New York City Department of Housing Preservation and Development

Low Income Housing Tax Credit Program

Compliance Manual

November 2008

Department of
Housing Preservation
& Development

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Disclaimer

This manual is intended as a guide to understanding Low Income Housing Tax Credit (LIHTC) compliance monitoring and was developed for the convenience of project owners, management companies, on-site management personnel and anyone involved with compliance monitoring for tax credit properties. It is not intended to and does not substitute for IRC §42, revenue procedures, revenue rulings, notices, announcements, any Treasury regulations or any applicable federal law. HPD is also not responsible for any errors or omissions contained in this manual. Applicable laws, regulations and Treasury guidance prevail over the content of this manual.

Compliance with the requirements of the IRC §42 is the sole responsibility of the owner of any building for which the credit has been allocated. HPD is neither responsible for nor liable for an owner's noncompliance. An owner should not rely solely on HPD to determine if the project and project records are in compliance.

Use of this manual does not ensure compliance with IRC §42, Treasury regulations, or any other laws or regulations governing LIHTCs or the financial viability of any project. HPD accordingly strongly advises that all tax credit recipients consult their tax accountant, attorney or advisor as to the specific requirements of the tax credit program and IRC §42.

HPD is responsible to the IRS to determine whether owners are compliant with the requirements of IRC §42 and its regulations. This manual describes certain administrative processes and requirements established by HPD in its administration of such responsibilities. HPD however may change such processes and requirements for monitoring of projects for which the credit has been allocated. Changes may be made without previous notice. To the extent possible any administrative changes will be incorporated into a revised version of this manual.

<u>Changes, Additions & Clarifications</u> – this list may not be comprehensive or all inclusive

- The household consists of a single parent with at least one child and the children are not listed as dependents on another person's federal income tax return except by one of the parents (Mortgage Forgiveness Debt Relief Act of 2007)
- One time economic stimulus payments should not be considered when calculating a tenant's income (Economic Stimulus Act of 2008)
- The student was previously under the care and placement of a foster care program (Housing and Economic Reform Act of 2008)

Preface

Welcome to the New York City Department of Housing Preservation and Development (HPD) Compliance Manual for the Low Income Housing Tax Credit Program (LIHTC).

Compliance in the LIHTC program involves four basic principles:
1) Renting only to households who qualify under the appropriate income limit;
2) Renting to households who comply with the full-time student rule;
3) Maintaining the unit in good physical condition and
4) Never charging too much rent.

Establishing and maintaining compliance involves a complex set of rules based on Section 42 of the tax code, numerous Internal Revenue Service (IRS) rulings, revenue procedures and notices plus regulations borrowed from the U.S. Department of Housing and Urban Development.

This manual combines information from all these sources into one place so the reader can learn:
1) What is compliance in the tax credit program;
2) How to establish and maintain compliance at a tax credit property; and
3) How to comply with the HPD compliance monitoring process.

This manual is for all actors involved in the tax credit program including owners, developers, syndicators, asset managers, property managers and compliance managers. However, this manual is of particular importance for property managers, compliance managers or whoever takes responsibility for maintaining compliance at a tax credit property.

If that is who you are, your job is critical. You are the front line of a team of people who work to preserve a very limited commodity – affordable housing for some of the neediest citizens of New York City. Keeping affordable housing projects in compliance is vital to the sustainability of that housing and to the lives of those tenants.

In providing this manual, it is HPD's goal to educate you on the LIHTC program and to support the successful operation of LIHTC properties subject to HPD compliance in NYC. We want you to succeed in your efforts to maintain compliance in your projects. (Please note this manual does not apply to projects overseen by the New York State Division of Housing and Community Renewal, the New York State Housing Finance Agency, or the New York City Housing Development Corporation.)

If you lack the time to read the entire manual, but want to learn:

About **HPD's compliance monitoring process**, read Chapter Two.

How many tax credit units you need at your property, read Chapters Three and Four.

About **income limits**, read Chapter Five.

The **student rule**, read Chapter Five.

How to calculate and verify an **applicant's annual income**, read Chapters Six and Seven.

The **forms you must use** in your tenant income certifications, read Chapter Seven.

How to calculate the **maximum tax credit rent**, read Chapter Eight.

The **Available Unit Rule**, read Chapter Ten.

The **Vacant Unit and Transfer Rules** read Chapter Eleven.

HPD would like to thank the Local Initiatives Support Corporation (LISC) and the Enterprise Community Partners for making this manual possible. LISC and Enterprise are national non-profit intermediaries which assist community-based non-profit organizations. They are also co-general partners of the New York Equity Fund through their affiliate organizations, the National Equity Fund (LISC) and Enterprise Community Investment, Inc. (Enterprise). Without them, and the extraordinary assistance of our expert consultant, Liz Bramlet, this manual would have been impossible.

HPD would also like to thank HPD staff, property managers and others who provided input and comments.

Part One

Introduction to the Low Income Housing Tax Credit (LIHTC) Program in New York City as Administered by HPD

Chapter One

Introduction to the
NYCHPD Compliance Manual

This guide reflects Low Income Housing Tax Credit regulations and New York City Department of Housing Preservation and Development (HPD) policy at the time of writing. Regulations change and HPD policy may change to reflect those changes, administrative issues and new realities in the field.

THE TAX CREDIT PROGRAM IS A COMPLICATED PROGRAM WITH LAYERS OF REQUIREMENTS EVERY OWNER MUST MEET. YOU WILL NEED ADVICE FROM OTHER SOURCES TO ENSURE YOU MEET ALL THE REQUIREMENTS ASSOCIATED WITH YOUR TAX CREDIT PROPERTY. IN ADDITION, REGULATIONS MAY CHANGE. IT IS THE RESPONSIBILITY OF OWNERS, PROJECT SPONSORS AND USERS OF THIS MANUAL TO KEEP INFORMED OF CHANGES.

Chapter One: Introduction to the NYCHPD Compliance Manual
-or-
What You will Learn from Reading this Compliance Manual

1-1. What You Will Learn from Reading this Compliance Manual

The purpose of this *Compliance Manual* is to assist owners in complying with the Low Income Housing Tax Credit Program (herein referred to as the tax credit program) at properties located in New York City (NYC) that are monitored by the New York City Department of Housing Preservation and Development (HPD). In reading this manual, you will learn:

A. The importance of maintaining compliance at a tax credit property;

B. How to manage a property in compliance with the tax credit program;

C. The rules and regulations that make up compliance in the tax credit program; and

D. The HPD compliance monitoring process.

1-2. What You Won't Learn from Reading this Compliance Manual

The tax credit program is a complicated program with layers of requirements every owner must meet. You will need advice from other sources to ensure you meet all the requirements associated with your tax credit property. In addition, regulations may change. <u>It is the responsibility of owners, project sponsors and users of this manual to keep informed of changes.</u>

A. You are responsible for conferring with your own accountant(s) on complying with the IRS filing requirements for the tax credit program.

B. You are responsible for conferring with your own attorney(s) on interpreting and complying with the legal requirements of the tax credit program.

C. A syndicator, such as the National Equity Fund (NEF) or Enterprise Community Investment, Inc. (Enterprise) locates the parties who invest in your property in exchange for benefiting from the tax credits. You are responsible for conferring with your syndicator on any additional standards they apply at their tax credit properties.

D. There are tax credit properties in NYC that are monitored by the New York State Division of Housing and Community Renewal (DHCR), New York State Housing Finance Agency (NYHFA) or New York City Housing Development Corporation (HDC).

1. For DHCR-monitored properties, go to their web site at http://www.dhcr.state.ny.us.
2. For NYHFA-monitored properties, go to their web site at http://www.nyhomes.org.
3. For HDC-monitored properties, go to their web site at http://www.nychdc.com.

E. For guidance on complying with Rent Stabilization or Rent Control, go to the DHCR web site at http://www.dhcr.state.ny.us.

1-3. How this Compliance Manual is Organized

This manual is divided into six (6) parts.

A. Part one is an introduction to the tax credit program as administered by HPD. It will help you to understand how HPD administers the tax credit program. It consists of:

Chapter One: Introduction to the NYCHPD Compliance Manual; and
Chapter Two: Introduction to the Tax Credit Program.

B. Part two answers the question, “How many tax credit units do I need at my property?” It will teach you how to calculate the number of tax credit units for your property and the correct placement of your tax credit units within each building at your property. It consists of:

Chapter Three: The Minimum Set Aside; and
Chapter Four: Maximizing Your Low Income Occupancy.

C. Part Three answers the question, “How do I know who qualifies to live in my tax credit units?” It will teach you the questions you must ask and answer to determine a household qualifies for your tax credit unit. It will also teach you how to verify the information that demonstrates a household’s eligibility and how to complete the initial certification of eligibility. It consists of:

Chapter Five: Household Eligibility Factors;
Chapter Six: Calculating Annual Income; and
Chapter Seven: Completing the Initial Certification

D. Part Four answers the question, “How much can I charge my tax credit residents?” It will teach you how much you can charge your residents without jeopardizing your tax credits. It consists of:

Chapter Eight: Maximum Allowable Rent; and
Chapter Nine: Charges in Addition to Rent.

E. Part Five answers the question, “How do I keep my property in compliance through a long compliance period?” It will teach you how you must operate your property throughout the compliance period. It consists of:

Chapter Ten: Ongoing Compliance Requirements; and
Chapter Eleven: The Vacant Unit and Transfer Rules.

F. Part Six answers the question, “How do I comply with the tax credit program when I have so many other requirements to meet at my property? It will help you to understand how to comply with the tax credit program when you must comply with other housing programs at your property. It consists of:

Chapter Twelve: Applying the Requirements of the HOME Program at a Tax Credit Property; and
Chapter Thirteen: Maintaining Compliance at Rent-Stabilized Tax Credit Properties.

1-4. How each Chapter is Organized

Beginning with Chapter Two, each chapter follows the same organization.

A. The first section provides a list of the topics covered within the chapter. It will help you to locate information within each chapter.

B. The second section lists the key terms you should learn from reading the chapter. It will help you to anticipate what you will learn as you begin each chapter.

C. The third section includes the main text of the chapter with plenty of examples and exhibits to help you understand the compliance requirements for the tax credit program.

D. The fourth section provides a list of actions to follow at your tax credit property. It is provided under the heading, ***Do This!***

E. The fifth section gives you a list of actions to not follow at your tax credit property. It is provided under the heading, ***Don’t Do This!***

1-5. Overview of this Searchable Compliance Manual

This manual is a live, searchable document. You can enter frequently used terms into the PDF search window to locate applicable information within the manual. We have hyper-linked specific words within the text, allowing you to click on those words to locate the chapter including their primary discussion. You’ll find an expanded table of contents before the Preface. The table of contents is hyper-linked so you can click on the title of a chapter, or on the heading for a paragraph, and be taken directly to their location within the manual.

In writing this manual, it was inevitable that we would use some acronyms for commonly known actors and terminology in the tax credit program. You will find a list of the acronyms, with an explanation for each, at the end of this chapter.

We have avoided quoting directly from either IRS or HUD regulations, choosing instead to present tax credit requirements in more colloquial (everyday) language to increase the understanding of the program. If you are interested in reading directly from the regulations, we have provided Internet links for the following resources in the Appendix at the end of this manual:

A. Section 42 of the federal tax code and the implementing regulations for the tax credit program;

B. Sections of the HUD Handbook 4350.3, Rev. 1 and notices issued by HUD's Office of Housing utilized by the tax credit program;

In the Appendix, we have included a glossary of terms used in the tax credit program, and a quiz to take after reading each chapter to check your knowledge of the tax credit program.

The tax credit program is a complicated program with layers of requirements every owner must meet. You will need advice from other sources to ensure you meet all the requirements associated with your tax credit property. In addition, regulations may change. It is the responsibility of owners, project sponsors and users of this manual to keep informed of changes.

Acronyms

AMI – Area Median Income
AOC – Annual Owner's Certification
AUR – Available Unit Rule
BIN – Building Identification Number
COLA – Cost of Living Adjustment
C of O – Certificate of Occupancy
DHCR – New York State Department of Housing and Community Renewal
DHS – New York State Department of Human Services
Enterprise – Enterprise Community Investment, Inc.
EUP – Extended Use Period
HAP – Housing Assistance Payment
The Handbook – HUD Handbook 4350.3, Rev. 1
HCV – Housing Choice Voucher Program
HDC – New York City Housing Development Corporation
HQS – Housing Qualify Standards
HFA – New York State Housing Finance Agency
HPD – New York City Department of Housing Preservation and Development
HUD – United States Department of Housing and Urban Development
IRS – United States Internal Revenue Service
LDA – Land Disposition Agreement
LISC – Local Initiatives Support Corporation
LURA – Land Use Regulatory Agreement or Land Use Restrictive Agreement
NEF – National Equity Fund
NYC – New York City
NY – State of New York
NYEF – New York Equity Fund
PA – Public Assistance (welfare)
PIS Date – Placed in Service Date
SSA – Social Security Administration
SSI – Social Security Disability Income
TANF – Temporary Assistance for Needy Families (welfare)
TCO – Temporary Certificate of Occupancy
TIC – Tenant Income Certification
HUD – 50058 – Family Report (used in the Housing Choice Voucher program)
HUD – 50059 – Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures (used in the project-based Section 8 program)
IRS – 8609 – Low Income Housing Credit Allocation and Certification
IRS – 8823 – Low Income Housing Credit Agencies Report of Noncompliance or Building Disposition

Chapter Two

Introduction to the Tax Credit Program

Chapter Two: Introduction to the Tax Credit Program
-or-
How the Tax Credit Program Works in NYC

2-1. Topics Covered in this Chapter

In this chapter, you will:

A. Read a description of the tax credit program;

B. Learn about placing your tax credits in service;

C. Learn about an owner's record keeping requirements;

D. Learn how HPD monitors for compliance;

E. Read about the consequences of noncompliance in relation to the HPD monitoring process;

F. Learn the financial consequences of noncompliance for the developer, investors and management company of a tax credit property;

G. Learn the importance of assembling a compliance binder; and

H. Learn the importance of training in the tax credit program.

2-2. Key Terms to Learn from Reading this Chapter

You will learn about the following terms while reading this chapter:

- Building Identification Number (BIN)
- Certificate of Occupancy (C of O)
- Compliance Binder
- Developer
- Investors
- Management
- Noncompliance
- Placed in Service Date (PIS Date)
- Qualified Allocation Plan (QAP)
- Syndicator
- Tenant Income Certification (TIC)
- Form IRS-8609 (8609)
- Form IRS-8823 (8823)

2-3. *Description of the Tax Credit Program as Administered by HPD*

Tax Credits are awarded by HPD to qualified low-income housing projects in New York City. To be eligible, projects must be substantially rehabilitated or new construction with at least 20% of the apartments reserved for low-income households. During annual funding rounds, developers apply competitively to HPD for allocations of tax credits, which are awarded based on selection criteria specified in the City's Qualified Allocation Plan (QAP). Once tax credits are allocated to a project, the developer typically sells the credits to corporate investors who supply private equity to cover a portion of development costs. The investors often participate through pooled equity funds raised by syndicators such as the New York Equity Fund, Enterprise Community Investment, Inc. and others. The investors receive credits that reduce their corporate federal income tax bills for ten years.

A. At the end of the development process, the developer places each building in service, activating the tax credits.

B. Management leases the projected low income units to qualified, tax credit residents.

C. When requested to by the owner, HPD assigns each building a building identification number (BIN). At some properties, HPD assigns the BIN numbers in the Allocation Agreement.

D. The owner submits to HPD an application for Form IRS-8609, *Low Income Housing Credit Allocation and Certification* for each building. HPD completes part 1 of the form and sends the form to the owner. The owner completes part 2 prior to submitting it with the tax return for the first year of the credit period. You will find a sample 8609 form as Exhibit 2-A at the end of this chapter.

E. Management operates the property in compliance with all program requirements through the compliance and extended use periods

F. The owner, or management acting on behalf of the owner, submits the annual owner's certification of compliance.

G. HPD organizes its monitoring activities for a property by BIN.

H. In Exhibit 2-B at the end of this chapter, you will find a calendar for the HPD compliance monitoring cycle.

2-4. *Placing the Credits in Service – Activating the Credits*

At the end of the development process, the developer tells HPD when they are placing the credits in service. This is the placed in service (PIS) date.

A. The tax credits for a unit cannot be placed in service until it is a viable housing opportunity.

1. The earliest possible PIS date for a building that received tax credits for *new construction* is the date on the certificate of occupancy (C of O) or temporary certificate of occupancy (TCO).

2. The earliest possible PIS date for an allocation of acquisition credits is the date of acquisition.

3. Consult your development team on the PIS date for your rehabilitation credits.

B. Generally a developer places the tax credits in service by building, so each building has its own PIS date.

1. A unit must be in service a full calendar month before it can begin to generate a tax credit.

2. If a unit is in service a full calendar month, it can begin to generate a tax credit if occupied by the end of the month by a qualified resident.

Example

10 unit building
Placed in service on 10/17/07
Owner leases 10 units by 10/31/07
All units begin to generate a tax credit November 2007

Example

10 unit building
Placed in service on 10/1/07
Owner leases 10 Units by 10/31/07
All units begin to generate a tax credit October 2007

C. HPD begins monitoring a building for compliance with the tax credit program as of its PIS date. As a result, an owner's record keeping responsibilities begin on the PIS date.

D. There are properties with more than one credit allocation. That is, a group of buildings looks like one property and is managed as one property but received separate credit allocations from HPD in different years for a variety of reasons. If you manage a property with more than one credit allocation, you must know the answers to the following questions:

1. When did your property receive each credit allocation and what buildings were covered by each allocation?

2. What is the PIS date for each building for each credit allocation?

3. What year was the first year of the credit period for each building for each credit allocation?

2-5. Owner's Record Keeping Requirements

You are responsible for maintaining the records that are necessary for HPD to complete their compliance monitoring activities. You must make the records available at your management office or another location in a manner that will expedite review by HPD representatives.

A. You must maintain the following records for your tax credit units:

   1. Signed tenant income certifications (TICs); (Chapter Six)

   2. Third party verifications and other documentation supporting income and other information on the TICs;

   3. Documentation showing you charge no more than the maximum allowable rent for the tax credit program;

   4. Documentation showing you use the correct utility allowance for your tax credit units; (Chapter Eight) and

   5. Documentation of your compliance with the Available Unit Rule, Vacant Unit Rule and Transfer Rule.

B. You must be able to document the month and the year you first rent each unit to a qualified resident. (Chapter Seven)

C. You must keep the records for each building:

   1. For the first year of the credit period, for twenty-one (21) years;

   2. For years two (2) through fifteen (15) of the compliance period, for six (6) years; and

   3. For each year of the Extended Use Period, for six (6) years.

D. Follow these practices to ensure you have the records available for HPD reviews or a potential IRS audit:

1. Maintain multiple copies of the necessary records;

2. Maintain copies of the necessary records in more than one location in case of fire, flood, etc;

3. Follow IRS guidance on the electronic storage of records found in IRS Revenue Procedure 97-22.

2-6. Compliance Monitoring Tax Credit Properties by HPD, as of Release of this Manual

To successfully maintain compliance at your property, you must understand how HPD monitors a property and your responsibilities within the compliance monitoring process.

A. HPD follows these steps in monitoring a tax credit property.

1. HPD sends notification to the owner and the management company of the property for which they have scheduled a site visit.

2. By regulation, HPD must schedule the first site visit no later than the year after they issue the last Form 8609 for a tax credit property.

3. After completing the initial site visit, HPD schedules site visits at least every three (3) years, but may elect to visit a property more frequently.

4. The HPD Housing Quality Standards (HQS) Unit schedules and performs the physical inspections for tax credit properties.

5. At each site visit and physical inspection, HPD reviews at least 20% of the resident files, inspects 20% of the units and all the common areas. HPD reserves the right to review more files and to inspect more units (up to 100%).

6. HPD may conduct desk audits (files brought to HPD for in-house review) for properties with 15 or fewer files to review. HPD schedules these appointments with the owner's representative.

7. When conducting a file review, HPD reviews the initial certification of eligibility, the most recent recertification, the rent the owner charges and the utility allowance used to calculate the rent and any other relevant document.

8. HPD requires evidence of the owner's compliance with the Available Unit Rule, Vacant Unit Rule and Transfer Rule, discussed in Chapters Ten and Eleven of this manual.

B. Take the following steps to prepare for an HPD site visit.

1. Ensure the following information is readily available to the HPD representative(s) conducting the review:

    a. TICs for initial certifications and recertifications (for the current year and the previous year);

    b. Documentation supporting the TICs including third party verifications, social security award letters, public assistance (PA) benefit statements, bank statements, zero-income statements, student status, etc… as applicable for every tax credit resident;

    c. Documentation that you charge no more than the maximum allowable tax credit rent;

    d. Documentation that you use the correct utility allowance.

    e. Documentation that you comply with the Available Unit Rule, Vacant Unit Rule and Transfer Rule.

2. Ensure the information HPD needs to see is available in an easy-to-read format or HPD may halt the review and issue a notice of noncompliance for failure to cooperate with the monitoring process.

3. Exhibit 2-C at the end of this chapter provides instruction on how to organize your resident files.

C. You must submit the owner's annual certification of compliance in the form and manner required by HPD. HPD mails the required forms to the owner and manager of record on or before January 31st. For HPD to consider a certification of compliance to be on-time and complete, you must do the following:

1. Submit the owner's certification of compliance to HPD postmarked no later than March 1st of each calendar year.

2. Ensure the owner has signed the certification of compliance.

3. Submit a certified rent roll designating the tax credit units for each building at your property using the HPD required format on or before March 1st of each calendar year.

4. Ensure the certification of compliance includes accurate square footage measurements for the currently designated tax credit units for each building at your property.

5. Pay the annual compliance monitoring fee of $25 (as of release of this manual) for each tax credit unit designated on your certified rent roll postmarked no later than March 1st of each calendar year.

6. If your property has HOME funds, submit the owner's annual certification of compliance for the HOME program postmarked no later than March 1st of each calendar year.

7. Update the contact information for the owner and the management company so HPD sends correspondence to the correct address. Please include the name and contact information for your syndicator if they want to be copied by HPD on correspondence for your property.

D. In the future, HPD will issue an electronic version of the owner's certification of compliance. Owners will be strongly encouraged to submit the annual certification and certified rent roll electronically. Whether submitted electronically or by paper, owners must submit the documents by March 1st and pay their compliance monitoring fees postmarked no later than March 1st.

2-7 Consequences of Noncompliance – HPD

In accordance with IRS requirements, HPD takes the following actions when they find an incidence of noncompliance at your tax credit property:

A. HPD sends a letter explaining the areas in which they found noncompliance and what you must do to correct it. The letter states:

1. Who you should contact at HPD to correct the noncompliance;

2. How you should contact your HPD representative;

3. The evidence you must provide HPD to correct the noncompliance; and

4. The deadline by which you must provide HPD the evidence you corrected the noncompliance.

B. HPD completes the Form IRS-8823, *Low Income Housing Credit Agencies Report of Noncompliance or Building Disposition*. You will find a sample of the 8823 form at the end of this chapter as Exhibit 2D.

C. If the non-compliance has been corrected, HPD sends the Form 8823 to the IRS after noting on the form you corrected the noncompliance during the correction period.

D. HPD sends the 8823(s) to the addresses listed for the owner and/or the management company in the most recent owner's certification of compliance; and may send a copy to the syndicator.

E. HPD completes an 8823 for each building at your property in which they find noncompliance. HPD marks under Question 11 in what area they find you to be out of compliance

F. At the end of this chapter you will find Exhibit 2-E, Best Practices for Correcting Noncompliance

G. At the end of this chapter you will find Exhibit 2-F, Contact Information for the HPD Compliance Monitoring Unit

2-8. Consequences of Noncompliance for the Investors, Developer and Management Company

Under paragraph 2-7, you read a description of your responsibilities in the compliance monitoring process, but correcting noncompliance is more than an exercise in paperwork. Based on the contractual agreements between the developer, the investors and the management company, an incidence of noncompliance can have a negative financial impact on all parties involved in the operation of a tax credit property.

A. For each year a unit is out of compliance, the investors could lose tax credits.

B. When the developer fails to deliver the tax credits promised to the investors there are usually negative financial consequences for the developer as well. For example, the investors may put less money into your property and the developer must make up the difference in the development budget.

C. If the credits were lost due to management error, the developer may require the management company to compensate the developer for the lost investment.

2-9. Assembling a Compliance Binder

The tax credit program is a complicated program with layers of requirements. HPD will monitor your compliance with all regulatory agreements for your property as they relate to the tax credit program. Assemble the following documents in a compliance binder:

A. Form IRS-8609 for each building after HPD has completed part 1 of the form and the owner has completed part 2;

B. Application submitted by the owner to HPD for Form IRS-8609;

C. Regulatory agreement governing the tax credit allocation;

D. Land use regulatory agreement (LURA) including the extended use commitments for your property;

E. Land disposition agreement (LDA) for your property;

F. Regulatory agreements for any additional funding sources;

G. C of O for each building if applicable to the PIS date;

H. Any temporary C of O (TCO) for each building if applicable to the PIS date for your tax credits;

I. Current tax credit income limits;

J. Current maximum allowable tax credit rents; and

K. Documentation of utilities paid by the owner and the residents.

Although it is a lengthy document, you may want to include a copy of this manual in your compliance binder. You may consider printing certain chapters for easy reference; e.g., Chapter Six: Calculating Annual Income and Chapter Seven: Completing the Initial Certification.

