to comply fully with the requirements of the Fair Housing Act as it may from time to time be amended;

- The owner will not refuse to lease a unit to the holder of a Section 8 voucher because of the status of the prospective tenant as such a holder;

- Each Housing Credit unit will remain suitable for occupancy;

- The determination of whether a tenant meets the Housing Credit requirement shall be made by the owner at least annually on the basis of the current income of such Housing Credit tenant; and

- Other restrictions as required under the specific year's Qualified Allocation Plan (QAP) and related points the owner received in order to obtain a credit allocation.

These restrictions are property-specific within the respective Declarations and to the extent they are not otherwise time-limited, the additional restrictions remain in force and effect during the Extended Use Period.

Notify UHC of any proposed owner/management change at least 30 days in advance of such change. Full compliance with all Program regulations is required prior to any owner/management change.

12 months prior to the expiration of the LURA, it is recommended that owners/managers, give current tenants and any future tenants, notice of the project no longer participating in the LIHTC program and how this could impact tenants including rents.

Note that the Declarations have changed from year-to-year according to the respective Qualified Allocation Plans. However, the basic language pertaining to the Extended Use Period required by the Internal Revenue Code has not materially changed.

Tenant Eligibility & Record Retention under the Extended Use Period

During the Extended Use Period, UHC requires tenant eligibility and certification of income, as follows:

Tenant Income Certification. Initial certifications and verifications of household income are required prior to move-in for all units of 100% Housing Credit and mixed income projects.

a. ***100% Housing Credit projects*** – Tenants need only complete one recertification after initial move-in. A self-certification and accompanying required documents will be required every year after the recertification.

b. ***Mixed income projects*** – Tenants must continue to annually re-certify income and assets.

- Student Status. UHC will continue to enforce the student rule.
- Unit Transfers. Unit transfers from building to building are allowed without triggering non-compliance regardless of whether a household’s income is over the applicable limit at the time of transfer.

- Rent Limits. Rent limits as elected by the owner at the time of allocation continue to be in force during the Extended Use Period.

- Utility Allowances. Utility Allowances must continue to be updated annually. Revised utility allowances must be implemented within 90 days of their published effective date.

Extended Use Monitoring Compliance

The following is the monitoring procedure UHC will follow during the Extended Use Period:

- Annual Owner Certification Report is due April 30, or the next business day. UHC will require all owners to submit an annual certification of compliance. The Owner will continue to provide Owners Certification of compliance (in CP).

- Inspections. At least every three years, UHC will perform a physical inspection of the property and review tenant files and other pertinent documentation. UHC will randomly select the 20% of the low-income units rounded up to the nearest whole number or the minimum unit sample size in the Low Income Housing Credit Minimum Unit Sample Size Reference Chart in this chapter. UHC will use this number for units and files to be inspected. Different units may be chosen for the file review as those receiving a physical inspection and at UHC's discretion, the file and physical inspection may

occur on different dates. UHC reserves the right to conduct a review of any building after serving appropriate notice and to examine all records pertaining to rental of Housing Credit units.

Non- compliance Through Extended Use Period

Income and rent limits are specified in the Land Use Restrictions Agreement (LURA) between the owner and UHC. It is the owner's responsibility to ensure rents and income limits are followed throughout the credit and extended use periods.

If rents are found to be over the LURA specified limits, the owner is required to reimburse the overage amount to the tenant(s).

If the income limits are found to be over the LURA limits, the owner/management company will not be in good standing with UHC. All future applications for credit allocation will not be accepted while the Owner, Partner or Management company is considered to be "Not in good standing" with UHC.

Non-compliance includes but is not limited to:

1. Any violation of the provisions of the LURA or Code not revised by this notice;

2. Owner or the Owners Agent repeatedly delaying or refusing UHC requests to schedule management reviews: or

3. Failure to submit annual submissions or compliance monitoring fees.

If a non-compliance event occurs, written notice of the non-compliance will be issued to the owner along with a correction period not to exceed 90 days. An extension of up to 90 additional days or longer may be granted under the following conditions:

- If UHC determines the non-compliance cannot be reasonably corrected within 90 days; and

- The Owner submits a Correction Plan detailing the timeline for the corrections, which is approved by UHC, an extension period of up to 6 months may be granted to allow for correction of the non-compliance.

If the non-compliance is not corrected within the correction period, including extensions, UHC shall reserve the right to apply the following remedies:

- The property, Owner, Partner and Owner's Agent, if applicable, shall be considered to be "Not in Good Standing" with UHC until the non-compliance is corrected to the satisfaction of UHC;

- Applications for Housing Credit allocations will not be accepted while the Owner, Partner or Owners Agent associated with the application is “Not in Good Standing” with UHC;

- Management Companies found to be in Not in Good Standing may not take on new properties until all non-compliance with all current properties is corrected to the satisfaction of UHC; and

- UHC may declare a default under the LURA and may apply to any court, State or Federal, for specific performance of the LURA or an injunction against any violation of the LURA; secure the appointment of a receiver to operate the project in compliance with the LURA; or exercise any other remedies at law or in equity or any such other action as shall be necessary or desirable to correct the non-compliance with the LURA.