2-10. Importance of Training in the Tax Credit Program

You must not depend solely on reading this manual for your training in the tax credit program. HPD expects all owners and managers who want to be active in the program to complete formal training. Here is a list of organizations offering training in the compliance requirements of the tax credit program. Note: HPD does not endorse any of these organizations or training programs and there may be others in addition to those listed below.

A. Quadel Consulting Corporation
(202)789-2500
www.quadel.com

B. Housing Credit College
(800)644-0390
www.housingcreditcollege.com

C. National Center for Housing Management
(703)516-4070
www.nchm.org

D. Spectrum Seminars
(207)767-8000
www.spectrumseminars.com

E. Theo Pro Compliance and Consulting, Inc.
(877)783-1133
www.icomply42.com

2-11. Do This!

A. Have a process for getting all the regulatory agreements, the tax credit application, copies of completed 8609 form(s) from the development team and into your compliance binder.

B. Read all the applicable regulatory agreements for your tax credit property.

C. Establish a system for organizing the records for your tax credit property before the credits are placed in service and you begin to lease your tax credit units.

D. Understand the goals and deadlines for placing the credits in service and leasing the tax credit units for each building at your tax credit property.

E. Respond to every notice of noncompliance by the deadline established by HPD.

F. Utilize the HPD-suggested method for organizing your resident files.

G. Recertify your tenants annually.

H. Inspect your units at least annually, finding and fixing small problems before they become big problems and threaten the health and safety of your residents.

2-12. Don't Do This!

A. Fail to ask questions about any of the compliance requirements for your tax credit property you don't understand.

B. Fail to maintain organized resident files from the beginning of the compliance period at your tax credit property.

C. Let your files become disorganized.

D. Fail to annually recertify your tenants by the anniversary date of their initial certification.

E. Allow the physical condition of your tax credit units to deteriorate to the point they jeopardize your owner's tax credits.

F. Ignore a notice of noncompliance you receive from HPD.

G. Forget to pay your annual compliance monitoring fees. Your annual compliance submission will not be complete with out the fee.

Exhibit 2-A
Form IRS-8609

Form **8609**
(Rev. December 2006)
Department of the Treasury
Internal Revenue Service

Low-Income Housing Credit Allocation and Certification

OMB No. 1545-0988

Part I Allocation of Credit.

Check if: ☐ Addition to Qualified Basis ☐ Amended Form

A Address of building (do not use P.O. box) (see instructions)

B Name and address of housing credit agency

C Name, address, and TIN of building owner receiving allocation

D Employer identification number of agency

E Building identification number (BIN)

TIN ▶ --

1a Date of allocation ▶ ..../..../........ b Maximum housing credit dollar amount allowable	1b	
2 Maximum applicable credit percentage allowable	2	%
3a Maximum qualified basis	3a	
b If the eligible basis used in the computation of line 3a was increased, check the applicable box and enter the percentage to which the eligible basis was increased (see instructions)	3b	1 __ __ %
☐ Building located in the Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone		
☐ Section 42(d)(5)(C) high cost area provisions		
4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.)	4	%
5 Date building placed in service ▶ ..../..../.....		

6 Check the boxes that describe the allocation for the building (check those that apply):
a ☐ Newly constructed and federally subsidized b ☐ Newly constructed and not federally subsidized c ☐ Existing building
d ☐ Sec. 42(e) rehabilitation expenditures federally subsidized e ☐ Sec. 42(e) rehabilitation expenditures not federally subsidized
f ☐ Not federally subsidized by reason of 40-50 rule under sec. 42(i)(2)(E) g ☐ Allocation subject to nonprofit set-aside under sec. 42(h)(5)

Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

▶ Signature of authorized official ▶ Name (please type or print) ▶ Date

Part II **First-Year Certification**—Completed by Building Owners with respect to the First Year of the Credit Period

7 Eligible basis of building (see instructions)	7	
8a Original qualified basis of the building at close of first year of credit period	8a	
b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?	☐ Yes	☐ No
9a If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?	☐ Yes	☐ No
b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low income units under section 42(d)(3)(B)? ▶	☐ Yes	☐ No

10 Check the appropriate box for each election:
Caution: *Once made, the following elections are irrevocable.*

a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶	☐ Yes	☐ No
b Elect not to treat large partnership as taxpayer (section 42(j)(5)) ▶	☐ Yes	
c Elect minimum set-aside requirement (section 42(g)) (see instructions) ☐ 20-50 ☐ 40-60	☐ 25-60 (N.Y.C. only)	
d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)	☐ 15-40	

Under penalties of perjury, I declare that the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42. I have examined this form and attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

▶ Signature ▶ Taxpayer identification number ▶ Date

▶ Name (please type or print) ▶ Tax year

For Privacy Act and Paperwork Reduction Act Notice, see instructions. Cat. No. 63981U Form **8609** (Rev. 12-2006)

Exhibit 2-B
CALENDAR TO PREPARE FOR HPD COMPLIANCE MONITORING

MONTH	Suggested Action
January	• Prepare and submit rent roll as of December 31 of previous year
February	• Respond to and correct 8823s (if any)
March	• **Submit annual owner certification, rent roll and compliance monitoring fee by March 1st deadline**
April	• Review physical condition of apartments and correct problems in anticipation of potential HQS inspections • Review tenant files, correct problems and obtain missing information in anticipation of tenant file audits
May	• Review physical condition of apartments and correct problems in anticipation of potential HQS inspections • Review tenant files, correct problems and obtain missing information in anticipation of tenant file audits • Respond to 8823s for Owner Certification issues (if any)
June	• LIHTC file reviews and HQS inspections generally started at this time. • Respond to 8823s for Owner Certification issues (if any)
July	• Respond to and correct 8823s (if any)
August	• Respond to and correct 8823s (if any)
September	• Respond to and correct 8823s (if any)
October	• Respond to and correct 8823s (if any)
November	• Call HPD to confirm results of HQS inspections and LIHTC site visits (212-863-6446) • Respond to and correct 8823s (if any) • LIHTC file reviews and inspections generally end at this time.
December	• **Prepare rent roll as of December 31** • Respond to and correct 8823s (if any)

HQS (Housing Quality Standards) – Inspection of apartments for physical suitability such as broken floor tiles, cracked windows, peeling paint, etc.

Exhibit 2-C
Suggested Resident File Format

- Do not use a simple, manila folder for a resident file.
- Use a multi-part file with 4-6 sections in which you can organize information.
- Attach the initial TIC, supporting documentation and initial lease to the inside of the front cover of the file.
- Select another section in which you organize the resident's recertifications.
- Organize the recertifications by year, placing the most recent recertification on top.
- Use a colored sheet of paper to separate the recertifications by year.
- Organize each recertification with the TIC on top and the supporting documentation, (third party verifications, pay stubs, bank statements, benefit award letters, etc.) behind the TIC.
- Keep the 3 most-recent recertifications in the resident file and store older recertifications in accessible storage.
- Never remove a resident's initial TIC, lease and supporting documentation from the file.
- When a resident transfers to another unit, include their initial TIC and supporting documentation in their new file.
- Use the remaining sections of the file to organize information by topic including:
    - Legal activity;
    - Maintenance activity;
    - General correspondence; and
    - Physical inspections
- Never use white-out
- Ensure that all documents are signed and dated as needed.

Exhibit 2-D
Form IRS-8823

Form **8823** (Rev. Oct. 2005) Department of the Treasury Internal Revenue Service

Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition

Note: *File a separate Form 8823 for each building that is disposed of or goes out of compliance.*

OMB No. 1545-1204

Check here if this is an amended return ▶ ☐

IRS Use Only

1 Building name (if any). Check if item 1 differs from Form 8609 ▶ ☐

Street address

City or town, state, and ZIP code

2 Building identification number (BIN)

3 Owner's name. Check if item 3 differs from Form 8609 ▶ ☐

Street address

City or town, state, and ZIP code

4 Owner's taxpayer identification number ☐ EIN ☐ SSN

5 Total credit allocated to this BIN . . . ▶ $

6 If this building is part of a multiple building project, enter the number of buildings in the project . . . ▶

7 a Total number of residential units in this building . . . ▶

b Total number of low-income units in this building . . . ▶

c Total number of residential units in this building determined to have noncompliance issues . . . ▶

d Total number of units reviewed by agency (see instructions) . . . ▶

8 Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY)

9 Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY)

10 Check this box if you are filing only to show correction of a previously reported noncompliance problem . . . ▶ ☐

11 Check the box(es) that apply:	Out of compliance	Noncompliance corrected
a Household income above income limit upon initial occupancy	☐	☐
b Owner failed to correctly complete or document tenant's annual income recertification	☐	☐
c Violation(s) of the UPCS or local inspection standards (see instructions) (attach explanation)	☐	☐
d Owner failed to provide annual certifications or provided incomplete or inaccurate certifications	☐	☐
e Changes in Eligible Basis or the Applicable Percentage (see instructions)	☐	☐
f Project failed to meet minimum set-aside requirement (20/50, 40/60 test) (see instructions)	☐	☐
g Gross rent(s) exceed tax credit limits	☐	☐
h Project not available to the general public (see instructions) (attach explanation)	☐	☐
i Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(ii)	☐	☐
j Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix)	☐	☐
k Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)	☐	☐
l Low-income units occupied by nonqualified full-time students	☐	☐
m Owner did not properly calculate utility allowance	☐	☐
n Owner has failed to respond to agency requests for monitoring reviews	☐	☐
o Low-income units used on a transient basis (attach explanation)	☐	☐
p Project is no longer in compliance nor participating in the section 42 program (attach explanation)	☐	
q Other noncompliance issues (attach explanation)	☐	☐

12 Additional information for any item above. Attach explanation and check box . . . ▶ ☐

13 a Building disposition by ☐ Sale ☐ Foreclosure ☐ Destruction ☐ Other (attach explanation)

b Date of disposition (MMDDYYYY)

c New Owner's Name

d New owner's taxpayer identification number ☐ EIN ☐ SSN

Street address

14 Name of contact person

City or town, state, and ZIP code

15 Telephone number of contact person ( ) Ext.

Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

▶ Signature of authorizing official ▶ Print name and title ▶ Date (MMDDYYYY)

For Paperwork Reduction Act Notice, see Instructions. Cat. No. 12308D Form 8823 (Rev. 10-2005)

Exhibit 2-E
Best Practices for Correcting Noncompliance

- Establish an effective quality control system. HPD does not report an incidence of noncompliance you correct before receiving notice of the monitoring review.
- Show your work when completing income calculations.
- NEVER use White-Out to correct information on a TIC. Put a line through the incorrect information on the TIC and ask the resident to initial the change.
- Require all adult household members to sign the relevant forms or document why you were unable to do so.
- Provide HPD clear, *legible* copies of pay stubs, bank statements, etc…
- Require all residents receiving subsidy through the housing choice voucher or housing support plus programs to sign the TIC.
- If you fail to complete a TIC prior to a household taking occupancy, to avoid a period of noncompliance, complete a retroactive TIC using the resident's income and income limit in effect on their move-in date. However, you should never back date forms.
- If you fail to complete a resident's recertification on time, to avoid a period of noncompliance, complete a retroactive recertification using the resident's income and income limit in effect on the anniversary of their move-in date. However, you should never back date forms.
- ALWAYS REPORT THE TRUTH. If you complete a retroactive income certification, do not ask the resident to back-date their signature.
- When correcting noncompliance following an HPD monitoring review, provide all the information requested for every resident file referenced in the notification of noncompliance.
- NEVER alter or use White-Out at all on an employment verification form, benefit award statement, bank statements, notarized affidavit, etc.
- Use the HPD-required verification forms to document the information supporting a tenant income certification.
- Make *legible* notes to a file, explaining relevant information not obvious to an HPD representative.

Exhibit 2-F
Contact Information for
HPD Tax Credits and Compliance Unit

All correspondence should be addressed to the appropriate individual and sent to the following address:

Tax Credits and Compliance Unit
NYC Dept. of Housing Preservation & Development
100 Gold Street, 9th floor
New York, NY 10038
nyc.gov/hpd

Christopher Allred

Director, Tax Credits & Compliance

212/863-6583

Robert King

Tax Credit Monitoring Coordinator

212/863-6160

Nayana Saraiya

HOME Monitoring Coordinator

212/863-6133

Part Two

How Many Tax Credit Units do I Need at My Property?

Chapter Three

The Minimum Set Aside

Chapter Three: The Minimum Set Aside
-or-
The Minimum Number of Tax Credit Units You Need at Your Property, but It's Just the Beginning

3-1. Topics Covered in this Chapter

In this chapter, you will read about:

A. The minimum set aside your owner committed to when receiving a credit allocation;

B. The credit period, or the period of time the investors in your property plan to take a tax credit on their federal income tax return;

C. The compliance period, or the period of time you must comply with all tax credit requirements;

D. The extended use period, or the period of time following the compliance period you must continue to comply with the requirements for your property;

E. The consequences of not meeting and maintaining the minimum set aside at your property; and

F. Your owner's need to rent more units than required by the minimum set aside to meet the obligation entered into in exchange for credits.

3-2. Key Terms to Learn from Reading this Chapter

- Compliance Period
- Credit Period
- Extended Use Period (EUP)
- Minimum Set Aside
- Placed in Service Date (PIS Date)
- Land Use Regulatory Agreement (LURA)

3-3. Minimum Set Aside

An owner must comply with their minimum set aside to be part of the tax credit program.

A. In New York City, you may commit to one of the following minimum set asides:

Minimum Set Aside	**% of Units Required**	**Qualifying Income Limit**	**Notes**
20% @ 50%	20% of the units at the property	50% of AMI	• 50% of AMI referred to as very low income
25% @ 60%	25% of the units at the property	60% of AMI	• 60% of AMI referred to as low income
Deep Rent Skew	15% of the tax credit units	40% of AMI	• Owner commits to one of the two minimum set asides and to deep rent skew • 40% of AMI referred to as extremely low income.

Sample Minimum Set Aside Calculations

60 unit property

20% @ 50% minimum set aside
12 units (60 units x 20%) must be rented to residents at 50% of AMI

25% @ 60% minimum set aside
15 units (60 units x 25%) must be rented to residents at 60% of AMI

25% @ 60% minimum set aside & deep rent skew
15 units (60 units x 25%) must be rented to residents at 60% of AMI
3 units (15 tax credit units x 15%) must be rented to residents at 40% of AMI

B. You must meet the minimum set aside at the property level. That is, you must rent the percentage of units required by the first number in the minimum set aside *at the property* to qualified households to participate in the tax credit program. In other words, in each "20% at 50%" property you must have at least 20% of the units rented to qualified households. In each 25% at 60% property you must have at least 25% of the units rented to qualified households.

1. You need to know how “the property” is defined.

2. As discussed in Chapter 2, an owner receives a Form 8609 for each building from HPD. Before submitting a Form 8609 to the IRS the owner notes on Line 8b if the building represented by the form is part of a property that includes other buildings.

   a. If a building is not part of a multi-building property, you must meet the minimum set aside using the units in the building.

   b. If a building is part of a multi-building property, you must meet the minimum set aside using the units in the buildings that make up the property as defined on line 8b the 8609 forms.

Minimum Set Aside Calculations at a Multi-Building Property

60 unit property consisting of four 15-unit buildings
20% @ 50% minimum set aside

If the project consists of four buildings as a property,
12 units (60 units x 20%) amongst the four buildings
must be rented to residents at 50% of AMI

If each building is a property,
3 units (15 units x 20%) in each building
must be rented to residents at 50% of AMI

C. There are properties with more than one credit allocation. That is, a group of buildings looks like one property and is managed as one property but received separate credit allocations in different years for a variety of reasons. If you are not sure you should ask your development team for assistance. If you manage a property with more than one credit allocation, you must know the answers to the following questions:

1. When did your property receive each credit allocation and what buildings were covered by each allocation?

2. What is the PIS date for each building for each credit allocation?

3. Which minimum set aside did the owner commit to for each credit allocation?

4. What buildings did the owner group together as a property (on line 8b of their 8609 forms) for each credit allocation?

D. An owner may commit to meeting more than one minimum set aside. For example, they may commit to meeting both the 20% @ 50% and the 25% @ 60% set asides If you have more than one minimum set aside, you must know the answers to the following questions:

1. Which minimum set asides did the owner commit to? Ask your development team if you are not sure.

2. What percentage of your units do you need to rent to households qualifying at various income levels for your property to comply with all set asides required by HPD?

3. What buildings did your owner group together (on line 8b of their 8609 forms) as a property?

Multiple Minimum Set Asides

4 buildings
20 units in each building

Owner defines buildings 1 & 2 as a property on 8609 forms and commits to 20% @ 50% set aside. The owner must rent 8 units (40 units x 20%) to households at 50% of AMI in these two buildings.

Owner defines buildings 3 & 4 as a property on 8609 forms and commits to 25% @ 60% set aside. The owner must rent 10 units (40 units x 25% to households at 60% of AMI in these two buildings.

E. The election of a minimum set aside for a tax credit property is irrevocable. For your investors to take a tax credit on their income tax return, you must meet the requirements for the minimum set aside(s) by the end of the first year of the credit period and comply with your minimum set aside(s) throughout the compliance period. See Paragraph 3-7 for a discussion of the consequences of not meeting and maintaining your property's minimum set aside. See Paragraph
4-5.C for a discussion of the impact on not renting all your tax credit units during the first year of a building's credit period.

3-4. The Credit Period

The credit period is the period of time the investors in your property plan on taking a tax credit on their federal income tax return.

A. The credit period lasts for ten (10) years.

B. Generally, an owner begins the credit period for each building the year they place its credits in service. The first year of the credit period ends December 31st the year of the PIS date.

C. The owner may elect to begin the credit period the year following the PIS date. The first year of the credit period ends December 31st the year following the PIS date.

D. If an owner places two buildings in service in the same year, they may choose to begin the credit period for the buildings in two different years.

E. You must know in what year the owner plans to begin the credit period for each building in a multi-building property.

Beginning the Credit Period

Four building property
Owner places all four buildings in service 10/1/2007

Owner begins the credit period in 2007 for buildings 1 and 2.

Owner begins the credit period in 2008 for buildings 3 and 4.

3-5. The Compliance Period

The compliance period is the period of time you must comply with all program requirements for your investors to benefit from the maximum possible tax credit.

A. The first year of the compliance period for a building is the first year of its credit period.

B. The compliance period lasts for 15 years. (Don't forget to read Paragraph 3-6 on the extended use period.)

C. You must comply with all requirements established by the IRS for the 15-year compliance period.

Beginning the Compliance Period
Four building property Owner places all four buildings in service 10/1/2007 Owner begins the credit and compliance periods in 2007 for buildings 1 and 2. Owner begins the credit and compliance periods in 2008 for buildings 3 and 4.

3-6. The Extended use Period

The extended use period (EUP) is the period of time following the 15-year compliance period you must continue to comply with the requirements for your property.

A. The EUP begins January 1st following the end of the 15-year compliance period.

B. The EUP lasts a minimum of 15 years.

C. Read the Land Use Reg. Agreement (LURA) your owner signed to determine the length of the EUP for your property. Your owner may have committed to an EUP as long as 99 years.

D. You must meet all the requirements of this *Compliance Manual* (as established by HPD) unless HPD approves different compliance requirements for the EUP for your property in a separate document.

E. Read your Regulatory Agreement to know the requirements for the EUP for your property.

3-7. Consequences of Not Meeting and Maintaining the Minimum Set Aside

The owner must meet the requirements of the minimum set aside by the end of the first year of the credit period and maintain compliance through the compliance and extended use periods.

A. If an owner elects to begin the credit period the year they place the credits in service but fails to meet the minimum set aside during that year, they can begin the credit period the following year. However, the credits will be less valuable to the investors because they must delay taking their tax credits.

Year 1 of the Credit Period

PIS date is 7/1/07
Owner begins the credit period in 2007 and
takes their first tax credit on their 2007 tax return.

If the owner delays starting the credit period until 2008,
they cannot take their first tax credit until filing their 2008 tax return.

B. If the owner elects to begin the credit period the year following the PIS date but fails to meet the minimum set aside that year, they lose the tax credits for the building.

C. If the owner meets the minimum set aside during the first year of the credit period, but fails to maintain it for the 15-year compliance period, they may take no tax credits during the period of noncompliance.

D. If the owner fails to maintain the minimum set aside during the EUP, HPD may take the following actions, among others:

1. Refuse to allocate tax credits for any property the owner wants to develop in the future.

2. Award negative points for applications the owner submits requesting future credit allocations.

3, Refuse to execute an owner's request for a recertification waiver (for 100% tax credit projects, see Chapter Ten) for other tax credit properties.

4. Refuse to allocate funding from other sources (HOME, CDBG, etc.) requested by the owner.

5. File suit against the owner for failing to meet their contractual obligations.

3-8. You Need More Tax Credit Units than Required by Your Minimum Set Aside

Your investors cannot take a tax credit if you do not meet and maintain your minimum set aside. However, they want more than just the minimum tax credit. They want to earn the maximum possible tax credit. Read Chapter Four to learn how many units at your property you must rent to qualified residents for your owners to meet their obligation and get the most from their tax credits.

3-9. Do This!

A. Read all the regulatory agreements for your property.

B. Know the first year of the credit period for every building.

C. Know the units you need to rent to qualified residents to meet your minimum set aside(s).

D. Target your initial leasing activity to rent the correct number of low income units in each building during the first year of its credit period.

E. Remember that you may have occupancy requirements for the other funding sources at your property. (e.g., HOME, CDBG).

F. Remember you may need to rent a percentage of your units to homeless persons or to residents of specific neighborhoods. You may need to offer special consideration to former residents who moved out of your building during its rehabilitation.

3-10. Don't Do This!

A. Throw out your records at the end of the 10-year credit period.

B. Throw out your records at the end of the 15-year compliance period.

C. Think it's unnecessary to comply with all program requirements after the 10-year credit period.

D. Think it's unnecessary to comply with all program requirements after the 15-year compliance period.

E. Throw out your regulatory agreements.

Chapter Four

Maximizing Your Low Income Occupancy

Chapter Four: Maximizing Your Low Income Occupancy
-or-
The Number of Tax Credit Units Your Owner Expects and Where Your Tax Credit Units Should be Located on Your Property

4-1. Topics Covered in this Chapter

In this chapter, you will learn:

A. That the credit allocation most owners receive allows them to earn a tax credit from more units than required by the minimum set aside you read about in Chapter 3;

B. That you must know the number of tax credit units allocated your property, and each building at your property;

C. How to calculate the applicable fraction for a tax credit building;

D. The advantage of managing a 100% tax credit property;

E. How to successfully manage a mixed income property; and

F. About 80/20 properties.

4-2. Key Terms to Learn from Reading this Chapter

- Applicable fraction
- Credit allocation
- Deep rent skew
- Floor space applicable fraction
- Mixed income property
- Unit applicable fraction
- 100% tax credit property
- 80/20 property

4-3. The Credit Allocation – HPD Awards Most Owners More Tax Credit Units than Required by the Minimum Set Aside

HPD awards a credit allocation covering a specific number of units at each property. HPD determines (based on availability of credits, project costs, sources and uses, and other factors) how many units can generate a tax credit so long as those units are occupied by qualified residents.

A. An owner can earn a tax credit only from the number of units allocated by HPD, and only if those units are occupied by qualified residents.

B. For most properties, HPD allocates more tax credit units than required by the minimum set aside.

C. For your owner to benefit from the maximum possible tax credit, rent the number of units covered by the credit allocation to qualified residents.

D. Your owner expects you to manage your property so they benefit from the maximum possible tax credit

E. HPD monitors your property expecting you to rent the number of tax credit units they allocated to qualified residents.

4-4. You Must Know How Many Tax Credit Units HPD Allocated each Building at Your Property

A. Generally, HPD allocates tax credits by building. HPD determines (as reflected in the LURA) how many units in a building can generate a tax credit if they are occupied by qualified residents.

B. You must know how many tax credit units HPD allocated each building at your property.

C. For your owner to earn the maximum possible tax credit, rent the number of units HPD allocated each building to qualified residents.

Sample Tax Credit Property

2 building property
Each building has 10 units

Credit allocation covers 6 units in building one
and 7 units in building two.

Owner can earn the maximum tax credit only if there are
at least 6 units in building one and 7 units in
building two occupied by qualified residents.

4-5. The Applicable Fraction: Measuring How Much of a Building is Occupied by Tax Credit Qualified Residents

The applicable fraction is that percentage of a building's physical space (as measured by units and by square feet) covered by its credit allocation, and occupied by tax credit qualified residents.

A. The applicable fraction is always the *lesser of*:

1. <u>The unit applicable fraction</u> – The percentage of <u>units</u> in a building occupied by qualified residents; or

2. <u>The floor space applicable fraction</u> – The percentage of <u>floor space</u> in a building occupied by qualified residents.

B. To earn the maximum possible tax credit, your owner needs the applicable fraction for a building to be at least equal to the percentage of units covered by its credit allocation by the end of the first year of its credit period.

1. The unit applicable fraction must be at least equal to the percentage of units covered by the credit allocation; and,

2. The floor space applicable fraction must be at least equal to the percentage of units covered by the credit allocation.

Sample Applicable Fraction Calculations

15 unit building with 13,100 square feet
Credit allocation covers 60% of the units

At end of year one, 9 units and 7,900 square feet
are rented to qualified residents

9/15 = 60% = unit applicable fraction
7,900/13,100 = 60.31% = floor space applicable fraction
1^{st} year applicable fraction = 60%

The owner can earn the maximum tax credit because
the 1^{st} year applicable fraction is at least equal to
the 60% credit allocation.

C. Any unit you don't rent to a qualified resident by the end of the first year of the credit period generates a tax credit equal to 2/3 the credit it would have generated if you had rented it in year 1.

Impact of the Two-Thirds Rule

Building allocated 9 tax credit units.
Each unit will generate a $6,000 credit if rented during year 1.
9 units x $6,000 = $54,000 = projected annual tax credit

You rent 6 units during year 1 but don't rent 3 units until year 2.

6 units x $ $6,000 = $36,000 = tax credit for year 1

(6 units x $6,000) + (3 units x $4,000) =
$36,000 + $12,000 = $48,000 = tax credit for year 2

4-6. Properties With More than One Credit Allocation

There are properties with more than one credit allocation. That is, a group of buildings looks like one property and is managed as one property but received separate credit allocations in different years for a variety of reasons. At a property with multiple credit allocations, you must know the answers to the following questions:

A. In what years did your property receive a credit allocation?

B. What buildings were allocated credits in what year(s)?

C. What is your owner's goal for the applicable fraction for each building under each credit allocation?

Sample Property with Two Credit Allocations
5 building property Each building has 10 units
1st credit allocation in 2000 covers 60% of buildings 1-4
2nd credit allocation in 2002 covers 30% of buildings 4 and 5

4-7. Be Grateful if You Manage a 100% Tax Credit Property

Take the following steps to generate the maximum tax credit at a 100% tax credit property.

A. Rent all the units in each building to qualified residents by the end of the first year of its credit period.

B. Know if your owner committed to more than one minimum set aside; that is, do you need to rent some units to residents at 60% of AMI, and other units to residents at 50% of AMI?

C. Always rent a vacant tax credit unit to a qualified resident.

D. Never rent a unit to a household that doesn't qualify under the full- time student rule. (See Chapter Five)

E. Relocate a resident who falls out of compliance with the full time student rule. (See Chapter Five)

F. Never charge a resident more rent than the maximum allowed by the tax credit program. (See Chapter Eight)

G. Make sure that you correctly document on every initial TIC that the resident qualifies for the tax credit program at your property.

H. Complete your annual recertifications on time for all your residents unless you receive a recertification waiver. (See Chapter Ten)

4-8. Compliance Requirements in a Mixed Income Property

It is more complicated to manage a mixed income property. You must know how many units and what combination of units in each building you must rent to qualified residents for your owner to benefit from the maximum possible tax credit.

A. Before leasing a mixed income property, map each building by designating which units you will rent to qualified residents.

B. For acquisition/rehab buildings, map in which units in each building you need the existing residents to qualify for the tax credit program.

C. Map each building so that both the unit and the floor space applicable fractions are at least equal to the percentage of units covered by its credit allocation.

Sample Mixed Income Building

15 units
13,100 square feet
Credit allocation covers 60% of the units

15 x 60% = 9 tax credit units

13,100 x 60% = 7,860 tax credit square feet

Rent 9 units, comprised of at least 7,860 square feet,
to qualified residents.

D. Know if your regulatory agreement designates the tax credit units for the first year of a building's credit period.

E. Within a mixed income property, you may have both 100% tax credit and mixed income buildings. (You may apply for a recertification waiver for your 100% tax credit buildings after an inspection has been performed and no non-compliance has been discovered.)

F. In Exhibit 4-A at the end of this chapter you will find the certified rent roll/compliance map HPD strongly recommends you use to map each building at your property. If you submit a rent roll other than the one strongly recommended by HPD, it MUST contain ALL the same information included in the HPD rent roll.

4-9. *80/20 Properties in NYC*

At an 80/20 property:

A. The owner commits to the 20% @ 50% minimum set aside and to deep rent skew.

B. HPD awards an allocation covering 20% of the units.

C. The number of tax credit units required by the minimum set aside is equal to the number of units covered by the credit allocation.

D. You must rent 85% of the tax credit units to households qualifying at 50% of AMI.

E. Because the owner commits to deep rent skew, you must rent 15% of the tax credit units to households qualifying at 40% of AMI.

F. Because the owner commits to deep rent skew, the tax credit units are fixed, unlike most mixed income buildings where the tax credit units float. (See Chapter 10 for a discussion of the Available Unit Rule.)

Sample 80/20 Property

100 Units
20% @ 50% Minimum Set Aside
Deep Rent Skew
Credit Allocation for 20% of the Units

100 units x 20% = 20 Units
Minimum & Maximum Number of Tax Credit Units is 20

20 Units x 15% = 3 units

3 Units must be rented to Residents at 40% of AMI
17 Units must be rented to Residents at 50% of AMI

4-10. *Do This!*

A. Read the regulatory agreement(s) for the property so you know how many tax credit units were allocated within each building.

B. Map each of your buildings by designating which units you must rent to qualified residents to generate the maximum tax credit.

C. Use the recommended compliance map in Exhibit 4-A to map each building at your property.

D. Use the recommended compliance map in Exhibit 4-A to track your compliance with the owner's applicable fraction for each building.

E. If you manage a 100% tax credit property, or have 100% tax credit buildings within a mixed income property, read Chapter 10 and learn how to apply for a recertification waiver.

4-11. Don't Do This!

A. Lease to anyone until you know which units in each building must be rented to qualified LIHTC residents to generate the maximum tax credit.

B. Do not sign leases and move tenants in unless you have established they are qualified.

C. Think your owner will be satisfied if you rent just enough units to qualified residents to comply with the minimum set aside, unless you manage an 80/20 property.

D. Fail to rent the maximum number of units possible in a building to qualified residents.

E. Forget that the applicable fraction is always the *lesser* of the unit applicable fraction or the floor space applicable fraction you calculate for a building.

F. Forget your owner has an obligation to rent the number of units HPD allocated each building to qualified residents and will only receive the maximum credits they are expecting when that is true.

Exhibit 4-A
Certified Rent Roll

COMPLIANCE YEAR 2007
OWNER CERTIFICATION
FOR LOW-INCOME HOUSING TAX CREDITS

PART A

Certification Period: January 1, 2007 - December 31, 2007

I. PROJECT INFORMATION

Owner (L.P. or L.L.C.) ______________________

Sponsor / Developer ______________________

Project / Cluster Name ______________________

HPD Program (check one) ___ NRP ___ NEP ___ SRO ___ 85/85 ___ LISC/Enterprise ___ MIRP
___ HoDAG ___ CM/CBHHP ___ Vac Bldg RFP ___ Bradhurst ___ None

Person Preparing Form ______________________ Phone ( )

List below each building in project:

Building Address	Tax Credit Bldg. ID No. (BIN)	Year Credits Were First Claimed	A. LIHTC Qualified Units*	B. Other Residential Rental Units	C. Non-Rental Super Units	D. Total Units (A+B+C)	E. Building Applic. Fraction (A / A+B)
							%
							%
							%
							%
							%
							%
							%
							%
							%
							%
							%
		Project Totals:					%

* Non Tax Credit qualified super units must be included in column C.

II. OWNER INFORMATION:

Current Owner: ______________________

Address: ______________________

Contact Person: ______________________

Phone: ( )

Tax ID Number: ______________________

III. MANAGING AGENT:

Name: ______________________

Address: ______________________

Contact Person: ______________________

Phone: ( )

IV. OWNERSHIP CHANGE:

Since the original allocation was made and the first 8609 was issued, has there been a change in ownership of any building in this LIHTC project? YES______ NO______ If yes, complete the following:

Previous Owner: ______________________ Date of Sale: ______________

Address: ______________________

Contact Person: ______________________ Phone: ( )

NOTE: If all buildings in the project were not transferred to the same owner, complete the information above separately for each building sold. (Attach additional sheets, as needed.)

Part Three

How Do I Know Who Qualifies to Live in My Tax Credit Units?

Chapter Five

Household Eligibility Factors

Chapter Five: Household Eligibility Factors
-or-
The Questions You Must Ask & Answer Before Approving a Household to Occupy Your Tax Credit Unit

5-1. Topics Covered in this Chapter

In this chapter, you will learn:

A. There are two (2) factors that determine a household's eligibility for the tax credit program: The income limit established in the minimum set aside and the full time student rule;

B. How to use the income limit in the minimum set aside to qualify a household for your tax credit unit;

C. How to count the number of people living in a household to select the applicable income limit;

D. How to determine if a household complies with the full time student rule before allowing them to occupy your tax credit unit;

E. About the Super Unit(s) at your property;

F. That you must qualify a household receiving any kind of rental subsidy for the tax credit program before allowing them to occupy your tax credit unit;

G. About the importance of establishing the criteria, in writing, you use to screen applicants; and

H. About the importance of complying with all fair housing laws.

5-2. Key Terms to Learn from Reading this Chapter

- Fair housing
- Full time student
- Household size
- Income limit
- Minimum set aside
- Housing choice voucher program (HCV)
- Housing support plus program (HSP)
- Project-based Section 8
- Screening

5-3. The Two Eligibility Factors for the Tax Credit Program

There are two (2) eligibility factors for the tax credit program.

A. The Income Limit – A household's gross annual income cannot be greater than the income limit established in the minimum set aside.

1. You will learn how to determine the applicable income limit in this chapter.

2. You will learn how to calculate a household's gross annual income in Chapter Six.

B. Full Time Student Rule – A household must qualify under the full time student rule. You will learn about this rule later in this chapter.

5-4. The Income Limit

The income limit is established in the minimum set aside. An applicant is not eligible for a tax credit unit if their gross annual income is one penny more than the income limit that applies to their household size.

A. Use the very low income limit HUD issues for NYC to calculate the income limits for your property. HUD calculates the very low income limit as 50% of the AMI for the NYC metropolitan area.

Minimum Set Aside	Calculate Income Limit
20% @ 50%	Use HUD's very low income limit as 50% of AMI
25% @ 60%	Multiply HUD's very low income limit by 1.2 for 60% of AMI
Deep Rent Skew	Multiply HUD's very low income limit by 0.8 for 40% of AMI

Example

HUD’s very low income limit for 4 persons is $38,250.

Income limit @ 50% of AMI for 4 persons is $38,250

Income limit @ 60% of AMI for 4 persons is $45,900
($38,250 x 1.2)

Income limit at 40% of AMI for 4 persons is $30,600 ($38,250 x .8.)

Note: These are sample income limits. Make sure to use the correct income limits for NYC for the household size you are trying to qualify for your tax credit unit.

B. Your owner may have committed to more than one set aside. That is, you may need to qualify some residents at 60% of AMI, other residents at 50% of AMI and others at 40% of AMI. To qualify a household, you must compare their gross annual income to the income limit that applies to the unit they will occupy. Note: The owner may have committed to a higher percentage of units and/or other income limits in their LURA. Please check your regulatory agreement to be sure.

1. If a unit is part of the 25% @ 60% set aside, compare an applicant’s annual income to 60% of the AMI.

2. If a unit is part of the 20% @ 50% set aside, compare an applicant’s annual income to 50% of the AMI.

3. If a unit meets the owner’s commitment to deep rent skew, compare an applicant’s annual income to 40% of AMI.

Sample Property

100 Unit Properties
20% @ 50% minimum set aside
Owner commits to deep rent skew
100 units x 20% = 20 units in the minimum set aside
20 units x 15% = 3 units; owner must rent at 40% of AMI
Owner must rent 17 units at 50% of AMI

C. After HUD issues the very low income limits for the NYC metropolitan area for a new year, HPD calculates the income limits for the tax credit program in NYC. As a courtesy, HPD

posts the income limits at their web site at
http://www.nyc.gov/html/hpd/html/developers/low_income.shtml

D. However, it is the owner's responsibility to use the correct income limit to determine a household eligible for their tax credit unit.

5-5. Household Size and the Income Limit

To qualify a household for a tax credit unit, you must compare their annual income to the income limit for their household size. Follow the rules HUD sets for the project-based Section 8 program to determine household size. Those rules are found in Chapter Three of the HUD Handbook. 4350.3, Rev. 1.

A. When counting the number of household members to select their income limit, do not include the following people even if they plan to live in the unit:

1. Foster child;

2. Foster adult;

3. Live-in aid (live-in care attendant); and

4. Children who will not be living in the unit at least 50% of the time.

Sample Household

Head of Household
Son
Foster Son
Mother of the Head of Household
Live-in Aid

Use the 3-person income limit to qualify this household because the foster son and live-in aid are not included in the household size
when selecting their income limit.

B. Do include the following people when determining household size to select the income limit:

1. Children who will be living in the unit at least 50% of the time;

2. Children temporarily absent from the household due to placement in a foster home;

3. Children living away at school who will join the household during school recesses;

4. Unborn children of pregnant women living in the unit;

5. Children in the process of being adopted; and

6. Temporarily absent family members who plan to join the household including individuals temporarily confined to a medical facility.

Sample Household

Head of Household
Spouse – Pregnant
Son who lives in unit more than 50% of the time
Daughter who lives in unit less than 50% of the time
Grandmother temporarily in a nursing home

Include the spouse's unborn child in the household size, but do not include the daughter because she lives in the unit less than 50% of the time. Compare the household's gross annual income to the 5-person income limit to qualify them for a tax credit unit.

7. A household may elect to include an individual who is permanently confined to a medical facility in their household under the following conditions:

   a. The person in the medical facility may not be the head of the household or co-head of the household;

   b. Their income must be included in your calculation of the household's annual income; and

   c. The household cooperates in providing all the information and signatures you need to include the permanently confined person on the TIC.

Sample Household
Head of Household Spouse – Permanently confined to a nursing home
Head of household may elect to include the spouse in the household and qualify at the 2-person income limit.

C. Establish the following policies for determining household size to select the income limit for an applicant for a tax credit unit.

1. Include a head of the household, co-head of the household or spouse who is away on active military duty.

2. Exclude adult children on active military duty.

D. Establish in your resident selection criteria policies governing the inclusion or exclusion of household members with a criminal background.

1. If you run criminal background checks on your applicants, state in writing what you would find in someone's criminal background that would cause you to reject their application.

2. Assuming an individual passes the standard you apply when researching a person's criminal background, establish how long a person can be projected to be in prison and be included in the household size.

3. Use your standard for assessing someone's criminal background when screening new applicants and when a current resident wants to add a new household member.

5-6. Full-Time Student Rule

The second eligibility factor you must apply to determine an applicant eligible for a tax credit unit is the full-time student rule. A household is not eligible unless they qualify under the full-time student rule.

A. A full-time student is someone who attends (or plans to attend) school on a full time basis for at least five (5) months out of the current calendar year. The 5 months need not be consecutive for a person to be considered a full-time student.

1. Verify the status of a student as either full-time or part-time with the educational institution they attend.

a. If the school classifies the student as full-time, and they attend (or plan to attend) school for at least 5 months out of the current calendar year, they are a full-time student.

b. If the school classifies the student as full-time, and they attend (or plan to attend) school for less than 5 months out of the current calendar year, they are not a full-time student.

c. If the school classifies the student as part-time, they are not a full-time student.

2. You must use the HPD required form to document the status of household members as full-time students.

3. A child in grades K-12 is considered to be a full-time student.

a. For a minor who attends grades K-12, you do not need to document their full-time status with their school.

b. For a minor who claims not to be a full-time student, you must document they do not attend school to not consider them a full-time student.

4. Because an unborn child of a woman living in the unit is counted as a household member when you select their income limit, include an unborn child as a household member when applying the full-time student rule.

B. A household comprised entirely of full-time students is not eligible for a tax credit unit unless you document, in writing, they qualify in one of the following five (5) categories:

1. Every person in the household is married and files a joint tax return, or is eligible to file a joint tax return, with their spouse;

2. The household consists of a single parent with at least one child and the children are not listed as dependents on another person's federal income tax return except one of the parents;

3. The student was previously under the care and placement of a foster care program;

4. At least one household member receives TANF or PA; or,

5. At least one household member participates in a job training program funded through the Workforce Investment Act.

C. At the end of this chapter you will find Exhibit 5-A. Exhibit 5-A is a series of households with different compositions that either do or don't qualify under the full-time student rule.

5-7. *Super Units*

HPD may approve a unit (or in some cases, units) to be occupied by an employee of a tax credit property. The unit can be occupied by a manager, maintenance person or security guard. The unit is usually occupied by the property's superintendent and referred to as the Super Unit.

A building's eligible basis includes those costs which are eligible to generate a tax credit for the owner. Although not included in a building's applicable fraction, a Super Unit is included in its eligible basis and your owner expects your Super Unit to generate a tax credit. Follow these rules in the management of your Super Unit(s).

A. An employee who works full time at a tax credit property and lives in the Super Unit does not need to qualify for the tax credit program. That is, you do not need to qualify their household under the income limit or the full time student rule.

B. Your owner will not lose any tax credits if the super doesn't qualify for the tax credit program under the following conditions:

  1. The super works full time at the property. HPD may review if the super is full time but it is up to the owner to determine a full time schedule for each employee.

  2. You do not have more units occupied by a super, or other employees working at the property, than allowed by your HPD and/or your regulatory agreement.

  3. If the owner has designated a specific unit as your Super Unit, you do not allow a super to live in any other unit unless they qualify for the tax credit program.

  4. You do not charge rent from an employee living in a Super Unit. If you charge the employee rent, they must qualify for the tax credit program.

  5. Generally, HPD does not designate which unit in a building is the Super Unit. However, changing your Super Unit can impact the building's applicable fraction. Ask approval from your syndicator before switching your Super Unit.

5-8. *Housing Choice Voucher and Work Advantage Program Participants*

Through the housing choice voucher (HCV) program, HUD provides rental assistance for households that meet the eligibility requirements for that program. You may know the HCV program as the Section 8 voucher program or as simply, the voucher program. Through the voucher program, a resident pays a portion of their income towards their rent and utilities and HUD pays the remaining amount due.

NYC offers rental assistance through the Work Advantage program, which replaced the Housing Stability Plus (HSP) program. The Work Advantage program is administered by the NYC Department of Homeless Services. Through the Work Advantage program, NYC offers rental assistance and other support to low income households. The rules governing their eligibility for your tax credit units are the same as for participants in the Work Advantage program.

Owners in the tax credit program may not discriminate against participants in the HCV or Work Advantage programs. That is, owners may not use the fact that a household receives rental subsidy through either program as a reason to reject them for a tax credit unit. Still, participants in these programs are not automatically eligible for the tax credit program.

A. You must verify a household receiving rental subsidy qualifies under the tax credit full time student rule. You should use the HPD required form to verify eligibility. (See Chapter 7.)

B You must verify a household receiving rental subsidy qualifies under the tax credit income limit. You have two (2) options for how to income-qualify a household receiving rental subsidy.

1. You may document the household is eligible with the entity administering their subsidy.

   a. In NYC, most vouchers are administered by either HPD or the New York City Housing Authority (NYCHA). However, applicants may have vouchers issued by other housing authorities.

   b. You should use the HPD recommended form to verify a household's eligibility with the entity administering their voucher. (See Chapter 7)

2. If you are unable to verify a household's eligibility with the HA administering their voucher, you must verify their eligibility using the methods you follow for all other applicants for your tax credit units. (See Chapter 7)

C. Participants in the HCV or Work Advantage programs must sign the HPD recommended TIC before occupying a tax credit unit and at every recertification.

5-9. Households on Project Based Section 8 or Comparable Assistance

There are properties that receive an allocation of tax credits that also receive subsidy through a project based assistance program. How an owner administers these project based programs is governed by the HUD Handbook, 4350.3, Rev. 1.

A. Residents may receive rental subsidy through the project-based Section 8, Rent Supplement, RAP, 202 PRAC or 811 PRAC programs.

B. Owners of properties may receive a mortgage subsidy through the Section 236 or 221 (d)(d) BMIR mortgage insurance programs, Section 202 direct loan program, or the 202/811 capital advance programs.

C. You must qualify an applicant for both the tax credit program and the applicable HUD program before you allow them to occupy your unit.

D. HPD monitors your property only for compliance with the tax credit program as described in this manual. For tax credit residents receiving project based assistance through HUD, you:

1. May use the HUD-50059 form the household signs as the tax credit TIC.

2. Must document you compared the household's income to 140% of their current income limit at a recertification (See Chapter 10) if you elect to use a household's HUD-50059 form as their tax credit TIC.

4. Must require all households to sign the HPD full time student form where there is any doubt as to whether there are full time students in the unit.

E. This manual does not cover qualifying tenants for any program other than the tax credit program. You should refer to the appropriate program rules and seek advice from the agencies that administer the other programs at your property.

5-10. Owner Screening Policies

You must establish the rules, in writing, you follow when screening applicants for your tax credit units. In your Resident Selection Plan you must establish:

A. Standards for screening applicants that do not violate federal, state or local fair housing law, NYC landlord and tenant law or any other applicable laws or ordinances;

B. Practices that do not violate NY Rent Stabilization requirements if your property is rent stabilized;

C. Practices that do not violate NY Rent Control if your property is rent controlled;

D. Occupancy standards saying how many people you will allow to live in each unit size available at your property;

E. A policy that does not allow a tax credit resident to sublet their unit to another household; and

F. Any other policies you follow when deciding to allow a household to occupy a tax credit unit. You may decide to research and establish standards regarding an applicant's:

1. Credit history to determine they are likely to pay their rent on time;

2. Landlord history to determine they are likely to comply with your lease and house rules;

3. Past criminal behavior to determine they are not likely to disturb the quality of life at your property; and

4. Background as allowed by law.

G. You may choose to establish a minimum income policy requiring an applicant demonstrate their income is sufficient to afford the rent. You may not apply your minimum income policy to a household receiving subsidy through a program such as the HCV, Work Advantage or successor programs.

H. Review the regulatory agreements for your property for any applicable HPD-established marketing and leasing requirements.

5-11. Fair Housing and the Tax Credit Program

Tax credit units must be open for rental to the general public. <u>Owners and managers must comply with all federal, state and local fair housing laws.</u> A violation of fair housing law is a violation of the tax credit program and requires HPD to issue Form 8823 for noncompliance for submission to the IRS. To help ensure compliance with all fair housing requirements:

A. Establish occupancy standards that are not more restrictive than allowed by NYC landlord and tenant law;

B. Establish policies that do not discriminate against HCV or Work Advantage program participants;

C. Establish screening policies and procedures that meet all federal, state and local requirements;

D. Date and time stamp all applications as you receive them in your office to ensure proper placement on your waiting list;

E. Maintain a waiting list documenting the receipt of all applications received for your tax credit units;

F. Place all applications on your waiting list in chronological order of the date received in your office;

G. Read Chapter 2 of the HUD Handbook 4350.3, Rev. 1, for a review of federal fair housing requirements; and,

H. Participate in regular training on federal, state and local fair housing law.

5-12. Marketing Plans

Do not apply any preferences in the selection of applicants from your waiting list that are inconsistent with your HPD marketing plan (if applicable) unless approved, in writing, by HPD's marketing unit/program or other applicable regulatory agencies. (e.g., homeless persons, community board district resident, etc.) Note: Some provisions of your marketing plan may be limited to initial rent-up. Others may run for the length or the regulatory agreement. Always check your regulatory agreement to be sure.

5-13. Do This!

A. Complete a thorough interview with all applicants to obtain all the information necessary to determine their eligibility for your tax credit unit.

B. Protect your owner's tax credits by ensuring applicants and residents completely fill-out all forms required to process their initial certification and recertification.

C. Protect your owner's tax credits by ensuring applicants and residents SIGN AND DATE all forms required to process their initial certification and recertification.

D. Use the income limit in effect on the date you complete the initial certification of eligibility to determine a household is eligible for your tax credit unit.

5-14. Don't Do This!

A. Forget to use the HPD form (found in Chapter 7) to certify a household eligible under the full time student rule.

B. Allow a household to occupy your tax credit unit until you have certified them eligible.

C. Forget to use the income limit that applies to the unit a household will occupy to certify them eligible before you allow them to occupy the unit.

D. Forget to apply whatever preferences HPD requires in your regulatory agreement when selecting applicants from your waiting list (e.g., homeless persons, community board district residents, etc.).

Exhibit 5-A
Sample Full -Time Student Households

Eligible Households

- Head of household, full-time student
- Son, full-time student
- Daughter, full-time student
- ➢ Eligible because nobody in the household is a dependent on another person's tax return or the children are dependents on one of the parent's tax return.

- Head of household, full-time student, receives PA
- Son, full-time student
- Daughter, full-time student
- ➢ Eligible because someone in the household receives PA.

- Head of household, full-time student, participates in job-training program
- Son, full-time student
- Daughter, full-time student
- ➢ Eligible because someone in the household is in a job training program.

- Head of household, full-time student
- Spouse, full-time student
- ➢ Eligible because the couple files a joint income tax return.