The owner will be subject to non-compliance fees as determined appropriate by UHC for any Post-15 year properties if the owner does not comply with the program requirements or if non-compliance is not corrected within the correction period, including extensions.

UHC Record Retention

UHC will retain records of non-compliance or failure to certify, for six years beyond the filing date of the respective Form 8823. In all other cases, UHC will retain the certifications and records described in Reg. 1.42-5(c) for three years from the end of the calendar year the Agency receives the certifications and records.

Compliance Monitoring Fees

The following are fees to be paid to UHC for administering the Compliance Monitoring Plan. All projects will be required to pay these fees.

Annual Monitoring Compliance Payments are due February 1 of each year. Projects which fail to pay the Annual Compliance Monitoring fees timely will be assessed a late fee of $250 - $500. $250 for projects with 25 units or less. $500 for project with 26 units or more

2015 or Prior Projects

2015 application or *prior* projects receiving tax credit allocation	**Initial Compliance Monitoring Fee:****	
	≤ 25 Units	**$500 plus $20 per Housing Credit Unit**
	≥ 26 Units	**$1,000 plus $20 per Housing Credit Unit**
	Annual Compliance Monitoring Fees for 2nd and Subsequent Years:	
	$20	**Per Housing Credit unit annually.**
	Projects on a three (3) year audit schedule will receive a 15% discount on annual compliance monitoring fees.	
	Projects on a two (2) year audit schedule will receive a 7.5% discount on annual compliance monitoring fees.	

**The per unit portion of the Initial Compliance Monitoring fee will be prorated for the number of months between the issuance of IRS Form(s) 8609 and February 1 of the following year, when the next full year's annual compliance monitoring fees are due. Pro-rated Initial Compliance Monitoring fees will be collected with the Final Cost Certification fees.

2016 Tax Credit Allocations

2016 tax credit allocation

Initial Compliance Monitoring Fee:**

≤ 25 Units	$500 plus $30 per Housing Credit Unit
≥ 26 Units	$1,000 plus $30 per Housing Credit Unit

Annual Compliance Monitoring Fees for 2nd and Subsequent Years:

$30	Per Housing Credit Unit annually

Projects on a three (3) year audit schedule will receive a 15% discount on annual compliance monitoring fees.

Projects on a two (2) year audit schedule will receive a 7.5% discount on annual compliance monitoring fees.

**The per unit portion of the Initial Compliance Monitoring fee will be prorated for the number of months between the issuance of IRS Form(s) 8609 and February 1 of the following year, when the next full year's annual compliance monitoring fees are due. Pro-rated Initial Compliance Monitoring fees will be collected with the Final Cost Certification fees.

2017 & Forward Tax Credit Allocations

2017 & foreward tax credit allocations	**Initial Compliance Monitoring Fee:****	
	≤ 25 Units	$500 plus $35 per Housing Credit Unit
	≥ 26 Units	$1,000 plus $35 per Housing Credit Unit
	Annual Compliance Monitoring Fees for 2nd and Subsequent Years:	
	$35	Per Housing Credit Unit annually
	Projects on a three (3) year audit schedule will receive a 15% discount on annual compliance monitoring fees.	
	Projects on a two (2) year audit schedule will receive a 7.5% discount on annual compliance monitoring fees.	

**The per unit portion of the Initial Compliance Monitoring fee will be prorated for the number of months between the issuance of IRS Form(s) 8609 and February 1 of the following year, when the next full year's annual compliance monitoring fees are due. Pro-rated Initial Compliance Monitoring fees will be collected with the Final Cost Certification fees.

Average Income Elected Projects

Averag e Income Elected	**100% AI Properties**	No additional fee
	All other AI Properties	Additional 20% of base fee

**The per unit portion of the Initial Compliance Monitoring fee will be prorated for the number of months between the issuance of IRS Form(s) 8609 and February 1 of the following year, when the next full year's annual compliance monitoring fees are due. Pro-rated Initial Compliance Monitoring fees will be collected with the Final Cost Certification fees.

All Projects

For all Project	**3% per Unit**	**Increase based on Housing Credit Units and increases annually, every year.**

UHC reserves the right to revise the fee schedule from time to time, at its sole discretion, to offset the cost of conducting the compliance monitoring requirements of the Program.

Additional Inspection Fees

Projects will be charged additional inspection fees when:

An expanded file inspection is required due to a non-compliance trend or, Additional units are inspected because of a trend of code or other violations.

Additional inspection fees will be charged as follows and are due within 30 days of billing:

Additional files or units requiring inspection according to the requirements of UHC Audit Procedures	$10 per file $15 per unit
Issuance of IRS Form 8823 Each IRS Form 8823 issued	$150 plus $25 per Form
Follow-up inspections subsequent to non-compliance (If deemed necessary by UHC) UHC will add travel and per diem charges as appropriate to the above fees.	$150 Plus above fees as applicable

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