Ineligible Households

- Head of household, full-time student
- Son, full-time student
- Daughter, full-time student
- ➢ Ineligible because the son is claimed as a dependent on the tax return of another individual other one of the parents.

- Head of household, full time student, lives off income from an Uncle
- Son, full-time student
- Daughter, full-time student
- Ineligible because the son is claimed as a dependent on the tax return of another individual other than one of the parents.

- Head of household, full-time student
- Spouse, full-time student
- ➢ Ineligible because the couple is ineligible to file a joint income tax return.

Chapter Six

Calculating Annual Income

Chapter Six: Calculating Annual Income
-or-
How You Know a Household's Income is Low Enough to Qualify for Your Tax Credit Unit

6-1. Topics Covered in this Chapter

In this chapter, you will learn:

A. That you must know the applicable income limit to determine a household eligible for your tax credit unit;

B. How to calculate a household's annual income; and

C. How to calculate income from assets and include it in a household's annual income.

6-2. Key Terms to Learn from Reading this Chapter

- Actual income from assets
- Annual income
- Cash value of an asset
- HUD Handbook 4350.3, Rev. 1
- Imputed income from assets
- Income from assets
- Income Limit
- Passbook rate
- $5,000 Rule

6-3. Know the Income Limit(s) for Your Property

To certify a household eligible for your tax credit unit, compare their gross annual income to the income limit for your property.

A. The income limit for your property is established in the minimum set aside.

B. Your owner may have committed to more than one set aside. Compare an applicant's gross annual income to the income limit that applies to the unit they will occupy.

C. Review paragraphs 5-4 and 5-5 of this manual for instruction on how to select the correct income limit.

D. As a courtesy HPD posts the current income limits for NYC at http://www.nyc.gov/html/hpd/html/developers/low_income.shtml. However, it is the owner's responsibility to use the correct income limit to determine a household eligible for their tax credit unit.

E. Use the income limits in effect on the day you complete a tenant income certification.

6-4. How to Calculate Gross Annual Income

To calculate a household's gross annual income, follow the rules for the project-based Section 8 program found in Chapter Five of the HUD Handbook 4350.3, Rev. 1. You can find an Internet link to Chapter 5 of the handbook in the Appendix to this manual.

Note – Like in the Section 8 program, you compare an applicant's gross annual income to the applicable income limit to determine their eligibility for your tax credit unit. In the Section 8 program an owner also calculates a resident's adjusted income to determine the amount of rent they must pay while receiving Section 8 assistance. You cannot calculate a resident's adjusted income for the tax credit program.

This document contains information on how to calculate gross annual income. However, it is the reader's responsibility to consult the HUD Handbook and stay abreast of any changes.

A. Annualize a household's projected **gross** income before comparing it to the income limit. To arrive at an annual amount:

1. Use a verified annual salary as annual income.
2. Multiply a verified quarterly income by 4 quarters.
3. Multiply a verified monthly income by 12 months.
4. Multiply a verified bi-weekly income by 26 pay periods.
5. Multiply a verified semi-monthly income by 24 pay periods.
6. Multiply a verified weekly income by 52 weeks.
7. Ask the employer to project how many hours per day, how many days per week and how many weeks per year a part-time employee is projected to work in the 12 months following the effective date of their income certification and what that employee's projected income would then be.

Sample Income Calculations

The New York school system reports a teacher receives a gross annual salary of $40,000. Include $40,000 as annual income.

A resident's award letter says they receive $900 per month gross disability benefits. Include $10,800 ($900 x 12 months) as annual income.

A resident earns $1,500 every two weeks. Include $39,000 ($1,500 x 26 pay periods) as annual income.

Sample Income Calculations

An employer verifies an applicant earns $1,700 on the 1st & 15th of every month. Include $40,800 ($1,700 x 24 pay periods) as annual income.

A resident earns $300 per week by watching her neighbor's son. Include $15,600 ($300 x 52 weeks) as annual income.

An employer verifies that a resident works 40 weeks per year and earns $800 per week. Include $32,000 ($800 x 40 weeks) as annual income.

8. For a seasonal worker, project how much they will work in the year following the effective date of their income certification. Their income may vary during the 12-month period.

9. For a person with an irregular schedule, (e.g., someone working for a temporary employment agency or some home health aids), who's income varies week to week,

   a. Multiply their average weekly amount by 52 weeks; or

   b. Multiply their highest weekly amount by 52 weeks.

Sample Income Calculations
A construction laborer earns $2,000 per month for 8 months of the year and $1,000 during each of the other 4 months. Include $20,000 (($2,000 x 8 months) + ($1,000 x 4 months)) as annual income. An administrative assistant earns between $18 and $20 per hour, and works between 14 and 16 hours per week through an employment agency. Include either $16,640 ($20 x 16 hours x 52 weeks), or $14,820 ($19 x 15 hours x 52 weeks) as annual income. A nurse's assistant is receiving $250 per week in temporary disability benefits. In 6 weeks she will return to work and earn $600 per week. Include $29,100 (($250 x 6 weeks) + ($600 x 46 weeks)) as annual income.

B. You must anticipate the income changes a household will experience during the 12 months following an income certification. For example, when an employer certifies that an applicant's income will increase $1 per hour in four months, calculate their annual income by projecting their current salary for 4 months, and factor in the $1 per hour increase for the other 8 months.

C. Use the following rules to calculate the gross income earned by adults.

1. Include the earned income of the head of household, co-head of household, spouse and all household members who are 18 years old.

2. An emancipated minor is a person not 18 years old but considered an adult under NY law. If an emancipated minor

    a. Is the head of household, co-head of household or spouse, include their earned income.

    b. Is not the head of household, co-head of household or spouse, exclude their earned income.

Earned Income of Adults

The 20 year old son of the head of household earns $24,000 per year. He does not go to school. Include $24,000 as annual income.

Include the $18,000 a 17 year old spouse earns as annual income.

Do not include the $18,000 the 17 year old nephew of the head of household earns, even though he is an emancipated minor.

D. A dependent is a person who is not 18 years old or, has a disability or is a full-time student. Use the following rules to calculate the income of dependents.

1. Include the earned income of household members who are 18 years old.

2. Exclude the earned income of a minor unless they are the head of household, co-head of household or spouse.

3. Include the unearned income of minors. For example:

   a. Include the social security benefits received by or for a minor.

   b. Include the SSI benefits received by or for a minor.

   c. Include the interest generated by a minor's savings account.

   d. Include the income from a trust received by or for a minor.

   e. Include the PA received by or for a minor.

4. Regarding the earned income of a full-time student:

   a. For a minor, do not include their earned income unless they are the head of household, co-head of household or spouse.

   b. For an adult who is not the head of household, co-head of household or spouse, include only the first $480 they earn per year.

   c. For an adult who is the head of household, co-head of household or spouse, include all their earned income.

5. Exclude the monthly stipend a household receives for the care of a foster child or foster adult.

6. Exclude the earned income of a foster child or foster adult.

7. Include the first $480 a household receives as assistance for an adopted child.

Sample Income of Dependents

Exclude the income a 16-year old daughter earns working at a fast-food restaurant.

Include the first $480 a 20-year old full-time student earns working at a grocery.

Include the entire salary a spouse earns teaching while attending school full-time.

Include the SSI disability benefits a resident receives for a disabled son.

Include the interest generated from a 12-year old daughter's savings account.

E. Include the following sources when calculating a household's annual income.

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services;

Third Party Verification: Send to employer or employment agency.

Review of Documents: Make copies of pay stubs or W-2s.

Self-Affidavit: Should only be necessary when applicant works for cash and the employer will not verify the income.

2. Annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of income.

Third Party Verification: Send to financial institutions, insurance companies, and pension benefit administrators.

Review of Documents: Make copies of earnings statements, bank records or award letters.

Self-Affidavit: Should not be necessary.

3. Payments in lieu of earnings such as unemployment, Social Security, SSI disability compensation, worker's compensation and severance pay.

See Paragraph 7-4 for how to document Social Security income.

Third Party Verification: Send to agency disbursing the benefits. Review of Documents: Make copies of benefit award letters or pay stubs. Self-Affidavit: Should not be necessary.

4. Periodic payments such as alimony and child support payments, regular contributions received from organizations or from persons outside the household.

Third Party Verification: Send to organizations providing payments. Review of Documents: Make copies of divorce decrees, child support Self-Affidavit: Statement from a parent not receiving child support or a person receiving alimony or child support not ordered by a court of law.

5. All regular pay, special pay and allowances received by a member of the armed forces.

Third Party Verification: Send to area office of the armed force. Review of Documents: Make copies of pay stubs or bank records. Self-Affidavit: Should not be necessary.

F. Include the income generated by an asset owned by a household member. You will learn how to calculate the income from assets in paragraph 6-5 below.

G. Include the welfare assistance a household member receives under Temporary Assistance for Needy Families (TANF). TANF, or Safety Net (SN) for single adults or families that have reached the end of the five year period for TANF, is often referred to as public assistance (PA). Include:

1. The amount a household receives for basic needs other than shelter costs; plus,

2. The maximum amount a household may receive for shelter, even if they currently receive less than the maximum allowed because they are paying less for rent.

See Paragraph 7-4 for how to document PA.

H. For self-employed persons, include as income the net amount they generate from their business.

1. Net income equals the gross revenue generated by the business minus the business expenses except expenses for business expansion or depreciation.

2. In Exhibit 7-A, you will find *Best Practices for Documenting Income for the Self-Employed.*

I. For a full-time or part-time student, include any part of a scholarship or grant in excess of the amount received to pay tuition.

Exclude the entire scholarship or grant received by someone who:

1. Is over 23 years old and has a dependent child; or

2. Lives with their parent or guardian; or

3. Is disabled and was living in your tax credit unit on November 30, 2005.

Third Party Verification: Send to college or scholarship program. Review of Documents: Make copies of award letters Self-Affidavit: Should not be necessary.

J. Include the income of a temporarily absent person if the resident elects to include them in their household. Examples of a temporarily absent person include someone in a medical facility or working away from home on a temporary basis.

K. Include the income of a person permanently confined to a medical facility if the resident elects to include them in their household. Examples include a frail spouse confined to a nursing home or a disabled child confined to an institution.

L. For a person on active military duty,

1. Exclude an adult child on active military duty, and their income, from the household and your calculations.

2. Include the head of household, co-head of household or spouse in the household and your calculations.

3. Exclude the special pay a person receives for being exposed to hostile fire.

M. Include the full amount of court-ordered alimony or child support unless the applicant certifies they are not receiving it, and they have taken reasonable legal steps to collect the amount due.

1. Reasonable legal steps include using the services of an attorney, the court system or other organizations that provide aid in recovering alimony or child support.

2. Include the alimony or child support a person receives that is not court ordered. Ask the applicant to sign a notarized affidavit declaring the amount received.

3. Ask a person with children who claims not to receive child support, nor to have been awarded any by a court of law, to sign a notarized affidavit.

N. Exclude the following sources when calculating a household's annual income.

1. The value of the food stamps an applicant receives;

2. Lump sum payments received from the SSA;

3. The entire resident service stipend you pay a resident if it is not more than $200 per month;

4. Any stipend an applicant or receives for participating in a job training program including funds for childcare or transportation;

5. The monthly stipend a household receives for the care of a foster child or foster adult;

6. Pay a person in the Armed Forces receives when exposed to hostile fire;

7. The income of a live-in aid;

8. Amount received under HUD-funded training programs;

9. Amount received by a person with a disability set aside by the Social Security Administration for the Pass Program;

10. Temporary, nonrecurring, or sporadic income, including gifts;

11. Reparation payments paid by a foreign government to persons persecuted during the Nazi era;

12. Lump sum payments received from the Social Security Administration;

13. Amounts received by a household as rebates or refund for property taxes paid on the unit;

14. Amounts paid by a state agency for services and equipment needed to keep a developmentally disabled person at home;

15. Payments to Volunteers under the Domestic Volunteer Services Act of 1973 including employment through AmeriCorps, Volunteers in Service to America (VISTA), Retired

Senior Volunteer Program, Foster Grandparents Program, Youthful Offender Incarceration Alternatives and Senior Companions;

16. Payments received under the Alaska Native Claims Settlement Act;

17. Payments or allowances made under the Department of Health and Human Services Low-Income Home Energy Assistance Program;

18. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;

19. The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands;

20. Payments received from programs funded under Title V of the Older Americans Act of 1965 including the Green Thumb, Senior Aids and Older American Community Service Employment Program;

21. Payments received from the Agent Orange Settlement Fund or any other fund established pursuant to a settlement under product liability;

22. Payments received under the Maine Indian Claims Settlement Act of 1980;

23. The value of any child care paid for under the Child Care and Development Black Grant Act of 1990;

24. Earned income tax credit (EITC) refund payments including advanced earned income credit payments;

25. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;

26. Any allowance paid to a child suffering from spina bifida who is the child of a Vietnam veteran;

27. Any amount of crime victim compensation received through crime victim assistance as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act;

28. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998; and

29. Exclude the portion of a federal pension paid directly to a former spouse pursuant to the terms of a court decree, divorce, annulment, or legal separation.

6-5. How to Calculate Income from Assets

A person can own assets and still qualify for the tax credit program. However, you need to calculate the value of a household's assets to implement the ***$5,000 Rule***. You will learn about this rule later in this chapter.

A. The cash value of an asset is the amount of cash the household would receive *if* they liquidated or sold the asset for cash.

1. To calculate the cash value of an asset, subtract from the asset's market value the costs the household would pay if they elected to liquidate the asset.

Cash Value of an Asset Calculation
Resident has $4,000 in a certificate of deposit that has a 5% premature withdrawal fee. The cash value of the CD is $3,800 ($4,000 – 5%).
Applicant has stock worth $6,000. They would pay a broker 4% of the market value if they sold the stock. The cash value of the stock is $5,760 ($6,000 – 4%).

2. To calculate the cash value of a piece of real estate, subtract from its market value the principal balance of any mortgage(s) secured by the property, and the estimated closing costs the household would pay if they sold it.

a. Use the market value on the most recent property tax bill as the asset's market value;

b. Verify the principal balance due on a mortgage by making a copy of the current mortgage statement or coupon book that documents the current balance.

c. Calculate the other closing costs the household would pay as 10% of its market value.

Cash Value of Real Estate

Resident owns an apartment with a market value of $300,000
They owe $200,000 on its mortgage.
The cash vale of the house is $70,000
($300,000 - $200,000 - $30,000).

B. Include the following items as assets:

1. Cash held at home, a safety deposit box, or any other place accessible to a household member;

Third Party Verification: N/A
Review of Documents: N/A

Self-Affidavit: Statement from resident on amount of cash held.

2. Current balance in a savings account;

Third Party Verification: Send request for information to the bank.

Review of Documents: Make a copy of recent bank statement.

Self-Affidavit: Should not be necessary.

3. Average 6-month balance for a checking account;

Third Party Verification: Send request to the bank.

Review of Documents: Make copies of 6 most recent statements.

Self-Affidavit: Should not be necessary.

4. Cash value of a revocable trust;

Third Party Verification: Send request to trustee.

Review of Documents: Make copies of trust documents.

Self-Affidavit: Should not be necessary.

5. Equity in real property and other capital investment;

Third Party Verification: Send request to financial institution. Review of Documents: Make a copy of the most recent real estate tax bill and the mortgage documents Self-Affidavit: Should not be necessary.

6. Cash value of a certificate of deposit;

Third Party Verification: Sent request to bank. Review of Documents: Make copy of CD agreement. Self-Affidavit: Should not be necessary.

7. Cash value of a money market fund;

Third Party Verification: Send request to the bank. Review of Documents: Make copy of fund agreement. Self-Affidavit: Should not be necessary.

8. Cash value of stocks, bonds and Treasury Bills;

Third Party Verification: Send request to institution. Review of Documents: Make copies of statements. Self-Affidavit: Should not be necessary.

9. Cash value of personal retirement accounts including IRA, Keogh Plans;

Third Party Verification: Send request to financial institution. Review of Documents: Make copies of recent statements. Self-Affidavit: Should not be necessary.

10. Cash value of company sponsored retirement funds including pension funds, 401(k) and 403(b) plans;

Third Party Verification: Send request to employer or fund.

Review of Documents: Make copies of recent statements. Self-Affidavit: Should not be necessary.

11. Surrender value of whole life or universal insurance policies;

Third Party Verification: Send request to insurance company. Review of Documents: Make copies of insurance documents. Self-Affidavit: Should not be necessary.

12. Personal property held as an investment;

Third Party Verification: Send request to appraiser of the asset. Review of Documents: Make copies of appraisals of personal investments. Self Affidavit: Statement from resident of estimated value.

13. Inheritances, lottery winnings, capital gains, insurance settlements, and other lump sum amounts if the person puts the lump sum into an asset;

Third Party Verification: Send request to insurance company. Review of Documents: Make copies of award letters. Self-Affidavit: Should not be necessary.

14. Assets disposed of for less than market value during the two (2) years preceding the income certification;

Third Party Verification: Send request to party receiving the asset. Review of Documents: Make copies of statements and agreement Self-Affidavit: Accept statement regarding asset disposed.

15. Current principal balance due on a mortgage held by a household member; and

Third Party Verification: Send request to purchaser. Review of Documents: Make copies of mortgage agreement. Self-Affidavit: Accept statement of interest earned.

16. The portion of a jointly-owned asset owned by a household member.

Third Party Verification: Send request to financial institution. Review of Documents: Make copies of recent statements. Self-Affidavit: Accept statement of portion owned by resident.

C. Do not include the following items as assets:

1. Personal property such as family jewelry, automobiles and furniture;

2. Interest in Indian trust lands;

3. Assets that are part of an active business or farming operation, including real estate held as part of a business at which a household member makes an active career;

4. Assets legally owned by a household member that are not accessible to them, including assets owned but abandoned by an abused spouse;

5. An asset for which a household member is a signatory but not an owner;

6. Equity in a cooperative unit; and

7. Term life insurance policies.

D. Calculate the income each asset will generate for the household in the 12 months following the effective date of the income certification. Calculate the following:

1. The interest from a savings or checking account.

2. The interest from a certificate of deposit or money market fund.

Interest Income Calculations $2,000 savings account carries 3.5% interest rate. $2,000 x 3.5% = $70 is the actual income from the account

$770 non-interest bearing checking account
Actual income from the account is $0

Certificate of deposit with $6,500 carries 4.5% interest rate
$6,500 x 4.5% = $292.50 is the actual income from the CD

3. Payments received from a trust.

Payments from a Trust

A disabled person receives $400 per month from a special needs trust. Include $4,800 ($400 x 12 months) as annual income.
The trust is not counted as an asset if the disabled person has no access to the principal in the fund.

4. Earnings from renting real estate or land.

Income from Real Estate

Resident owns a house and receives $1,000 per month in rent.
They pay $800 per month in operating expenses for the house

Include $2,400 (($1,000 - $800) x 12 months) as income from the house.

5. Interest generated by personal retirement accounts or company sponsored pension funds.

6. Dividends from whole life or universal insurance funds.

7. Dividends from stock, bonds or T-bills

Income from Assets Calculations

Resident has a $5,500 in an IRA with a 5% interest rate.
Include $275 ($5,500 x 5%) as income from the IRA.

Applicant has a universal insurance policy with annual dividends of $650.
Include $650 as income from the insurance fund.

Resident has $100 shares of stock.

Each share generated a dividend
of $1.50 on the most recent quarterly statement.
Include $600 (100 x $1.50 x 4) as income from the stock.

8. Interest payments received on a mortgage held by a household member.

Interest from a Mortgage

Resident receives mortgage payments from the person who bought their house of $1,000 per month. $600 of the $1,000 is interest on the mortgage.
Include $7,200 ($600 x 12 months) as income from the mortgage.

9. Regular, periodic payments received from an annuity.

Annuities

A resident receives $100 per month from her annuity. Include $1,200 ($100 x 12 months) as regular annual income. Do not count an annuity as an asset once a resident begins to receive regular periodic payments from the annuity.

Another resident has $10,000 in an annuity. They would pay a 5% penalty to liquidate the annuity. The insurance company is committed to paying interest on the annuity at 4% per year. The current cash value of the annuity is $9,500 ($10,000 – 5%.) The income from annuity is $400 ($10,000 x 4%)

E. You must follow the ***$5,000 Rule*** to know the income from assets you include in a household's annual income.

1. When the total cash value of a household's assets is not more than $5,000, include the actual income the assets will generate in the year following the effective date of the income certification.

2. When the total cash value of a household's assets is more than $5,000, include *the greater of*

   a. The total actual income the assets will generate in the 12-month period; or

   b. The imputed income from their assets calculated by multiplying the total cash value of their assets by 2%.

Total Income from Assets Calculations
Total cash value of assets = $4,500 Actual income from assets = $120 Include $120 as income from assets
Total cash value of assets = $5,500 Actual income from assets = $120 $5,500 x 2% = $110 Include $120 as income from assets
Total cash value of assets = $6,800 Actual income from assets = $120 $6,800 x 2% = $136 Include $136 as income from assets

6-6. Verifying Income, Assets and other Household Characteristics

Read Chapter 7 to learn how to verify income, assets and other household characteristics to support a tenant income certification.

6-7. Do This!

A. Use the electronic link in the Appendix of this manual to download Chapter 5 of the HUD Handbook 4350.3, Rev. 1.

B. Click on "What's New" at www.hudclips.org. HUD announces new rules daily on this site. Watch for changes in the rules for how to calculate annual income. You are responsible for remaining current as the rules change.

C. Include a source of income in your calculations unless HUD tells you to exclude it.

D. Include as income the greater of the imputed income or actual income generated by a resident's assets.

E. Include as income that part of a scholarship or grant, not needed to pay tuition, received by a part-time or full-time student unless they live with their parent or guardian, are over 23 years old and have a dependent child, or they have a disability and were living in your tax credit unit on November 30, 2005.

F. When calculating annual income, either calculate the numbers to the penny or round up to the nearest whole dollar.

6-8. Don't Do This!

A. Allow a household to occupy your tax credit unit until you know their gross annual income is not more than the applicable income limit.

B. Include the value of a resident's food stamps in their annual income.

C. Include more than $480 a full-time student earns unless they are the head of household, co-head of household or spouse.

D. Include the income earned by a live-in aide.

E. Include the cash value of a resident's assets in their annual income.

Chapter Seven

Completing the Initial Certification

Chapter Seven: Completing the Initial Certification
-or-
How to Verify a Household's Income, What Forms to use and What are your Leasing Requirements

7-1. *Topics Covered in this Chapter*

In this chapter, you will learn:

A. How to verify a person's income and other relevant characteristics;

B. How to document a resident's Social Security or PA benefits;

C. How to complete a tenant income certification;

D. The forms you must use to complete a tenant income certification; and

E. The leasing requirements for your tax credit units.

7-2. *Key Terms to Learn from Reading this Chapter*

- Review of documents
- Tenant certification
- Tenant income certification (TIC)
- Third party verification

7-3. *How to Verify Income and Other Characteristics*

A. You must verify income and other household characteristics using information from a third party. Document in the file if:

  1. A third party will not respond to your requests for information; or

  2. There is no third party available to document the information you need to complete the certification.

B. Keep copies of information requests you send to third parties.

C. Do not get information from a third party by sending the request through an applicant or resident. You may obtain information from a third party:

  1. Through the U.S. mail;

2. By fax;

3. By email; or

4. Through the Internet.

D. For information you receive through email or the Internet, maintain documentation it came from a valid source.

E. You are not required to request information from a third party if they charge for the service.

F. When you are unable to obtain information from a third party, make a copy and review documentation provided by the household.

1. Appendix 3 of the HUD Handbook 4350.3 provides instruction on how to document income and other household characteristics. You can find an Internet link to Appendix 3 in the Appendix of this manual.

2. Examples of acceptable documentation include:

a. The most recent 4 to 6 current, consecutive pay stubs, regardless of the length of the pay period;

Note: When using pay stubs to calculate annual income, you may either average the gross earnings on the pay stubs, or use the pay stub with the highest gross earnings to project annual income.

b. Using the year-to-day earnings on the most recent pay stub to project an annual amount;

c. 6 most recent checking account statements;

d. Most recent savings account statement;

e. Most recent federal tax return for a self-employed person;

f. Birth certificate;

g. Copy of Social Security or PA award letter;

h. IRS Schedule E to document income from rental property;

i. Bank agreement for a certificate of deposit; and

j. Quarterly earnings statements for investments.

G. You may accept a notarized affidavit or sworn affidavit from a household only when you are unable to get information from a third party and there is no acceptable documentation the household can provide.

1. A notary that is a member of the management staff may notarize an affidavit. Do not charge for the notary service.

2. Examples when a household member may sign a self-affidavit include when

a. They have no income;

b. They work for cash for an employer unwilling to verify their income;

c. They receive child support or alimony not ordered by a court of law;

d. They are not entitled to nor expecting to receive child support; and

e. They document they have not disposed of an asset for less than market value during the previous 24 months.

3. Households with assets totaling no more than $5,000 may self-certify the income from their assets.

a. You do not need to request information through a third party.

b. You do not need to make copies of their bank statements or other asset documentation.

c. Require they sign the form provided at the end of this chapter.

7-4 Documenting Social Security and Public Assistance

You do not need to request information from the Social Security Administration or the New York Department of Human Services.

A. For social security and SSI disability benefits

1. Make a copy of the benefit award letter from the previous December, even if it is more than 120 days old.

2. In October, the SSA announces the cost of living allowance (COLA) by which they will increase benefits on January 1. Apply the COLA to the benefit amount on the

award letter from the previous December when completing an income certification before the beneficiary receives their new award letter.

Sample Social Security Calculations

Gross monthly benefit on award letter = $800
SSA announces a COLA of 3%
$800 x 1.03% = $824

Gross monthly benefit as of January 1 = $824

B. For PA, make a copy of the most recent benefit award letter. In Exhibit 7-B you will find a sample PA benefit award statement. Use the figure for Total Needs to calculate annual income. On this statement Total Needs is $324. $324 x 24 pay periods = $7,776.

7-5. Completing a Tenant Income Certification (TIC)

Follow these rules when completing a tenant income certification.

A. The effective date of the TIC for a new resident is the day they occupy their unit.

B. All adult household members must sign the certification on or before its effective date. Document the file why you were unable to obtain a required signature.

C. For a resident in place at the time of acquisition, the effective date for their TIC:

1. Is the date of acquisition if you complete it within 120 days using the resident's income and income limit as of acquisition; and

2. Is the date the last adult household member signs the TIC if you complete it more than 120 days after acquisition. Note: There can be important implications with when the TIC is completed. Check with your syndicator when completing a TIC for a resident in place at the time of acquisition.

D. On its effective date, information supporting a TIC may not be more than 120 days old. Documentation you get to support a TIC includes:

1. Information you receive through a third party;

2. Pay stubs;

3. Bank statements;

4. Asset documentation; and

5. A self-affidavit.

E. You do not need to consider the date on the following documents because it is irrelevant to completing the certification: Social security cards; birth certificates and state identification cards.

F. You should use the verification forms provided in Exhibits 7-C through 7-L

1. Annual Owner's Certification;
2. Certified Rent Roll/Compliance Map;
3. Tenant Income Certification (TIC);
4. Employment Verification;
5. Bank Verification;
6. Zero Income Certification;
7. Alimony and Child Support Verification;
8. Under $5,000 in Assets Verification;
9. Student Verification; and
10. Verification of LIHTC Eligibility for a Voucher Program Participant

G. HPD recommends the use of the following forms provided in Exhibits 7-M through 7-R. You may use alternative forms if they collect the same information as on the recommended forms.

1. Application;
2. 401 K Verification;
3. Stocks/Bonds Verification;
4. Unemployment Benefits Verification;
5. Investment, Pension and Annuity Verification; and
6. Student Financial Aid Verification.

7-6. Leasing Requirements

There is no model lease for the tax credit program.

A. Your initial lease with a tax credit resident must last at least 6 months.

B. For residents in place when the tax credits are placed in service,

1. If they occupied their unit under a lease lasting at least 6 months, you are not required to sign another 6-month lease.

2. If they occupied their unit under a lease that did not last 6 months, sign a new lease lasting 6 months or longer.

3. Comply with your Rent Stabilization leasing requirements.

4. Sometimes a resident begins to receive rental subsidy months or even years after moving into a tax credit unit. To comply with the requirements of the subsidy program, you may need to sign a lease that begins the month the resident starts to receive rental assistance. Even if the resident has lived in your tax credit unit for less than 6 months, you may void the old lease and sign a new lease with the resident if necessary to comply with the rental subsidy program and still be in compliance with the tax credit program. Check with your landlord and tenant attorney on any legal ramifications associated with voiding a lease.

7-7 Do This!

A. Require all household members to sign and date the relevant verification forms before you process their application and allow them to occupy your unit.

B. Use the verification forms and TIC HPD requires for all tax credit properties it monitors in NYC.

C. Use the HPD TIC for HOME / tax credit properties if you manage a property that has both HOME funds and tax credits.

7-8 Don't Do This!

A. Let a household move in until all adult household members have signed and dated the TIC.

B. Assume someone is eligible for your tax credit unit without verifying their income and student status.

C. Sign a lease that does not meet your tax credit requirements, any Rent Stabilization or Rent Control requirements or any other regulatory requirements that apply to your property.

Exhibit 7- A
Best Practices for Documenting Income for Self-Employed Persons

An owner may use any of the following practices to document the income of a self-employed person.

- Accept a copy of the person's most recent federal income tax return.
    - Do not accept a tax return for a year earlier than the latest year for which tax returns were required by the federal government.
    - Make a copy of their IRS Form 1040 plus their Schedule C
    - Their income earned through self-employment is on Line 12 on their Form 1040, Line 31 on their Schedule C or on Line 3 on their Schedule C-EZ.
    - If their tax return shows they generated a loss from their business, list their income from self-employment as $0.
- Accept a copy of the person's most recent state income tax return.
    - Do not accept a tax return for a year earlier than the latest year for which tax returns were required by the state government.
    - Use information from a state tax return comparable to the information used from a federal tax return.
- Allow the person to annualize their income for the current year based on the income they have generated year-to-date.
    - Ask a self employed person to complete an IRS Schedule C based on their current year activities.
    - You may ask a self-employed person to provide documentation of the information they provided on the Schedule C.
    - Supporting documentation for a Schedule C include contracts, leases, bank statements, receipts, credit card statements and certifications provided by clients of the self-employed person.
- Ask the person to sign IRS Form 8821, authorizing the receipt and inspection of the tenants income tax forms, allowing the owner to verify their reported income with the IRS.

Exhibit 7- B
Sample Public Assistance Benefit Award Statement

```
REPORT DATE 10/11/05  [?]            NEW YORK CITY HUMAN RESOURCES ADMINISTRATION
CASE NUMBER [redacted]                       WELFARE MANAGEMENT SYSTEM                            PAGE  1 OF  2
BUDGET NUMBER     00000 (BASIS)                WMS REPORT WINR0027                    PA OFFICE 040 WORKER 00072
BUDGET EFFECTIVE DATE 10/A/05 - 11/B/05     BUDGET ENTRY SUPERVISOR SUMMARY           FS OFFICE 040 WORKER 00072
                                                                           CASE NAME [redacted]
-------------------------------------------------------------------------------------------------------------
MONTHLY CASE     |  MONTHLY SUFFIX LEVEL ENTRIES     |              MONTHLY INDIVIDUAL LEVEL ENTRIES
LEVEL ENTRIES    |-----------------------------------|-----------------------------------------------------------
-----------------|      SUFFIX DATA ENTRIES          |
FR CODE          |-----------------------------------|                 INDIVIDUAL DATA ENTRIES
NO. LRR          |PA SUF ID         01|         |    |-----------------------------------------------------------
PRO IND          |CATEGORY        SNNC|         |    |LN ID        01        02        03        04        05        06
SHELT TY       01|STATUS            AC|         |    |SUF ID       01        01        01        01        01        01
ACT.SHELT  357.69|PA SHELT      357.69|         |    |CIN      [redacted]
NO. BDRMS        |NO. IN SUF         3|         |    |IND CAT      13        06        06        14        FS        06
WATER AMT        |RTG CODE            |         |    |PA/FS STAT SN/AC     AC/AC     AC/AC     CL/CL     CL/CL     AC/AC
FSUA IND         |ADDL. TYPE          |         |    |DOB      [redacted]
HEAT TYPE        |ADDL. AMT           |         |    |NAME     [redacted]
FSUA AMT         |FUEL CODE           |         |    |A/C
FSUT IND         |RESOURCE    NO ENTRY|         |    |EDC DTE                                            X
FSUT AMT         |FS SUF ID         01               |SPEC/REL CD  /         /         /         /         /         /
DISP AMT         |STATUS            AC     CHILD     |-----------------------------------------------------------
PHONE IND        |NO. IN SUF         5               |
PHONE AMT        |RTG CODE                 HEAP      |
INST TYPE        |CE CODE            Y               |                                        324 x 24 =
INST AMT         |-----------------------------------|                                        7776 -
-----------------|  SUFFIX RESTRICTION DATA ENTRIES  |
MONTHLY FS CALC  |-----------------------------------|
-----------------|SUF ID 01  ASSOC CD 70  INDICATOR 1|
GROSS INC  648.00|NAME [redacted]
LESS: DED  157.00|ADDRESS [redacted]
ADJ.  INC  491.00|
                 |
SHELT EXP  357.69|SUF ID      ASSOC CD      INDICATOR |
U/P   EXP        |NAME                               |
H/U/P EXP  546.00|ADDRESS                            |
PHONE EXP        |                                   |
OTHER EXP        |-----------------------------------|
TOTAL EXP  903.69| SEMI-MONTHLY PA BUDGET CALCULATION|-----------------------------------------------------------
EXCESS           |-----------------------------------|           MONTHLY INCOME/NEEDS/DEDUCTIONS
    SHELT  400.00|SUFFIX ID.   |    01|      |       |-----------------------------------------------------------
                 |BASIC ALLOW  |119.00|      |       |LN ID   04 SRC     47 SRC     |LN ID   05 SRC       31 SRC
ADJ.  INC  491.00|SHELT ALLOW  |178.85|   .00|    .00|HW         AMT        PROG    |HW         AMT  499.50 PROG
LESS:            |HEA I        | 15.00|      |       |INV        PROG       AMT     |INV        PROG      F AMT
   EXCESS  400.00|HEA II       | 11.50|      |       |ETI        U          SRC     |ETI        U           SRC
NET  INC    91.00|FUEL ALLOW   |      |      |       |EMP        CD         PROG    |EMP        CD          PROG
                 |WATER ALLOW  |      |      |       |MED        AMT        AMT     |MED        AMT         AMT
COUPON     573.00|PREG ALLOW   |      |      |       |END        AMT        SRC     |END        AMT         SRC
LESS:RECUP       |REST ALLOW   |      |      |       |TYP                   PROG    |TYP                    PROG
ADJ. COUP  573.00|OTHER NEEDS  |      |      |       |AMT        SRC        AMT     |AMT        SRC         AMT
                 |             |      |      |       |DOB        AMT        SRC     |DOB        AMT         SRC
                 |TOTAL NEEDS  |324.00|      |       |TYP        PROG       PROG    |TYP        PROG        PROG
                 |LESS:NET INC |      |      |       |AMT        U          AMT     |AMT        U           AMT
                 |BUD. DEFICIT |324.00|   .00|    .00|DOB        CD         SRC     |DOB        CD          SRC
                 |LESS: RECOUP | 32.40|      |       |TYP        AMT        PROG    |TYP        AMT         PROG
                 |GRANT ISS    |291.60|   .00|    .00|AMT        AMT        AMT     |AMT        AMT         AMT
-------------------------------------------------------|DOB                   SRC     |DOB                    SRC
                                                       |TYP        SRC        PROG    |TYP        SRC         PROG
                                                       |AMT        AMT        AMT     |AMT        AMT         AMT
                                                       |DOB        PROG       SRC     |DOB        PROG        SRC
```

Exhibit 7- C
Annual Owner's Certification

The Annual Owner's Certification can be found at
http://www.nyc.gov/html/hpd/html/developers/low_income.shtml
Under the heading : "LIHTC Compliance Documents"

Exhibit 7- D
Certified Rent Roll

COMPLIANCE YEAR 2007
OWNER CERTIFICATION
FOR LOW-INCOME HOUSING TAX CREDITS

PART A

Certification Period: January 1, 2007 - December 31, 2007

I. PROJECT INFORMATION

Owner (L.P. or L.L.C.) ____________________

Sponsor / Developer ____________________

Project / Cluster Name ____________________

HPD Program (check one) ___ NRP ___ NEP ___ SRO ___ 85/85 ___ LISC/Enterprise ___ MIRP
___ HoDAG ___ CM/CBHHP ___ Vac Bldg RFP ___ Bradhurst ___ None

Person Preparing Form ____________________ Phone ( ) ____________

List below each building in project:

Building Address	Tax Credit Bldg. ID No. (BIN)	Year Credits Were First Claimed	A. LIHTC Qualified Units*	B. Other Residential Rental Units	C. Non-Rental Super Units	D. Total Units (A+B+C)	E. Building Applic. Fraction (A / A+B)
							%
							%
							%
							%
							%
							%
							%
							%
							%
							%
							%
		Project Totals:					%

* Non Tax Credit qualified super units must be included in column C.

II. OWNER INFORMATION:

Current Owner: ____________________

Address: ____________________

Contact Person: ____________________

Phone: ( ) ____________________

Tax ID Number: ____________________

III. MANAGING AGENT:

Name: ____________________

Address: ____________________

Contact Person: ____________________

Phone: ( ) ____________________

IV. OWNERSHIP CHANGE:

Since the original allocation was made and the first 8609 was issued, has there been a change in ownership of any building in this LIHTC project? YES________ NO________ If yes, complete the following:

Previous Owner: ____________________ Date of Sale: ____________________

Address: ____________________

Contact Person: ____________________ Phone: ( ) ____________

NOTE: If all buildings in the project were not transferred to the same owner, complete the information above separately for each building sold. (Attach additional sheets, as needed.)

Exhibit 7- E
Tenant Income Certification (TIC)

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ Recertification ☐ Other __________

Effective Date: ____________________
Move-in Date: ____________________
(MM/DD/YYYY)

PART I - DEVELOPMENT DATA

Property Name: ________________________________ County: ______________ BIN #: ______________

Address: ________________________________ Unit Number: ________ # Bedrooms: ______________

PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	$	$	$	$

Add totals from (A) through (D), above TOTAL INCOME (E): $

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
		TOTALS:	$	$

Enter Column (H) Total If over $5000 $____________ X Passbook Rate 2.00% = (J) Imputed Income $

Enter the greater of the total of column I, or J: imputed income **TOTAL INCOME FROM ASSETS (K)** $

(L) Total Annual Household Income from all Sources [Add (E) + (K)] $

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

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

Signature	*(Date)*	Signature	*(Date)*
Signature	*(Date)*	Signature	*(Date)*

Exhibit 7- F
Employment Verification

EMPLOYMENT VERIFICATION

THIS SECTION TO BE COMPLETED BY MANAGEMENT AND EXECUTED BY TENANT

TO: (Name & address of employer) Date: ______________________________

____

____

____

RE: ______________________________ ________________ __________

Applicant/Tenant Name Social Security Number Unit # (if assigned)

I hereby authorize release of my employment information.

____ ______________________________

Signature of Applicant/Tenant Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

____

Project Owner/Management Agent

Return Form To:

THIS SECTION TO BE COMPLETED BY EMPLOYER

Employee Name: ______________________________ Job Title: ______________________________

Presently Employed: Yes ____ Date First Employed __________ No ____ Last Day of Employment ______________

Current Wages/Salary: $__________ (circle one) hourly weekly bi-weekly semi-monthly monthly yearly other__________

Average # of regular hours per week: ______ Year-to-date earnings: $______________ through __/____/____

Overtime Rate: $__________per hour Average # of overtime hours per week: __________

Shift Differential Rate: $_________ per hour Average # of shift differential hours per week: _______

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

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

If the employee's work is seasonal or sporadic, please indicate the layoff period(s): ______________________________

Additional remarks: ____

______________________________ ______________________________ ______________________

Employer's Signature Employer's Printed Name Date

____

Employer [Company] Name and Address

______________________________ ______________________________ ______________________

Phone # Fax # E-mail

NOTE: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

Employment Verification (September 2000)

Exhibit 7- G
Bank Verification

Bank Verification

TO: (Name & address)

____

____

____

RE: ____________________________ __________________ ____________
Applicant/Tenant Name Social Security Number Unit # (if assigned)

I hereby authorize release of my asset information.

____________________________________ ________________________
Signature of Applicant/Tenant Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

____
Project Owner/Management Agent

MAIL OR FAX THIS FORM TO:

THIS SECTION TO BE COMPLETED BY FINANCIAL INSTITUTION

SAVINGS ACCOUNT:
Acct #: ________________________
Current Balance $ ________________________
Current % Rate ________________________
Joint Account? Circle one.
No / Yes with ____________________________

SAVINGS ACCOUNT:
Acct # ________________________
Current Balance $ ________________________
Current % Rate ________________________
Joint Account? Circle one.
No / Yes with _______________________________

CHECKING ACCOUNT:
Average Balance for the Past Six Months: $ __________________________________
Rate of Interest: ______________ % Current Balance: $ ________________
Joint Account? Circle one. No / Yes with ____

Please list other asset accounts below (Certificates of Deposit, Money Market Funds, Trust, IRA's, etc.)

Account Number	Balance	Type of Account	Rate of Interest	Cash Value*
__________	$ ________	__________	______ %	$ ________
__________	$ ________	__________	______ %	$ ________
__________	$ ________	__________	______ %	$ ________

Joint accounts? Circle one. No / Yes Account(s) _____________ with ______________________________
*NOTE: CASH VALUE IS THE CURRENT VALUE MINUS PENALITIES FOR EARLY WITHDRAWAL.

Signature: ______________________________ Date: ________________
Print your name: ______________________________ Tel. #: ________________
Title: ______________________________
Bank Name ______________________________
Address ______________________________
____

Warning: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

Bank Verification

Exhibit 7- H
Zero Income Certification

CERTIFICATION OF ZERO INCOME

(To be completed by adult household members only, if appropriate.)

Household Name:______________________________ Unit No. ______________

Development Name: ______________________________ City:______________

1. I hereby certify that I do not individually receive income from any of the following sources:

   a. Wages from employment (including commissions, tips, bonuses, fees, etc.);

   b. Income from operation of a business;

   c. Rental income from real or personal property;

   d. Interest or dividends from assets;

   e. Social Security payments, annuities, insurance policies, retirement funds, pensions, or death benefits;

   f. Unemployment or disability payments;

   g. Public assistance payments;

   h. Periodic allowances such as alimony, child support, or gifts received from persons not living in my household;

   i. Sales from self-employed resources (Avon, Mary Kay, Shaklee, etc.);

   j. Any other source not named above.

2. I currently have no income of any kind and there is no imminent change expected in my financial status or employment status during the next 12 months.

3. I will be using the following sources of funds to pay for rent and other necessities: ______________

   ____

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

______________________ ______________________ ______________
Signature of Applicant/Tenant Printed Name of Applicant/Tenant Date

Certification of Zero Income (September 2000)

Exhibit 7- I
Alimony and Child Support Verification

ALIMONY / CHILD SUPPORT VERIFICATION (Enforcement Agency)

TO: (Name & address) Date: ____________________

____

____

____

RE: ______________________________ ____________________ ____________
Applicant/Tenant Name Social Security Number Unit # (if assigned)

I hereby authorize release of the requested information.

______________________________ ____________________
Signature of Applicant/Tenant Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

____
Project Owner/Management Agent

MAIL OR FAX THIS FORM TO:

THIS SECTION TO BE COMPLETED BY SUPPORT ENFORCEMENT AGENCY

I hereby certify that $_______________ per _____________(week, month) is court ordered to be paid for the support of:

____
Name(s) of person/child(ren) for whom support is paid

______________ ______________ __________ __________
Address City State Zip Code

Does this person receive the full amount of the award? YES ______ NO ______

If NO, has every reasonable effort been made by the applicant to collect any amount which may be due, including, but not limited to, filing with the appropriate courts or agencies responsible for the enforcement of any payments?

YES _____ NO _____ Total amount received during the last 12 months: $____________

Signature: ______________________ Date: ______________
Print your name: ______________________ Tel. #: ______________
Title: ______________________
Address ______________________
____

Warning: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

April 2007

Exhibit 7- J
Under $5,000 in Assets Verification

UNDER $5,000 ASSET CERTIFICATION

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

Household Name:________________________________ Unit No. ______________

Development Name: ________________________________ City:______________

Complete all that apply for 1 through 4:

1. My/our assets include:

(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income	Source	(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income	Source
$		$	Savings Account	$		$	Checking Account
$		$	Cash on Hand	$		$	Safety Deposit Box
$		$	Certificates of Deposit	$		$	Money market funds
$		$	Stocks	$		$	Bonds
$		$	IRA Accounts	$		$	401K Accounts
$		$	Keogh Accounts	$		$	Trust Funds
$		$	Equity in real estate	$		$	Land Contracts
$		$	Lump Sum Receipts	$		$	Capital investments
$		$	Life Insurance Policies (excluding Term)				
$		$	Other Retirement/Pension Funds not named above: ______________				
$		$	Personal property held as an investment** : ______________				
$		$	Other (list): ______________				

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

*Cash value is defined as market value minus the cost of converting the asset to cash, such as broker's fees, settlement costs, outstanding loans, early withdrawal penalties, etc.

**Personal property held as an investment may include, but is not limited to, gem or coin collections, art, antique cars, etc. Do not include necessary personal property such as, but not necessarily limited to, household furniture, daily-use autos, clothing, assets of an active business, or special equipment for use by the disabled.

2. ☐ Within the past two (2) years, I/we have sold or given away assets (including cash, real estate, etc.) for more than $1,000 below their fair market value (FMV). Those amounts* are included above and are equal to a total of: $______________ (*the difference between FMV and the amount received, for each asset on which this occurred).

3. ☐ I/we have not sold or given away assets (including cash, real estate, etc.) for less than fair market value during the past two (2) years.

4. ☐ I/we do not have any assets at this time.

The net family assets (as defined in 24 CFR 813.102) above do not exceed $5,000 and the annual income from the net family assets is $______________. This amount is included in total gross annual income.

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

______________ ______________ ______________ ______________
Applicant/Tenant Date Applicant/Tenant Date

Appendix D

Exhibit 7- K
Student Verification

STUDENT VERIFICATION

THIS SECTION TO BE COMPLETED BY MANAGEMENT AND EXECUTED BY STUDENT

This Student Verification is being delivered in connection with the undersigned's eligibility for residency in the following apartment:

Project Name: ______________________________

Building Address: ______________________________

Unit Number if assigned: ______________

I hereby grant disclosure of the information requested below from ______________
Name of Educational Institution

______________________ ______________
Signature Date

______________________ ______________
Printed Name Student ID#

Return Form to:

THIS SECTION TO BE COMPLETED BY EDUCATIONAL INSTITUTION

The above-named individual has applied for residency or is currently residing in housing that requires verification of student status. Please provide the information requested below:

Is the above-named individual a student at this educational institution? YES NO

If so, part-time or full-time? PART-TIME FULL-TIME

If full-time, the date the student enrolled as such: ______________

Expected date of graduation: ______________

I hereby certify that the information supplied in this section is true and complete to the best of my knowledge.

Signature: ______________________ Date: ______________

Print your name: ______________________ Tel. #: ______________

Title: ______________________

Educational Institution: ______________________

NOTE: Section 1001 of Title 18 of the U. S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

Student Verification (September 2000)

Exhibit 7- L
Verification of LIHTC Eligibility for Voucher Program Participant

VERIFICATION OF SECTION 8 ELIGIBILITY

TO: (Name & address)

____

____

____

RE: ______________________________ __________________ ____________

Applicant/Tenant Name — Social Security Number — Unit # (if assigned)

I hereby authorize release of the requested information.

____ ________________________

Signature of Applicant/Tenant — Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

____

Project Owner/Management Agent

MAIL OR FAX THIS FORM TO:

THIS SECTION TO BE COMPLETED BY LOCAL HOUSING AUTHORITY

In accordance with the IRS regulation Vol. 57 No. 171 1.42-5 2(b)(vii), September 2, 1992, the building owner of the above development is required to have the following written statement on file from the local housing authority:

__________________________, family size of ____________, residing in a ________ size unit

Tenant Name — # of bedrooms

located at ____, County of ______________, is receiving Section 8 of the United States Housing Act of 1937.

1. ______ This household is currently undergoing an income (re)certification. We are unable to provide you with the current gross annual income amount until ___________[date], when the income certification is expected to be complete.
2. ______ This household has a completed income certification on file with an effective date of ______________. The family's gross annual income, without any deductions or allowances, is $_______________ and is calculated in a manner consistent with the determination of annual income under Section 8.

Local Housing Authority

Signature: ______________________________ Date: ________________

Print your name: ______________________________ Tel. #: ________________

Title: ______________________________

Address ______________________________

____

April 2007

Exhibit 7- M
Sample Application

RENTAL APPLICATION

Property Name: ________________________________ Date: ____________________________

Apartment Size Desired: Number of Bedrooms ______________

1. **FAMILY DATA:**

Name of Head of Household (Head)			Spouse Name (if living with the household)		
Current Address: Street	City	State	Zip	Day Phone	Night Phone
Have you ever used another name? (Y/N) ______ If so, please indicate name ______________________________					

PLEASE ANSWER ALL QUESTIONS! Do not leave any space blank, write "No or N/A" where appropriate. White-out is not acceptable.

PLEASE PRINT.

Directions to Applicant: Please complete the table below for <u>each</u> member of your household, whether or not those members are related. Include all members who you anticipate will live with you at least 50% of the time during the next 12 months. (A full time student is anyone who is enrolled for at least five calendar months for the number of hours or courses which are considered full-time attendance by that institution. The five months need not be consecutive).

If you need additional space for answers to any paragraph listed below, attach additional sheets and make sure you include a reference to the paragraph number, your name and your social security number.

2. **HOUSEHOLD COMPOSITION:**

Member Number	Name(s)	Relation To Head	Date of Birth	Gender (M/F)	Social Security #	Student (Y/N)	If Yes, PT or FT
1.		HEAD					
2.							
3.							
4.							
5.							
6.							

Do all of the above household members reside in the household 100% of the time? (Y/N) ______ If no, please list the household members that do not live in the household 100% of the time: ______________________________

Anticipated changes in the household size within the next 12 months? (Y/N) ______ If Yes, explain ________________

Anticipated change in number of students within the next 12 months? (Y/N) ______ If Yes, explain ________________

Current Marital Status: Single ____ Married ____ Divorced ____ Separated _____ Widowed ____

Are all occupants full time students? Yes ____ No ____ If Yes, please answer the following:

a.) Are any of the students married and already filing a joint Federal Income Tax Return with their spouse? Yes _____ No _____ (If Yes, attach a copy of the Signed Federal Income Tax Return).

b.) Are any of the students receiving assistance under Title IV of the Social Security Act, which includes but is not limited TANF/AFDC? Yes ____ No ____

c.) Are any of the students enrolled in a job training program receiving assistance under the Workforce Investment Act (WIA)/Job Training Partnership (JTPA) Act of under similar Federal, State or local laws? Yes ____ No ____

d.) Are any of the students a single parent with minor child(ren) and neither the student, nor <u>any</u> of the minor child(ren) in the household are claimed as a dependent of a third party? Yes ____ No ____ (If Yes, and all household members are full time students, a signed copy of your Tax Return and Divorce Decree must be attached).

3. **ANTICIPATED HOUSEHOLD INCOME: PRESENT EMPLOYMENT AND OTHER INCOME RECEIVED BY HOUSEHOLD MEMBERS:**

For the following indicate the amount of anticipated income for all household members (for minors, unearned income amounts only), during the 12 months period beginning this date. If you are uncertain which types of income must be included or may be excluded, please ask the management personnel for assistance.

Wages or salaries, (include overtime, tips, bonuses, commissions and payment received in cash)	$__________
Child Support, (includes child support you are entitled to but may not be receiving)	$__________
Alimony (includes alimony you are entitled to but may not be receiving)	$__________
Social Security	$__________
Supplemental Security Income (SSI)	$__________
Public Assistance (General Relief, and/or TANF/AFDC)	$__________
Veterans Administration Benefits	$__________
Pension Income	$__________
Unemployment Compensation	$__________
Income from Insurance Policies	$__________
Disability, Death Benefits and/or Life Insurance Dividends	$__________
Worker's Compensation	$__________
Severance Pay	$__________
Net Income from a Business (including rental property, land contracts or other forms of real estate)	$__________
Interest, Dividend & Other Income from Net Family Assets	$__________
Regular Contributions and/or Gifts from Person not residing at unit	$__________
Lottery Winnings or Inheritances (Paid as an annuity)	$__________
All regular pay paid to members of the Armed Forces	$__________
Annuities	$__________
Retirement Savings Plans (IRA/401K/Keogh)	$__________
Education Grants, Scholarships or Other Students Benefits	$__________
Self Employment	$__________
Other ______________________________	$__________
TOTAL	$__________

4. **ASSET INCOME:** List all assets currently held by all household members and the cash value of each. The cash value is the market value of the asset minus reasonable costs there was, or would be, incurred in selling or converting the asset to cash.

YES	NO	Do you or anyone in your household have:	Cash Value
____	____	A Savings Account?	$__________
____	____	A Checking Account?	$__________
____	____	Certificates of Deposit?	$__________

____	____	Money Market Account?	$____________
____	____	A Safety Deposit Box?	$_____________
____	____	Money Held in Trust?	$_____________
____	____	Any Stocks, Bonds or Securities?	$_____________
____	____	Any Treasury Bills?	$_____________
____	____	A Retirement Fund? (Includes IRA's, Keogh accounts)	$_____________
____	____	Annuities?	$_____________
____	____	A Pension Fund?	$_____________
____	____	Have any Personal Property held as an Investment (this includes: paintings, artwork, collectors or show cars, jewelry, coin or stamp collections, antiques etc.)?	$_____________
____	____	Other equity in real estate, rental property, land contracts/contract for deeds or other real estate holding or other capital investments (this includes your personal residence, mobile homes, vacant land, farms, vacation homes, or commercial property)? Market Value Less: (a) any unpaid balance on loans secured by property, and (b) reasonable costs that would be incurred in selling the asset – penalties, broker fees, etc.	$_____________
____	____	Received any Lump Sum Receipts? (Include inheritances, capital gains, lottery winnings, insurance settlements and other claims)? When____	$_____________
____	____	Other Assets not listed?	$_____________
____	____	Have you disposed of any assets (e.g. real estate, cash, stock, etc.) in the past two years? If yes, please describe: ____	$_____________

5. **EMPLOYMENT HISTORY:**

Applicant Employed By:			
How Long:	**Supervisor:**		
Current Wage: $	**Hours per week:**	**Overtime wage: $**	**Overtime hours per week:**
Employer Address:			
Spouse Employed By:			
How Long:	**Supervisor:**		
Current Wage: $	**Hours per week:**	**Overtime wage: $**	**Overtime hours per week:**
Employer Address:			
Other Applicant Employed By:			
How Long:	**Supervisor:**		
Current Wage: $	**Hours per week:**	**Overtime wage: $**	**Overtime hours per week:**
Employer Address:			

6. **CREDIT HISTORY**

Have you ever filed for bankruptcy? (Y/N) ______ If yes, please explain ____

Do you currently or have you previously had a judgment filed against you? (Y/N) ______ If yes, please explain ______________________

____

Credit References

Name	Address / Phone	Monthly Payment
		$
		$
		$
		$

7. **RESIDENCE HISTORY: CURRENT & PREVIOUS LANDLORDS:**
(Past 2 years residence including any owned by applicants.)

Current Address		Rent/Month	Utilities/Month	Move-In Date	Reason for Leaving
Landlord Name	Landlord Address				Landlord Phone
Previous Address		Rent/Month	Utilities/Month	Move-In Date	Reason for Leaving
Landlord Name	Landlord Address				Landlord Phone
Previous Address		Rent/Month	Utilities/Month	Move-In Date	Reason for Leaving
Landlord Name	Landlord Address				Landlord Phone

8. **VEHICLES (including company cars, motorcycles, etc.):**

Member Number	Driver's License Number / State	Model	Year	Color	License Plate Number / State

9. **OTHER**

Do you have full custody of your child(ren)? Explain the custody arrangements: ___________________________________

____

Have you ever been evicted? Yes ____ No ____ If Yes, explain ____

Have you ever been convicted of a felony? Yes ____ No ____ If Yes, explain ______________________________

Will your household be receiving Section 8 rental assistance at the time of move-in? Yes ____ No ____

Will your household be eligible or are you applying to receive Section 8 rental assistance in the next 12 months?

Yes ____ No ____ Explain ____

Have you ever received rental assistance? Yes ____ No ____ If Yes, explain ______________________________

Has your rental assistance ever been terminated for fraud, non-payment of rent or failure to recertify?

Yes ____ No ____ If Yes, explain ____

10. SPECIAL NEEDS:

Does anyone in your household have special needs? (Y/N) ______

Special living accommodations required? (Y/N) ______

Please Explain (Attach additional pages as needed): ______________________________________

____

____

11. IN CASE OF EMERGENCY, NOTIFY:

Name	Address	Phone

I/We understand that the above information is being collected to determine my/our eligibility for residency. I/We authorize the owner/manager to verify information provided on this application and my signature is our consent to obtain such verification. I/We certify that I/we have revealed all assets currently held or previously disposed of and that I/we have no other assets than those listed on this form (other than personal property). I/We further certify that the statements made in this application are true and complete to the best of my/our knowledge and belief and are aware that false statements are punishable under Federal law.

I/We understand that this application and all related inquires will be used only for its relevance to screening and occupancy at this Property.

SIGNATURE OF ALL PARTIES TO THIS APPLICATION, 18 YEARS OR OLDER:

______________________________ ______________________________

Applicant Signature (HEAD) Date Applicant Printed Name (HEAD)

______________________________ ______________________________

Applicant Signature Date Applicant Printed Name

______________________________ ______________________________

Applicant Signature Date Applicant Printed Name

Exhibit 7- N
Sample 401 K Verification

TO: (Name & address)

ASSET VERIFICATION 401K

____

____

____

RE: ______________________________ ____________________ ______________

Applicant/Tenant Name | Social Security Number | Unit # (if assigned)

I hereby authorize release of the requested information.

______________________________ ____________________

Signature of Applicant/Tenant | Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

____

Project Owner/Management Agent

MAIL OR FAX THIS FORM TO:

THIS SECTION TO BE COMPLETED BY 401K ADMINISTRATOR

PLEASE COMPLETE THE FOLLOWING:

Does the employee have access to any of the funds while employed? _____ Yes _____ No
If no, please sign and date the bottom of this form and return.

If yes, what amount is available for withdrawal? $__________________
Include only the amount available for withdrawal. Do not include amounts that an employee can take a loan against, but must be repaid.
If this amount is zero, please sign and date the bottom of this form and return.

What is the current market value of the account? $__________________

What is the penalty for withdrawal? $__________________

What are the annual dividends or the current annual yield? $______ or $_______%

401K Administrator

Signature: ______________________________ Date: ____________________
Print your name: ______________________________ Tel. #: ____________________
Title: ______________________________
Address ______________________________
____

Warning: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

April 2007

Exhibit 7- O
Sample Stocks/Bonds Verification

STOCKS / BONDS VERIFICATION

TO: (Name & address)

____

____

____

RE: ____________________________ ________________ __________
Applicant/Tenant Name Social Security Number Unit # (if assigned)

I hereby authorize release of the requested information.

____________________________________ ________________________
Signature of Applicant/Tenant Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

____
Project Owner/Management Agent

MAIL OR FAX THIS FORM TO:

THIS SECTION TO BE COMPLETED BY BROKER OR AUTHORIZED OFFICIAL

STOCKS:

Name of Stock Company: ____

Current Market Value minus broker/legal fees for conversion to cash: $____________________

Total dividends paid in previous 12 months (included even if reinvested): $____________________

Name of Stock Company: ____

Current Market Value minus broker/legal fees for conversion to cash: $____________________

Total dividends paid in previous 12 months (included even if reinvested): $____________________

BONDS:

Name of Issuing Agent: ____

Current Market Value minus broker/legal fees for conversion to cash: $____________________

Total interest paid in previous 12 months: $____________________

Name of Issuing Agent: ____

Current Market Value minus broker/legal fees for conversion to cash: $____________________

Total interest paid in previous 12 months: $____________________

Signature of Broker or Authorized Official

Signature: ____________________________ Date: ________________
Print your name: ____________________________ Tel. #: ________________
Title: ____________________________
Company Name ____________________________
Address ____________________________
____

Warning: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

April 2007

Exhibit 7- P
Sample Unemployment Benefits Verification

UNEMPLOYMENT COMPENSATION VERIFICATION

TO: (Name & address)

____

____

____

RE: ______________________________ __________________ ____________

Applicant/Tenant Name | Social Security Number | Unit # (if assigned)

I hereby authorize release of the requested information.

__________________________________ ____________________

Signature of Applicant/Tenant | Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

____

Project Owner/Management Agent

MAIL OR FAX THIS FORM TO:

THIS SECTION TO BE COMPLETED BY UNEMPLOYMENT INSURANCE PROVIDER

Gross weekly payment: $____________

Date of Initial Payment: ______________ Ending Date, if known __________

Is the client entitled to an extension of benefits? Yes _____ No ______

If yes, for how long? ______________________________________

If no, what is the termination date of benefits? ______________________

REMARKS: ____

____

UNEMPLOYMENT INSURANCE PROVIDER

Signature: ______________________________ Date: ________________

Print your name: ______________________________ Tel. #: ________________

Title: ______________________________

Address ______________________________

____

Warning: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

April 2007

Exhibit 7- Q
Sample Investment, Pension or Annuity Verification

Investment OR Pension OR Annuity Verification

(To be completed by insurance agent)

TO: ______________________
____
____

RE: ______________________
Name
____
Social Security Number

FROM: ______________________
____
____

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

Please contact ______________________

at (   ) ______________________ if you have any questions.

PERMISSION FOR RELEASE OF INFORMATION

You do not have to sign this form if either the requesting organization of the organization supplying the information is left blank.
Release: I hereby authorize the release of the requested information. Information obtained under this consent is limited to information that is no older than 12 months. There are circumstances, which would require the owner to verify information that is up to 5 years old, which would be authorized by me on a separate consent, attached to a copy of this consent.

______________________ Signature ______________________ Date

INSURANCE AGENT /ADMINISTRATOR – PLEASE COMPLETE APPLICABLE SECTIONS

Type of account: ☐ Fixed ☐ Deferred Market Value: $ ____________
☐ Variable ☐ Life Surrender or
☐ Other ____________ Withdrawal Fee: $ ____________

Is this person receiving regular payments? ☐ Yes ☐ No

If yes, what is the gross amount? $_____________ per (circle one) Month / Quarter / Other ____________
Date benefits began: ____________________ Effective date of current amount: ____________________
Deductions from gross amount for medical insurance premiums: $____________________
Total amount holder has invested in this account: $____________________
Total amount holder has received in payments to date: $____________________

If no, does the holder receive interest income? ☐ Yes ☐ No ☐ Reinvested into account
If yes or reinvested into account, what is the interest rate? __________% ☐ Fixed ☐ Variable
If variable, provide current rate.

Is the holder able to withdraw the balance of the annuity/account? ☐ Yes ☐ No
If yes, what is the amount? $____________________ What is the tax rate? ____________%
What is the tax penalty, if any ____________________

Is the individual reimbursed for medical costs? ☐ Yes ☐ No

Signature of Agent/Administrator ______________________ Date ______________________
Print your name ______________________ Tel. # ______________________
Address ______________________
______________________ City ______ State ______ Zip ______

Warning: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

April 2007

Exhibit 7- R
Sample Student Financial Aid Verification

STUDENT FINANCIAL AID VERIFICATION

TO: (Name & address)

____

____

____

RE: ______________________________ __________________ ____________

Print Applicant/Tenant Name | Social Security Number | Unit # (if assigned)

I hereby authorize release of my financial aid information.

__________________________________ __________________ __________________

Signature of Student Applicant/Tenant | Date | Student ID#

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

____

Project Owner/Management Agent

Return Form to:

THIS SECTION TO BE COMPLETED BY FINANCIAL AID PROVIDER AND/OR EDUCATIONAL INSTITUTION

Please provide the information requested below:

Student Currently attends school: *(please circle one)* **Full Time** **Part Time**

Total scholarships, grants, etc. *(public or private, excluding student loans)* received is:

	Source	Amount	Beginning Date	Ending Date
Scholarships		$		
Grants		$		
Cost of Tuition		$		

Expected Date of Graduation: ________________________

I hereby certify that the statements above are true and complete to the best of my knowledge.

Signature: __________________________________ Date: ____________________

Print your name: __________________________________ Tel. #: ____________________

Title: __________________________________

Part Four

How Much Can I Charge My Tax Credit Residents?

Chapter Eight

Maximum Allowable Rent

Chapter Eight: Maximum Allowable Rent
-or-
How much Rent you can Charge a Tax Credit Resident

8-1. Topics Covered in this Chapter

In this chapter, you will learn:

A. How to use the income limit in your minimum set aside to calculate the maximum rent you can charge a tax credit resident;

B. How to calculate the maximum rent you can charge for a tax credit unit when your owner commits to using more than one income limit at your property;

C. About the additional rent limitations applicable to a tax credit property when the owner agrees to deep rent skew;

D. How to determine the correct utility allowance for a tax credit unit;

E. When you can charge rent from an employee who lives at your tax credit property;

F. When a unit must comply with the requirements for other programs, you may not be able to charge the full tax credit rent.

G. If an owner agrees to use a tax credit unit to house homeless persons or other targeted populations, they may commit to charging less than the tax credit rent. Always check your regulatory agreement(s) with HPD and other funding sources for your property.

H. That you may be able to collect more than the tax credit rent when you receive rental subsidy on behalf of a resident.

8-2. Key Terms to Learn from Reading this Chapter

- Deep rent skew
- Gross rent
- Housing assistance payment (HAP)
- Income limit
- Maximum allowable rent
- Minimum set aside
- PRAC
- RAP
- Rent Supplement
- Super unit

- Tenant rent
- Utility allowance

8-3. How to Calculate Maximum Allowable Rent

In the tax credit program, the maximum allowable rent is based on the unit size and the income limit the owner commits to in the minimum set aside. The owner uses the income limit to calculate the maximum allowable rent, called the gross rent. The owner subtracts a utility allowance from the gross rent to determine the tenant rent, the amount they can charge a resident to live in a tax credit unit.

Sample Unit
Gross Rent = $1,000 Utility Allowance = $100 Tenant Rent = $900

A. When calculating the gross rent, assume a household size of 1 person for a studio/efficiency and 1.5 persons per bedroom for other unit sizes.

B. The gross rent for a tax credit unit is 30% of the income limit for the assumed household size.

Unit Size	**Gross Rent is 30% of the Income Limit for**
Efficiency/Studio	1 Person
1 Bedroom	1.5 Persons (Average the 1 & 2 person income limits)
2 Bedroom	3 Persons
3 Bedroom	4.5 Persons (Average the 4 & 5 person income limits)
4 Bedroom	6 Persons

C. As a courtesy, HPD posts the rents for the tax credit program at http://www.nyc.gov/html/hpd/html/developers/low_income.shtml However, it is the owner's responsibility to use the correct income limit and to not charge more than the maximum allowed by the tax credit program.

D. Remember to subtract your utility allowance from the gross rent to determine the tenant rent for your tax credit unit.

E. An owner is responsible for not charging more rent than allowed by the tax credit program. However, you may be able to collect more than the tax credit rent when you receive rental subsidy on behalf of a resident.

Sample Rent Calculations

1-person Income Limit = $30,000
2-person Income Limit = $32,400

Maximum Rent for a Studio Apartment

($30,000 x 30%)/12 months
$9,000/12 months
*$750 = monthly gross rent

Maximum Rent for a 1-Bedroom Apartment

($30,000 + $32,400)/2
$62,400/2
$31,200 = Income Limit for 1.5 Persons

($31,200 x 30%)/12 months
$9,360 /12 months
*$780 = monthly gross rent

*Never round up to the nearest whole dollar when dividing the maximum annual rent to determine the monthly gross rent.

E. When a unit must comply with the requirements for other programs, you may not be able to charge the full tax credit rent.

1. If a tax credit unit is rent stabilized, charge the lesser of the rent allowed by the tax credit program or Rent Stabilization.

2. If a tax credit unit is rent controlled, charge the lesser of the rent allowed by the tax credit program or Rent Control.

3. If a tax credit unit is also a HOME unit, charge the lesser of the rent allowed by the tax credit program or the HOME program. See Chapter Twelve for more information about the HOME program.

4. If an owner agrees to use a tax credit unit to house homeless persons or other targeted populations, they may commit to charging less than the tax credit rent. Always check your regulatory agreement(s) with HPD and other funding sources for your property.

Sample Rents

If the tax credit rent is $1,000 and the HOME rent is $800,
charge no more than $800.

If the tax credit rent is $1,000 and rent stabilized rent is $1,200,
charge no more than $1,000.

If the tax credit rent is $1,000, and the unit is part of a set aside for formerly homeless persons not paying more than 30% of their income for rent, charge the lesser of $1,000 or 30% of the resident’s income.

8-4. Calculating Maximum Allowable Rent in Properties with Multiple Set Asides

The maximum allowable rent for each tax credit unit is based on its income limit. If your owner commits to more than one set aside, use the income limit that applies to each unit to calculate its maximum rent.

A. If a resident must qualify at 60% of AMI, calculate the maximum rent using 60% of AMI for the assumed household size.

B. If a resident must qualify at 50% of AMI, calculate the maximum rent using 50% of AMI for the assumed household size.

C. If a resident must qualify at 40% of AMI, calculate the maximum rent using 40% of AMI for the assumed household size.

8-5. Rent Limitations for a Property if the Owner Agrees to Deep Rent Skew

When an owner agrees to deep rent skew, they commit to renting 15% of their tax credit units to households who qualify with an annual income of no more than 40% of AMI.

A. Since a household must qualify at 40% of the AMI to live in a deep rent skew unit, calculate its maximum rent using 40% of AMI for its assumed household size.

B. For the remaining tax credit units, calculate the maximum rent using the applicable income limit.

1. If a resident must qualify at 60% of AMI, calculate the maximum rent using 60% of AMI for the assumed household size.

2. If a resident must qualify at 50% of AMI, calculate the maximum rent using 50% of AMI for the assumed household size.

C. Many deep rent skew properties include both tax credit and market rent units. The average rent charged for the market rent units must be at least double the average rent charged for the tax credit units of the same unit size.

Sample Property

100 Two-Bedroom Units
20% @ 50% Minimum Set Aside
Owner Commits to Deep Rent Skew
20 Tax Credit Units and 80 Market Units
2-Bedroom Tax Credit Rent = $1,000

Owner must charge at least $2,000 for the market units
to collect the $1,000 tax credit rent.

8-6. How to determine the Correct Utility Allowance for your Tax Credit Unit

The applicable utility allowance for a unit depends on the other housing programs providing assistance to the resident or the property.

A. For a property that is regulated by HUD, use the HUD approved utility allowance to calculate the tax credit tenant rent. The types of HUD-regulated properties include:

1. Section 236;

2. Section 202;

3. Section 221(d)(3) BMIR;

4. Rent Supplement;

5. Section 202 PRAC;

6. Section 811 PRAC; and

7. Project-based Section 8.

B. For a public housing unit, use the utility allowance approved by the PHA administering the occupancy subsidy to calculate the tax credit tenant rent.

C. For a resident receiving rental subsidy through the HCV or Work Advantage programs, use the utility allowance approved by the housing authority, (usually HPD or NYCHA), administering the subsidy.

D. For a property that is not regulated by HUD, calculate the utility allowance for your tax credit units as HPD would if your residents were receiving rental subsidy through the HCV program.

8-7. Charging an Employee Rent to live in a Tax Credit Unit

An owner may allow an employee to live in a unit at a tax credit property under the conditions discussed below. Whether or not the employee must qualify for the tax credit program and how much rent they can pay depends on the unit in which they live.

A. For any unit, comply with all fair housing requirements when you allow an employee to live at your property. For example, do not let an employee jump ahead of other applicants on your waiting list for your tax credit or market units.

B. For a market unit:

1. An employee does not need to qualify for the tax credit program because the owner does not expect the unit to generate a tax credit; and

2. You may charge the employee any rent allowed by law.

C. For a tax credit unit:

1. An employee must qualify for the tax credit program under the applicable income limit and the full time student rule; and

2. You may not charge them more than the tax credit rent.

3. You must include any portion of the tax credit rent you do not charge an employee in their annual income to qualify them for the unit.

Note: Check with your owner or supervisor before renting a market unit or a tax credit unit to an employee. If you terminate their employment, you may have a dissatisfied, former employee living at your property for an extended period of time.

D. For a Super Unit:

1. An employee does not need to qualify for the tax credit program; and

2. You must not charge the employee rent to live in the unit.

3. Although a Super Unit is not included in a building's applicable fraction, it is usually included in the eligible basis and your owner expects it to generate a tax credit. Your Super Unit will not be included in eligible basis, and will not generate a tax credit, if you charge rent for its use.

8-8. Maximum Revenue when a Resident Receives Rental Subsidy

When a resident receives help paying their rent through a government program, you may collect more revenue for their unit than generally allowed by the tax credit program.

A. When a resident receives a housing assistance payment (HAP) through the HCV or Work Advantage programs, or through the project-based Section 8, RAP, Rent Supplement or PRAC programs, you may collect total revenue exceeding the tax credit rent.

B. The rent you collect on a unit may exceed the maximum tax credit rent as long as you receive at least $1 in rental subsidy on their behalf.

C. You may not charge the resident more than the maximum tax credit rent if you stop receiving rental subsidy for them for any reason.

D. HPD or NYCHA may create a project-based voucher (PBV) by attaching some of their funding for the voucher program to specific units in a specific building. HPD or NYCHA must approve an applicant for the PBV program for these units.

1. If a PBV unit is also a tax credit unit, you must qualify an applicant for the tax credit program before they can occupy the unit.

2. HPD or NYCHA approve the rent they will subsidize for a unit through a PBV. They may approve a rent that is more than the tax credit rent for a tax credit unit covered by a PBV.

E. The HOME program does not allow an owner to collect more than the HOME rent, even when they receive rental subsidy for a resident. For a HOME/tax credit unit, the maximum rent the owner may collect from the resident and the subsidy program is the HOME rent. Read Chapter 12 of this *Compliance Manual* for guidance on applying the HOME program at your property.

8-9. Do This!

A. Remember to subtract the correct utility allowance from the gross rent to calculate the maximum tenant rent for a tax credit unit.

B. Remember that the amount of rent you can charge depends on the income limit you use to qualify a household to live in a unit.

C. Qualify an employee's household before allowing them to live in a unit included in eligible basis that is not a Super Unit.

8-10. Don't Do This!

A. Collect revenue exceeding the tax credit rent if the resident does not receive rental subsidy.

B. Assume a household that receives rental subsidy is automatically eligible for your tax credit unit.

C. Forget that you need documentation showing a person on rental subsidy is qualified before you allow them to occupy a unit.

D. Charge rent to an employee who lives in a Super Unit if the unit has been included in the building's eligible basis.

Chapter Nine

Charges in Addition to Rent

Chapter Nine: Charges in Addition to Rent
-or-
What You Can Charge a Tax Credit Resident Besides Their Rent

9-1. Topics Covered in this Chapter

In this chapter, you will learn when you can charge:

A. A refundable deposit from an applicant or resident of a tax credit unit;

B. A one-time fee from an applicant for a tax credit unit; and

C. Rent for the use of the common areas at your tax credit property.

9-2. Key Terms to Learn from Reading this Chapter

- Application fee
- Common areas
- Eligible basis
- One-time fees
- Refundable deposit
- Rent

9-3. Refundable Deposits

So long as they are not more than the deposits required from a market resident, an owner may charge a tax credit applicant or resident:

A. A refundable security deposit;

B. A refundable pet deposit; and

C. Other refundable deposits as allowed by the funding sources for the property, NY and NYC law.

9-4. One-Time Fees

So long as they are not more than the fees required from a market applicant, an owner may charge an applicant for a tax credit unit:

A. An application fee;

B. A fee to process a credit report; and,

C. Other fees as allowed by the funding sources for the property, NY and NYC law.

9-5. Charging Residents for Using Common Areas

An owner includes in eligible basis those development costs for a building that are eligible to generate a tax credit.

A. You may not charge a fee (rent) for the use of any part of a building's common area that is in its eligible basis including:

1. A parking space;

2. A storage unit; or,

3. A community room.

4. If your super is living in a Super Unit, you may not charge them rent. A Super Unit is considered part of a building's common area included in eligible basis.

B. If a resident elects to use a part of a building's common area not included in its eligible basis, you may charge a fee (rent) for using

1. A parking space;

2. A storage unit; or,

3. A community room.

C. If you allow pets at your property, you may charge a tax credit resident pet rent if it is not more than you charge a market resident. Ensure your pet policies comply with NY state and NYC law.

9-6. Do This!

A. Ask your owner for a list of what they included in eligible basis.

B. Charge an application fee unless the rules for other funding sources at your property forbid it.

C. Charge a refundable cleaning deposit for the use of your community room if it is included in eligible basis.

D. Establish a program to organize the parking in your parking lot, without charging parking rent, if it was included in eligible basis.

E. Establish a program to organize the use of your storage units, without charging storage rent, if they were included in eligible basis.

9-7. Don't Do This!

A. Charge parking rent if your parking lot or parking garage was included in eligible basis.

B. Charge storage rent if your storage units were included in eligible basis.

C. Charge the super rent if they are living in a Super Unit.

D. Charge ANYONE rent for the use of your community room, if it was included in eligible basis.

E. Charge any fee, rent or deposit not allowed by NYC or NY state law.

F. Charge any fee, rent or deposit not allowed by another funding source for your property.

Part Five

How Do I Keep My Property in Compliance Through a Long Compliance Period?

Chapter Ten

Ongoing Compliance Requirements

Chapter Ten: Ongoing Compliance Requirements
-or-
What You Must Do Every Year to Avoid an 8823 Form for Your Property

10-1. Topics Covered in this Chapter

In this chapter, you will learn:

A. That you must recertify your tax credit residents every year;

B. That you may apply to the IRS for a waiver from completing recertifications for a100% tax credit building;

C. How to implement the 140% rule when you recertify your tax credit residents;

D. How to implement the 170% rule when you complete recertifications at a deep rent skew property;

E. How to implement the Available Unit Rule; and

F. How to implement the Available Unit Rule at a deep rent skew property.

10-2. Key Terms

- Annual recertification
- Available unit rule
- Deep rent skew
- Over-income resident
- Recertification waiver
- 140% rule
- 170% rule

10-3. Annual Recertifications

You must recertify your tax credit residents every year. Through a recertification, you re-assess a resident's eligibility for the program by comparing their annual income to an income limit and documenting their compliance with the full-time student rule.

A. You must recertify a tax credit resident every year within 120 days prior to the effective date of their original TIC.

B. The effective date of a resident's initial TIC is the day they occupied their unit.

C. If a resident was in-place when the owner acquired the building, the effective date of their original TIC is,

1. The date of acquisition, if you complete the TIC within 120 days of acquisition. You must use the resident's income and income limit in effect when your owner acquired the building.

2. The day the last adult household member signs the TIC if you complete it more than 120 days after acquisition.

Sample Recertification Effective Date Initial TIC Effective Date of July 15, 2006. The owner must recertify the resident every year between March 15th and July 15th.

D, If a resident receives a form of subsidy that requires them to report for an annual recertification, so long as you do not go longer than 12 months between completing their recertifications, you may match your tax credit recertification schedule to their recertification schedule for the subsidy program.

Examples If a resident receives rental subsidy through the HCV or Work Advantage programs, you may recertify them effective the same date HPD or NYCHA completes their recertification for the voucher program. If a resident receives project-based Section 8 rental subsidy, you may complete their tax credit recertification effective the same date you complete their Section 8 recertification. If a resident lives in a Section 236 property, you may complete their tax credit recertification effective the same date you complete their Section 236 recertification.

10-4 Recertification Waivers for 100% LIHTC Buildings

The owner of a 100% tax credit building may apply for a waiver from completing annual recertifications. An owner must submit Form 8877 to HPD for every 100% tax credit building for which they want a waiver. Submit your request in writing to the Director of the Tax Credits and Compliance Unit at HPD. If the building received HOME funds, you must continue to complete recertifications for the HOME program.

You can find the contact information for the HPD Tax Credits and Compliance Unit in Exhibit 2-F of this manual. You can find Form 8877 as Exhibit 10-A at the end of this chapter.

A waiver relieves an owner from completing annual *income* certifications, not annual *owner* certifications. Moreover, an owner with a recertification waiver must continue to implement the full-time student rule for all tax credit units as described in Paragraph 10-7 below.

A waiver relieves you from completing recertifications only at the building covered by the waiver. You must continue to complete recertifications at all other tax credit buildings and properties.

Before signing an owner's request for a recertification waiver, and sending it to the IRS for final approval, HPD

A. Verifies the building has no outstanding incidents of noncompliance;

B. Verifies the property including the building has no outstanding incidents of noncompliance; and

C. Performs a due diligence review of the owner's compliance with other agreements with HPD.

10-5. The 140% Rule

When you recertify a tax credit resident, you must implement the 140% rule.

A. At a recertification, you must compare a household's annual income to 140% of the current income limit for their current household size.

Sample 140% Rule
1-person Applicant Income Limit = \$30,000 \$30,000 x 140% = \$42,000 1-person Recertification Income Limit = \$42,000

B. If you find that a resident's income is not more than 140% of their current income limit, they remain eligible for the tax credit program.

C. If you find a resident's income is more than 140% of their current income limit, they are over-income for the tax credit program. They do not need to move from their unit.

D. When you find a resident is over-income, you must implement the Available Unit Rule. You will learn how to implement this rule later in this chapter.

10-6 The 170% Rule for Deep Rent Skew Properties

When you recertify any tax credit resident at a deep rent skew property, you must implement the 170% rule.

A. At a deep rent skew property, you must compare a household's annual income to 170% of the current income limit for their current household size.

Sample 170% Rule
1-person Applicant Income Limit = $30,000 $30,000 x 170% = $51,000 1-person Recertification Income Limit = $51,000

B. If you find that a resident's income is not more than 170% of their current income limit, they remain eligible for the tax credit program.

C. If you find a resident's income is more than 170% of their current income limit, they are over-income for the tax credit program. They do not need to move from their unit.

D. When you find a resident is over-income, you must implement the Available Unit Rule. You will learn how to implement this rule at a deep rent skew property later in this chapter.

10-7 Implementing the Full-Time Student Rule at an Annual Recertification

At a recertification, you must verify a household continues to comply with the full-time student rule.

A. If a household no longer complies with the full-time student rule, their unit stops generating a tax credit.

1. In a 100% tax credit building, your owner expects every unit to generate a tax credit. You must take appropriate action to relocate any resident who no longer complies with the full-time student rule or fails to provide information you need to complete a recertification.

2. In a mixed-income building, you can rent another unit to a resident you qualify for the tax credit program. Their unit can take the place in the applicable fraction of the unit out of compliance with the full-time student rule.

B. Use the HPD required form to verify a household's compliance with the full-time student rule.

C. Your lease should include a provision, either within the lease or as an addendum that allows you to ask a household to move from their unit, and seek an eviction if necessary, if they no longer comply with the full-time student rule.

10-8 Changes in Household Composition

At a recertification, you may discover a change in a household's composition.

A. If at least one of the original household members remains in the unit, you may approve new members. Certify the income of the new resident and add their income to that on the household's most recent TIC. If the household's income is more than 140% of their income limit, implement the Available Unit Rule, as discussed below.

B. If none of the original household members remain in the unit, you must complete an initial certification of eligibility for the current residents.

10-9 The Available Unit Rule

When you find a resident's income has risen above 140% of their current income limit, you must implement the Available Unit Rule.

A. When you find an over-income resident at your property, the Available Unit Rule requires you to:

1. Rent the next (or currently) available unit of comparable or smaller size *in the same building* to a resident you qualify for the tax credit program; and

2. You must continue to rent all units of comparable or smaller size that become vacant *in the same building* to qualified residents until the floor space applicable fraction is at least equal to the size of the credit allocation the owner received for the building.

B. Remember that both the unit and the floor space applicable fractions for a building must be sufficient to support the tax credit expected by the owner. If the owner expects 80% of a building to generate a tax credit, maintain both the unit and floor space fractions at no less than 80%.

C. As long as you need a unit occupied by an over-income resident to generate a tax credit, do not raise their rent above the maximum allowed by the tax credit program. Note: Regardless of whether the unit is needed to generate a tax credit or not, you must still follow rent stabilization.

D. In a 100% tax credit building, your owner expects every unit to generate a tax credit. Regardless of what you discover about a resident's income, do not raise their rent above the maximum allowed by the tax credit program.

E. Use the certified rent roll/compliance map provided in Exhibit 7D to track the impact of the Available Unit Rule on the applicable fraction for each building at your property.

10-10 The Available Unit Rule for Deep Rent Skew Properties

When an owner commits to deep rent skew, they agree to rent 15% of their tax credit units to residents who qualify at 40% of AMI.

A. When you find a resident's income has risen above 170% of their current income limit, you must implement the Available Unit Rule.

1. Rent the next (or currently) available *tax credit unit* at your property to a resident you qualify at 40% of the AMI; and

2. Maintain the same units as your tax credit units throughout the compliance period.

Note: In Paragraph 10-9 you read about implementing the Available Unit Rule in properties when the owner did not agree to deep rent skew. In most mixed income buildings the tax credit units <u>must</u> <u>float</u>. When finding a resident's income has increased above 140% of their current income limit, you must rent the next (or currently) available unit of comparable or smaller size in the same building to a tax credit resident. A unit may have previously been a market unit but if it is the next available unit, you must rent it to a resident you qualify for the tax credit program. When an owner commits to deep rent skew, the tax credit units <u>cannot float</u>. When finding a resident's income has increased above 170% of their current income limit, you must rent the next (or currently) available tax credit unit to a household with income no more than 40% of AMI. The tax credit units remain fixed throughout the compliance period.

B. Some properties in NYC are referred to as "80/20" properties. At these properties

1. 80% of the units are market units;

2. 20% of the units are tax credit units; and

3. The owner commits to deep rent skew, so the tax credit units remain the same throughout the compliance period.

10-11. Implementing the Available Unit Rule at Properties with Multiple Income Limits

If an owner commits to using more than one income limit, they may need to rent some units to households at 60% of AMI and some units to households at 50% of AMI. Note: there may be additional income limits based on the regulatory agreement.

A. For the Available Unit Rule:

1. If a household qualified for their unit at 50% of AMI, compare their income to 140% of their current 50% of AMI limit.

2. If a household qualified for their unit at 60% of AMI, compare their income to 140% of their current 60% of AMI limit.

B. If you find the income of a household who originally qualified at 50% of AMI has increased above 50% of AMI, you may count them as a 60% of AMI household after you rent another unit to a new 50% of AMI household. You may increase the original household's rent to that charged for 60% of AMI units when legal to do so.

10-12. Do This!

A. Remember that in most mixed income buildings, the tax credit units float. They must float for you to correctly implement the Available Unit Rule.

B. Use the HPD-recommended compliance map for tracking the impact of the Available Unit Rule on your building's applicable fraction.

C. Use a tickler system to track the effective dates for your residents' annual recertifications.

10-13. Don't Do This!

A. Forget to track the impact on a building's applicable fraction when you rent a smaller unit to a tax credit resident when implementing the Available Unit Rule.

B. Forget that when you deep rent skew, your tax credit units are fixed and remain the same throughout the compliance period.

Exhibit 10-A
Form IRS-8877

Form **8877**
(Rev. January 2006)
Department of the Treasury
Internal Revenue Service

Request for Waiver of Annual Income Recertification Requirement for the Low-Income Housing Credit
► See instructions on back.
Note: *To be used only for 100% low-income buildings.*

OMB No. 1545-1882

Part I **Certification (Note:** *The building owner must also complete Part II on page 3.)*

Name of building or project	Name of building owner
Street address of building or project	Street address of building owner
City, state, and ZIP code	City, state, and ZIP code
Building identification number (BIN)	Taxpayer identification number

As the building owner, I certify that:
- I am applying for the annual income recertification waiver provided for in section 42(g)(8)(B);
- Each building listed on this form, and in any attached statement, is a 100% low-income building (see **Who May File** on page 2 for the meaning of 100% low-income building); and
- I have read and understand the **Effects of Obtaining a Waiver** in the instructions on page 2.

Under penalties of perjury, I declare that the foregoing statements and information are true, correct, and complete to the best of my knowledge and belief.

Signature of building owner | Title | Date

Type or print name | Telephone number

Additional BINs (continue in same format on an attached statement if necessary)

Attestation and Exemption by Housing Credit Agency

As an authorized official of the housing credit agency named below, I certify that:
- The agency is responsible for the monitoring of each building to which this waiver request applies;
- Each building listed on this form, and in any attached statement, was a 100% low-income building at the end of the most recent credit year for the building; and
- The agency exempts the building owner from annual income recertifications as provided in Rev. Proc. 2004-38, effective on the date of IRS approval of the waiver.

Under penalties of perjury, I declare that the foregoing statements and information are true, correct, and complete to the best of my knowledge and belief.

Name of housing credit agency | Signature of authorized official

Date | Name (please type or print)

IRS APPROVAL—IRS Use Only

Signature of authorized official | Title | Effective date of waiver

For Privacy Act and Paperwork Reduction Act Notice, see page 2. Cat. No. 32126P Form **8877** (Rev. 1-2006)

Chapter Eleven

The Vacant Unit and Transfer Rules

Chapter Eleven: The Vacant Unit and Transfer Rules
-or-
How a Vacant Unit Can Generate a Tax Credit and When You Can Move a Resident at a Tax Credit Property

11-1. Topics Covered in this Chapter

In this chapter, you will learn:

A. That units you have never rented to either a tax credit resident or a market resident are considered "empty" units;

B. You will learn how to keep a vacant unit generating a tax credit while you prepare it for a new resident;

C. You will learn the impact of transferring a resident to another unit in the same building; and

D. You will learn the impact of transferring a resident to another building at the same property.

11-2. Key Terms to Learn from Reading this Chapter

- BIN Number
- Building
- Empty unit
- Transfer
- Vacant unit

11-3. Empty Units

A unit you have never rented to either a tax credit resident or a market resident is considered an empty unit.

A. A unit never occupied by a qualified resident cannot generate a tax credit.

B. A unit begins to generate a tax credit the first time it is occupied by a qualified resident.

C. If a unit has been in service an entire calendar month, it can generate a tax credit if occupied by a qualified resident by the end of the month.

11-4. The Vacant Unit Rule

A unit last occupied by a qualified resident can generate a tax credit if you follow the Vacant Unit Rule.

A. A vacant unit will continue to generate a tax credit if:

1. You prepare it for occupancy as quickly as possible; and

2. You implement reasonable marketing activities to rent it to a new tax credit resident.

B. An owner cannot ignore a vacant unit and claim a tax credit for it.

C. You should maintain documentation to show that

1. You follow policies that support the rapid turnover of your vacant tax credit units; and

2. You implement marketing activities that are reasonable for your property.

D. When you have both vacant tax credit and market units, you can lease your market units only if you can show compliance with the Vacant Unit Rule.

E. Establish a file that shows your compliance with the Vacant Unit Rule including:

1. Maintaining a waiting list of interested applicants;

2. Maintaining a pool of qualified applicants;

3. Maintaining a log tracking preparation of your vacant units;

4. Prioritizing your vacant units in the maintenance program for your property; and

5. Maintaining strong contacts with the HCV programs at both HPD and NYCHA.

11-5. The Transfer Rule

When a resident at a tax credit property transfers, the two units involved in the transfer exchange their status as either a market or tax credit unit.   A tax credit resident:

A. May transfer to another unit in the same building without re-qualifying for the tax credit program;

B. May transfer to another building at the same property if their income is not more than 140% (170% in a deep rent skew property) of their income limit;

C. Takes their tax credit status, lease, income certification, including its effective date, to their new unit.

Note: You need to know how “the property” is defined. An owner receives a Form 8609 for each building from HPD. Before submitting a Form 8609 to the IRS, the owner notes on Line 8b if the building represented by the form is part of a property that includes other buildings.

a. If a building is not part of a multi-building property, you cannot transfer a resident to any other building. If a resident wants to move into another building, you must qualify them again for the tax credit program by completing a new, initial certification of eligibility.

b. If a building is part of a multi-building property, so long as their income is not more than 140% of their current income limit, a resident may transfer to any other building listed as part of the same property on its 8609 form.

An owner is responsible for providing management with the 8609 forms for the buildings at their property. HPD will not be responsible for telling managers which buildings comprise a property.

11-6. Do This!

A. Establish a file to maintain the documentation of your compliance with the Vacant Unit Rule.

B. Verify a resident’s income is not more than 140% of their current income limit (170% in a deep rent skew property) before you allow them to transfer to another building at your property.

C. Know that a building a resident wants to transfer to is part of the same property before approving the transfer.

D. Use your compliance map to calculate the impact on the applicable fraction before allowing a resident to transfer within or between mixed-income buildings.

11-7. Don’t Do This!

A. Allow a household to move into another building at your property if their income is more than 140% of their current income limit.

B. Ignore a vacant unit if you want it to generate a tax credit.

C. Forget that no unit can generate a tax credit until it is occupied the first time by a resident you certify eligible for the tax credit program.

Part Six

How Do I Comply with the Tax Credit Program When I have So Many Other Requirements to Meet at My Property?

Chapter Twelve

Applying the Requirements of the HOME Program at a Tax Credit Property

Chapter Twelve: Applying the Requirements of the HOME Program at a Tax Credit Property
-or-
How to Meet Your HOME Requirements and Your Tax Credit Requirements at the Same Time

STOP: This chapter applies only to tax credit properties with HOME funds. If you do not have HOME funds, you do not need to read further, but know it is here for you if you manage a property with HOME funds in the future.

12-1 Topics Covered in this Chapter

In this chapter, you will learn:

A. The importance of the HOME Written Agreement;

B. The importance of the HOME Project Completion Report;

C. The difference between your low HOME and high HOME units;

D. About the HOME income limits and how to know the correct income limit when you have HOME funds at a tax credit property;

E. About the rents you may charge for your HOME units and how to charge the correct rent when you have HOME funds at a tax credit property;

F. The rules to follow when certifying an applicant eligible for a HOME/tax credit unit;

G. The recertification requirements for your HOME/tax credit residents;

H. How to implement the Available Unit Rule when you have HOME funds at a tax credit property; and

I. About HPD's compliance monitoring activities for a HOME/tax credit property.

J. To provide all notices required by NYC law, and Rent Stabilization when applicable, before increasing a resident's rent.

12-2 Key Terms to Learn from Reading this Chapter

- Available unit rule
- Fair market rent
- High HOME unit
- High HOME rent
- HOME Project Completion Report
- HOME Written Agreement
- Low HOME unit
- Low HOME rent
- Period of affordability
- Post completion monitoring
- Utility allowance

12-3 The HOME Written Agreement

The owner of a property with HOME funds signs a HOME Written Agreement with HPD and agrees to the following terms:

A. The number of HOME units;

B. The number of HOME units by unit size;

C. The number of low HOME units;

D. The number of high HOME units;

E. The initial rents to be charged for the HOME units; and

F. The period of affordability during which the owner must comply with the requirements of the HOME program.

This chapter focuses on applying the HOME requirements at a tax credit property. For a complete discussion of the HOME program as administered by HPD, go to http://www.nyc.gov/html/hpd/html/developers/low_income.shtml

12-4 The HOME Project Completion Report

The owner of a property with HOME funds submits a HOME Project Completion Report within 120 days of requesting their final drawdown of HOME funds. The owner must provide the HPD program that funded the project (e.g. NEP, NRP, Special Needs Housing, etc.) the following information:

A. A certified rent roll designating which units are low HOME units and which units are high HOME units;

B. Tenant income certifications for the residents living in the HOME units; and

C. The income limit and rent that applies to each HOME unit.

12-5 Low HOME Units and High HOME Units

Every property with five (5) HOME units has both low HOME and high HOME units.

A. For a unit to qualify as a low HOME unit, the resident must

1. Qualify with income not exceeding 50% of AMI; and

2. Pay no more than the low HOME rent.

3. For a unit to qualify as both a low HOME and a tax credit unit, the resident must

a. Qualify at the *lesser of* the low HOME or tax credit income limit; and

b. Pay the *lesser of* the low HOME rent or tax credit rent.

Sample LOW HOME / Tax Credit Unit

HOME income limit is $30,000
Tax credit income limit is $32,000
HOME maximum rent is $800
Tax credit maximum rent is $1,000

A resident may qualify with income of no more than $30,000 and pay no more than $800 for rent.

B. For a unit to qualify as a high HOME unit, the resident must

1. Qualify at the high HOME income limit as required in the property's HOME Written Agreement, generally, 60% of AMI and

2. Pay no more than the high HOME rent.

3. For a unit to qualify as both a high HOME and a tax credit unit, the resident must

a. Qualify at the *lesser of* the high HOME or tax credit income limit; and

b. Pay the *lesser of* the high HOME rent or tax credit rent.

Sample HIGH HOME / Tax Credit Unit

HOME income limit is $34,000
Tax credit income limit is $32,000
HOME maximum rent is $1,050
Tax credit maximum rent is $1,000

A resident may qualify with income of no more than
$32,000 and pay no more than $1,000 for rent.

C. An owner planning to benefit from 9% credits who received a HOME loan at a below-market interest rate must agree to:

1. Rent twenty-five percent (25%) *of all the units (including market rate unts) in every HOME assisted building* to residents who qualify at 50% of AMI and pay no more than the low HOME rent; and

2. Rent the remaining HOME units to residents who qualify at 60% of AMI and pay no more than the high HOME rent.

3. This is the typical financial structure for a property receiving both HOME funds and low income housing tax credits through HPD. Check your HOME regulatory agreement, with your developer and with your syndicator on whether your owner received a below-market rate HOME loan and expects to generate 9% tax credits.

Sample HOME / Tax Credit Property
25% @ 50% Set Aside

2 buildings with 12 total units in each
6 fixed HOME units in each

3 (12 x 25%) units per building must be
rented to residents who qualify at 50% of AMI

3 remaining HOME units per building may be
rented to residents who qualify at 60% of AMI

12-6 Maximum Allowable Rent

You may not charge more than the HOME rent for any HOME unit.

A. For a low HOME unit, the owner may charge either

1. Thirty percent (30%) of the annual income of a household with income at 50% of AMI; or

2. Thirty percent (30%) of the adjusted income of the household occupying the unit.

Note: A household's adjusted income is calculated using the rules for adjusted income (not gross annual income) for the project-based Section 8 program found in Chapter 5 of the 4350.3 HUD handbook. You can find a link to Chapter 5 in the Appendix of this manual. Generally, HPD's regulatory agreements require that an owner with HOME funds charge 30% of the annual income of a household with income at 50% of AMI for their low HOME units.

B. For a high HOME unit, the owner may charge the *lesser of*

1. The HUD-published fair market rent (FMR) for NYC for the unit size; or

2. Thirty percent (30%) of the adjusted income of a household with income at 65% of AMI.

C. HPD posts the low-HOME and high-HOME rents at http://www.nyc.gov/html/hpd/html/developers/low_income.shtml

D. For a HOME/tax credit unit, charge *the lesser of* the HOME or tax credit rent.

E. Your HOME Written Agreement may require you to charge less than the maximum HOME rents for your HOME units.

F. Unlike the tax credit program, the HOME program does not allow you to collect more than the HOME rent for a resident on the HCV or Work Advantage programs. The rent paid by the resident plus their subsidy payment may not exceed the HOME rent.

Sample HOME / Tax Credit Unit with Voucher Resident

HOME rent is $800
Tax credit rent is $1,000
Maximum rent voucher will subsidize is $800

Resident pays $500 for rent
HAP from voucher program is $300

Maximum revenue owner collects is $800

12-7 *Initial Certifications*

Use the following rules to complete an initial certification for an applicant for a HOME/tax credit unit.

A. Calculate the household's annual income using the rules discussed in Chapter Six for both the HOME and tax credit programs.

B. Compare the applicant's annual income to the *lesser of* the HOME or tax credit income limit for their household size.

C. Certify the household eligible under the tax credit full time student rule discussed in Chapter Six.

D. Use the required verification forms provided in Chapter Seven to verify a household's eligibility for the HOME and tax credit programs.

   1. Because the HOME program *does not allow* a household with assets of not more than $5,000 to self-certify the income from their assets, you must do a review of documents to verify their asset income.

   2. You must verify the income from assets through a third party, or document in the resident file why you were unable to do so, for any resident with assets totaling more than $5,000.

E. Sign a lease that lasts at least twelve (12) months. If the unit is rent- stabilized, meet all the leasing requirements for Rent Stabilization.

12-8 *Annual Recertifications*

Through a recertification, you re-assess a resident's eligibility for the tax credit and HOME programs by comparing their annual income to an income limit and documenting their compliance with the tax credit full time student rule.

A. Both the HOME and tax credit programs require you to recertify your residents every year.

B. Complete a resident's annual recertification within 120 days prior to the effective date of their initial certification.

Type of Resident	Recertification Income Limits
Low HOME / Tax Credit	• For the HOME program, compare their income to 50% of AMI • For the tax credit program, compare their income to 140% of their current income limit
High HOME / Tax Credit	• For the HOME program, compare their income to 80% of AMI • For the tax credit program, compare their income to 140% of their current income limit

C. Unlike the tax credit program, the HOME program does not allow you to receive a waiver from completing recertifications.

1. You may apply for a waiver from completing recertifications for the tax credit program.

2. You must continue to complete recertifications, using the standard TIC provided in Chapter Seven, but may use the looser verification requirements allowed by the HOME program.

   a. You may accept resident statements to document the information necessary to complete the HOME recertification.

   b. Every sixth year you must obtain documentation from the residents and complete a review of documents as discussed in Chapter Seven.

12-9 The Available Unit Rule

Based on what you discover about a HOME/tax credit resident's income at a recertification, you must implement the Available Unit Rule.

Available Unit Rule for a LOW HOME / Tax Credit Resident

If their Income is Now	Do This
< 50% of AMI & < 140% of LIHTC Limit	• Nothing • You do not need to implement the Available Unit Rule
> 50% of AMI but < 80% of AMI & < 140% of LIHTC Limit	• Rent next available HOME unit to a low HOME Resident • Change from low HOME to high HOME resident • Increase to the lesser of the high HOME or tax credit rent when legal to do so • If next available HOME unit is a tax credit unit, qualify the new resident as a tax credit resident and charge the lesser of the low HOME or the tax credit rent
> 50% of AMI but < 80% of AMI & > 140% of LIHTC Limit	• Rent next available HOME unit to a low HOME resident and qualify as a tax credit resident if also a tax credit unit • Change from low HOME to high HOME resident • Increase to the lesser of the high HOME or tax credit rent when legal to do so • Rent next available comparable or smaller unit in the same building to a tax credit resident and HOME qualify the resident if also a HOME unit
> 80% of AMI & > 140% of LIHTC Limit	• Don't charge more than the tax credit rent if the unit is expected generate a tax credit • Rent next available HOME unit to a low HOME resident and qualify as a tax credit resident if also a tax credit unit • Rent next available comparable or smaller unit in the same building to a tax credit resident and HOME qualify the resident if also a HOME unit

Available Unit Rule for a HIGH HOME / Tax Credit Resident

If their Income is Now	Do This
< 80% of AMI & < 140% of LIHTC Limit	• Nothing • You do not need to implement the Available Unit Rule
> 80% of AMI & < 140% of LIHTC Limit	• Charge no more than the tax credit rent • Rent next available HOME unit to low or high HOME resident as necessary to comply with HOME Written Agreement • Qualify new HOME resident as a tax credit resident if also a tax credit unit • Charge the lesser of the HOME or tax credit rent for a HOME/tax credit unit
> 80% of AMI & > 140% of LIHTC Limit	• Charge no more than the tax credit rent if the unit is expected to generate a tax credit • Rent next available comparable or smaller unit in the same building to a tax credit resident and HOME qualify the resident if also a HOME unit • Rent next available HOME unit to a low or high HOME resident as necessary to comply with HOME Written Agreement and tax credit qualify the resident if also a tax credit unit • Charge the lesser of the HOME or tax credit rent for a HOME/tax credit unit
< 50% of AMI	• May become a low HOME resident only if initially qualified as low income.

12-10 HPD HOME Compliance Monitoring Activities

Generally, HPD combines their monitoring activities for tax credit properties with HOME funds. HPD will notify you if they plan to monitor for your HOME requirements during a tax credit monitoring review.

12-11 Do This!

A. Qualify an applicant using the *lesser of* the HOME income limit or the tax credit income limit that applies to the household size.

B. Use the verification forms provided in Chapter Seven to certify a household eligible for both the HOME and tax credit programs.

C. Use the rules discussed in Chapter Six to calculate an applicant's annual income for both the HOME and tax credit programs.

D. Provide all notices required by NYC law, and Rent Stabilization when applicable, before increasing a resident's rent.

12-12 Don't Do This!

A. Forget to complete your HOME recertifications after receiving a tax credit recertification waiver.

B. Charge more than the tax credit rent for any tax credit unit. (You may collect revenue exceeding the maximum tax credit rent when you receive some of that revenue as rental subsidy paid on behalf of the resident. However, if the project also has HOME funding the rent cannot exceed the HOME rent.)

C. Forget to certify a household eligible under the tax credit full time student rule before allowing them to occupy a HOME/tax credit unit.

Chapter Thirteen

Maintaining Compliance at Rent-Stabilized Tax Credit Properties

Chapter Thirteen: Maintaining Compliance at Rent-Stabilized Tax Credit Properties
-or-
How to Keep all Your Tax Credits and Keep the Folks Governing Rent Stabilization Happy Too

13-1 Topics Covered in this Chapter

In this chapter, you will learn:

A. That HPD does not have jurisdiction over Rent Stabilization;

B. That DHCR administers the requirements for Rent Stabilization;

C. How to set the initial rents for your rent-stabilized tax credit units;

D. How to implement annual rent increases for your rent-stabilized tax credit units;

E. How to implement the rent increase allowed for vacant units by Rent Stabilization at your tax credit property; and

F. How to meet your leasing requirements at a rent-stabilized tax credit property.

13-2 Key Terms to Learn from Reading this Chapter

- Annual rent increases
- Higher legal rent
- Initial rents
- Lower legal rent
- Maximum tax credit rent
- Registered rent
- Rent stabilization
- Utility allowance
- Vacancy increase

13-3 Where to Find Instruction on Complying with Rent Stabilization

Rent Stabilization is administered by the New York State Division of Housing and Community Renewal's (DHCR) Office of Rent Administration. For instruction on complying with Rent Stabilization, go to the DHCR web site at www.dhcr.state.ny.us/ora/ora.htm.

13-4 *Initial Rents at Rent-Stabilized Tax Credit Properties*

Use the following rules when establishing the initial rents at your rent-stabilized tax credit property.

A. Never charge more than allowed by the tax credit program. (You may collect revenue exceeding the maximum tax credit rent when you receive some of that revenue as rental subsidy paid on behalf of the resident. However, if the project also has HOME funding the rent cannot exceed the HOME rent.)

B. The regulatory agreement for your property may establish

1. An initial lower legal rent; and

2. An initial higher legal rent.

C. Register the initial legal rents under Rent Stabilization.

D. Under the terms of your regulatory agreement, know for which units you are limited to the lower legal rent and for which units you may charge the higher legal rent.

E. Charge no more than *the lesser of* the tax credit rent or the legal rent that applies to a tax credit unit.

F. If your building was rent-stabilized before HPD allocated its tax credits, check your regulatory agreement(s) for how to set your initial rents.

Sample Rents

Tax credit rent is $1,000
Rent allowed by Rent Stabilization is $1,250
Charge no more than $1,000

13-5 *Annual Rent Increases at Rent-Stabilized Tax Credit Properties*

Use the following rules when implementing annual rent increases allowed by Rent Stabilization.

A. Never charge more rent than allowed by the tax credit program.

B. Every year, the Rent Guidelines Board announces the percentage by which owners of rent-stabilized units may increase their rents. Apply the percentage announced by the Rent Guidelines Board to increase your legal rents, if applicable. http://www.housingnyc.com/

C. Register your new legal rents under Rent Stabilization.

D. For a tax credit unit, charge no more than *the lesser of* the tax credit rent or the legal rent that applies to the unit.

E. Never increase a resident's rent without providing the notice required by law.

Sample Rents

Tax credit rent is $1,000
Rent increased under Rent Stabilization to $1,325
Charge no more than $1,000

Tax credit rent increased to $1,280
Rent allowed by Rent Stabilization is $1,250
Charge no more than $1,250

13-6 Vacancy Increases at Rent-Stabilized Tax Credit Properties

Use the following rules when applying a vacancy increase at your rent-stabilized tax credit property.

A. Calculate the vacancy increase, if any, allowed for your particular property.

B. Verify the current maximum allowed by the tax credit program.

C. Register the new rent allowed under Rent Stabilization, if applicable.

D. Charge the new resident no more than *the lesser of* the tax credit rent or the legal rent that applies to the unit.

Sample Rents

Tax credit rent is $1,000
Rent increased under Rent Stabilization to $1,325
Charge no more than $1,000

Tax credit rent is $1,280
Rent increased under Rent Stabilization to $1,250
Charge no more than $1,250

13-7 Rent Levels in the Extended Use Period (EUP) at Rent-Stabilized Tax Credit Properties

Apply the following rules to determine the rent you may charge at a rent-stabilized tax credit property during the tax credit extended use period.

A. Check your regulatory agreement(s) for the amount you may charge for your tax credit units during the EUP.

B. If your regulatory agreement(s) are silent on the rent you may charge during the EUP, charge no more than the maximum tax credit rent as described in Chapter Eight.

C. Your regulatory agreement(s) may establish limits on the rent you may charge during the EUP. The limitations may vary:

1. Based on the income level of the resident living in the unit;

2. Based on the requirements of the other funding sources (e.g., HOME) for your property.

3. If the resident lived in the unit during the initial 15-year compliance period for the property;

4. If the resident was homeless prior to occupying the unit; and,

5. If the resident receives public assistance.

D. During the EUP, charge no more than *the lesser of* the rent allowed by the tax credit program, the rent allowed by Rent Stabilization, or the rent allowed by the regulatory agreement(s) for the other funding sources for your property.

13-8 Leasing Requirements at Rent-Stabilized Tax Credit Properties

A. Under Rent Stabilization, a resident may choose to sign a one-year or two-year lease.

B. Under the tax credit program, you must sign an initial lease with a new resident lasting at least six months.

C. Signing a lease that meets the requirements for Rent Stabilization satisfies the tax credit requirement that a resident sign a lease for at least 6 months.

D. Sign the lease rider required by Rent Stabilization.

E. When it is time to renew a resident's lease, provide all notices required by Rent Stabilization.

13-9 Do This!

A. Know the maximum rent allowed by the tax credit program. (You may collect revenue exceeding the maximum tax credit rent when you receive some of that revenue as rental subsidy paid on behalf of the resident. However, if the project also has HOME funding the rent cannot exceed the HOME rent.)

B. Know the maximum rent you may charge under Rent Stabilization.

C. At a rent-stabilized tax credit property, charge no more rent than *the lesser allowed* by the tax credit program or Rent Stabilization.

D. Sign the lease rider required by Rent Stabilization.

E. If you decide not to renew a resident's lease, demonstrate your good cause as required by the tax credit program and provide all notices to the resident required by Rent Stabilization.

13-10 Don't Do This!

A. Forget to subtract the utility allowance from the gross tax credit rent to calculate the tenant rent.

B. Charge the rent calculated using the vacancy increase allowed by Rent Stabilization if it is more than the maximum tax credit rent.

C. Forget that the regulatory agreements for the various funding sources for your property may establish different limits on how much rent you can charge. Never charge more rent than allowed by any of the funding sources for your property.

Chapter Quizzes

Chapter Two Quiz

Question One: True or False? So long as HPD has allocated the credits for a building, the owner can claim a tax credit for a unit in the building even though you never rented it to a qualified resident.

Question Two: True or False? Because the first year of the credit period is critical for a tax credit property, you must keep the records for each building at least 21 years.

Question Three: True or False? If HPD issues an 8823 because they find you out of compliance at your tax credit property, you need to worry about your owner losing tax credits.

Question Four: True or False? HPD issues an 8823 if you fail to submit the owner's annual certification of compliance, forget to pay your annual compliance monitoring fee or refuse to cooperate with a compliance monitoring review.

Question Five: True or False? HPD takes responsibility for providing all the necessary training for owners and managers active in the tax credit program.

Answer One: False. An owner cannot claim a tax credit for a unit before leasing it the first time to a tax credit qualified resident.

Answer Two: True. You must keep the records for the first year of the credit period for each building at your property at least 21 years.

Answer Three: True. Anytime HPD issues an 8823, there is a possibility your owner could loose some tax credits.

Answer Four: True. HPD will issue an 8823 if you fail to submit the owner's annual certification of compliance, forget to pay your annual compliance monitoring fee or refuse to cooperate with a compliance monitoring review.

Answer Five: False. All owners and managers are responsible for receiving training in the requirements of the tax credit program.

Chapter Three Quiz

Question One: True or False? The first number in the minimum set aside establishes the percentage of units at your property you must rent to tax credit qualified residents for your property to be part of the tax credit program.

Question Two: True or False? The second number in the minimum set aside establishes the income limit at which households must qualify for your tax credit units.

Question Three: True or False? Your investors will get all their tax credits if you rent the number of units required by your minimum set aside to tax credit qualified residents.

Question Four: True or False? HPD stops monitoring your property after the 10 year credit period.

Question Five: True or False? There are no financial consequences for your investors if you stop meeting the requirements of the minimum set aside in year 9 of the credit period.

Answer One: True. The first number in the minimum set aside tells you the number of units you must rent to qualified residents for your property to be part of the tax credit program.

Answer Two: True. The second number in the minimum set aside tells you the income limit at which households must qualify for your tax credit units.

Answer Three: False. Meeting the minimum set aside gets your property into the program. For most properties, the developer promises the investors they will benefit from tax credits from more than the number of units required by the minimum set aside. Read Chapter Four to find out how many units your owner wants you to rent to qualified residents.

Answer Four: False. HPD will monitor your property throughout the 15-year compliance period AND the EUP.

Answer Five: False. If you stop meeting the requirements of the minimum set aside, your investors are in jeopardy of the IRS recapturing tax credits taken back to the first year of credit period. The IRS may also bill your investors for penalties and interest.

Chapter Four Quiz

Question One: True or False? Your owner will earn the maximum possible tax credit from your property if you comply with your minimum set aside.

Question Two: True or False? Generally, HPD allocates tax credits by building.

Question Three: True or False? You are managing a 10 unit building with 5 one-bedroom units and 5 three-bedroom units. Your owner needs a 60% applicable fraction to earn the maximum possible tax credit from the building. If you rent the 5 one-bedroom units plus 1 three-bedroom unit to tax credit qualified residents, you're assured of a 60% applicable fraction.

Question Four: True or False? It is easier to maintain compliance in a 100% tax credit building.

Question Five: True or False? The size of the units you rent to qualified resident impacts the size of the tax credit your owner can tax on their federal income tax return.

Answer One: False. Your owner will only earn the maximum possible tax credit if you rent the number of units covered by the credit allocation from HPD qualified residents.

Answer Two: True. In most cases, HPD allocates tax credits by building in a multi-building property.

Answer Three: False. For the applicable fraction of a building to be 60%, you must rent 60% of the units and 60% of the floor space to qualified residents.

Answer Four: True. It is easier to maintain compliance in a 100% tax credit building than in a mixed-income building.

Answer Five: True. When managing a mixed income property, you must map out each building to ensure you rent the right number of units and the right combination of units in each building to qualified residents to generate the maximum possible tax credit for your owner.

Chapter Five Quiz

Question One: True or False? There are only two factors that determine a household eligible for the tax credit program: Their income must not be greater than the income limit established in the minimum set aside, and they must qualify under the full time student rule.

Question Two: True or False? A household that qualifies at 60% of the AMI qualifies for all tax credit units in NYC.

Question Three: True or False? When determining the household size for selecting the correct income limit, you include an unborn child of a woman who will be living in the unit.

Question Four: True or False? A household that receives rental assistance through the HCV or Work Advantage program is automatically eligible for your tax credit unit.

Question Five: True or False? HPD tells owners the standards they must apply when screening households to occupy tax credit units.

Answer One: True. There are only two factors you apply to determine if a household is eligible for your tax credit unit: The income limit established in the minimum set aside and the full time student rule.

Answer Two: False. The income limit for each property is established in the minimum set aside. If your owner committed to the 20% @ 50% minimum set aside, applicants for must qualify at 50% of the AMI. If your owner committed to the 25% @ 60% minimum set aside, applicants must qualify at 60% of the AMI. If your owner agreed to deep rent skew, the applicants for 15% of your tax credit units must qualify at 40% of the AMI.

Answer Three: True. You include an unborn child in the household size to select the correct income limit to determine their eligibility for your tax credit unit.

Answer Four: False. You must document a household receiving assistance through the HCV or Work Advantage program are tax credit qualified before you allow them to move into your tax credit unit. You may document their eligibility through the organization that is administering their subsidy, or you must do the verification work yourself.

Answer Five: False. HPD requires you qualify a household using the correct income limit and under the tax credit full time student rule. You establish your own screening criteria in a Resident Selection Plan.

Chapter Six Quiz

Question One: True or False? To certify an applicant eligible for a tax credit unit, an owner calculates their gross annual income by following the rules HUD requires for the project-based Section 8 program.

Question Two: True or False? When calculating social security income, you include the net monthly benefit the SSA deposits into your resident's bank account.

Question Three: True or False? There is a limit to the value of the assets owned by a household for them to qualify for the tax credit program.

Question Four: True or False? An applicant has $3,000 in a savings account. You should include the $3,000 in the household's annual income calculation to determine if they are eligible for your tax credit unit.

Question Five: True or False? You don't risk any of your tax credits by allowing a household to move in before you certify they are eligible for the tax credit program at your property.

Answer One: True. To certify a household eligible for your tax credit unit, calculate their annual income using the rules HUD requires for the project-based Section 8 program. You can find those rules in Chapter 5 of the 4350.3 handbook.

Answer Two: False. When calculating social security income, include the gross monthly benefit awarded the resident. This is the amount before the SSA subtracts the resident's Medicare premium and makes a deposit into your resident's bank account.

Answer Three: False. There is no asset limit for a resident in the tax credit program. You include the income generated by a household's assets in their gross annual income to determine their eligibility for your tax credit unit.

Answer Four: False. The cash value of an asset is never included in a household's gross annual income.

Answer Five: False. When you allow a household to move into your unit before you certify them eligible, you run the risk they are not eligible and you will lose the tax credits so long as they live in the unit.

Chapter Seven Quiz

Question One: True or False? An owner must verify social security and SSI disability income by sending a request for information to the Social Security Administration.

Question Two: True or False? Information you receive from a third party is good for use in an income certification for 120 days.

Question Three: True or False? HPD allows an applicant to self-certify the income from their assets if their assets do not exceed $5,000.

Question Four: True or False? You can verify a person's income may making a copy of their most recent pay check.

Question Five: True or False? HPD has forms you must use to verify information necessary to complete an income certification.

Answer One: False. You do not need to send a request for information to the Social Security Administration. You may make a copy of the benefit award letter the applicant received from the SSA the previous December.

Answer Two: True. Information you verify through a third party is good for 120 days from the date put on the document by the third party.

Answer Three: True. An applicant with assets of no more than $5,000 may certify the income from their assets. Use the HPD-required form provided as an exhibit at the end of Chapter Seven.

Answer Four: False. A copy of one paycheck is never sufficient to verify a person's income. If you are unable to verify a person's income through their employer, make a copy of their most recent 4 to 6 pay stubs to complete their income certification.

Answer Five: True. You must use the HPD-required forms when documenting information to complete an income certification.

Chapter Eight Quiz

Question One: True or False? The maximum rent an owner may charge a resident to live in a tax credit unit is the same regardless of the income limit at which the resident qualified for their unit.

Question Two: True or False? You calculate the maximum rent for a two-bedroom unit using the income limit for 3 people.

Question Three: True or False? For a property where the owner agrees to deep rent skew, the average rent for the market units must be at least double the rent the owner charges residents living in tax credit units of the same size.

Question Four: True or False? For most tax credit properties, the owner calculates the utility allowance the same way HPD would if the resident was receiving rental subsidy through the HCV program.

Question Five: True or False? The total revenue you may collect for a unit when the resident receives rental subsidy through the HCV program is limited to the maximum tax credit rent.

Answer One: False. The amount of rent an owner can charge a resident is based on the income limit at which they qualified for the unit. If a resident qualified at 60% of AMI, calculate their rent using the 60% of AMI income limit for the assumed household size for the unit. If they qualified at 50% of AMI, calculate their rent using the 50% of AMI for the assumed household size for the unit.

Answer Two: True. Assume a household size of 1.5 persons per bedroom when calculating the maximum allowable rent. 2 bedrooms x 1.5 persons = 3 people. The maximum allowable rent for a 2-bedroom apartment is 30% of the income limit for 3 people.

Answer Three: True. The average rent an owner charges residents living in market units in a deep rent skew property must be double the rent they charge residents living in tax credit units of the same size.

Answer Four: True. Unless a property is regulated by HUD, the owner calculates the utility allowance as HPD would if a person receiving rental subsidy through the HCV program lived in the unit.

Answer Five: False. You may collect revenue exceeding the maximum tax credit rent when you receive some of that revenue as rental subsidy paid on behalf of the resident.

Chapter Nine Quiz

Question One: True or False? An owner can charge an application fee from a household applying to live in a tax credit unit.

Question Two: True or False? Because it takes longer to process an application for a tax credit unit, an owner can charge a household applying for a tax credit unit a higher application fee than paid by a household applying for a market unit.

Question Three: True or False? An owner can charge rent for the use of a storage unit so long as the storage unit is not included in eligible basis.

Question Four: True or False? An owner can charge rent for the use of a community room, from an outside organization, even if the community room is included in eligible basis.

Question Five: True or False? An owner cannot charge rent from a super who is living in a Super Unit.

Answer One: True. An owner can require a household to pay a one-time fee when applying to live in a tax credit unit.

Answer Two: False. An owner cannot charge an applicant for a tax credit unit a higher application fee than required from an applicant for a market unit.

Answer Three: True. An owner can charge for use of part of the common areas at a property so long as it is not included in eligible basis. If a storage unit is not included in eligible basis, the owner can charge rent for its use.

Answer Four: False. If the community room is included in eligible basis, the owner may not charge any person or organization rent for the use of the room. The owner may require the person or organization pay a refundable cleaning deposit before using the room.

Answer Five: True. The super's household does not need to qualify for the tax credit program to live in the unit. The owner includes the Super Unit as part of the common area included in the eligible basis. The owner cannot charge the super rent for living in the unit if they want to claim a tax credit for the unit.

Chapter Ten Quiz

Question One: True or False? You must recertify your residents at least annually in the tax credit program.

Question Two: True or False? You never need to recertify your residents at a 100% tax credit property.

Question Three: True or False? When recertifying a tax credit resident, you compare their annual income to 140% of the current income limit for their current household size.

Question Four: True or False? When you recertify a tax credit resident at a deep rent skew property, you implement the 170% rule in place of the 140% rule only for those residents who originally qualified for their units with income no greater than 40% of the AMI.

Question Five: True or False? When you find a tax credit resident's income has increased above 140% of their current income limit, you must evict them from your property.

Answer One: True. You must recertify your tax credit residents at least every twelve months.

Answer Two: False. You must recertify your residents at a 100% tax credit property unless you receive a waiver from the IRS saying you no longer need to complete recertifications.

Answer Three: True. When you recertify a resident in the tax credit program, you must compare their annual income to 140% of their current income limit.

Answer Four: False. At a recertification for all tax credit residents at a deep rent skew property, you compare their income to 170% of their current income limit.

Answer Five: False. You do not need to evict a resident if their income rises above 140% of their current income limit.

Chapter Eleven Quiz

Question One: True or False? Even if a unit has never been occupied by a resident you qualify for the tax credit program, it can generate a tax credit so long as it is in service.

Question Two: True or False? The vacant unit rules says a vacant tax credit unit can continue to generate a tax credit while you prepare it for a new resident so long as you lease the unit as quickly as possible to a qualified resident.

Question Three: True or False? You can never rent a market unit if you have a vacant tax credit unit at the same property.

Question Four: True or False? You can transfer a tax credit resident between two units located in the same building without qualifying them again for the tax credit program.

Question Five: True or False? You can transfer a resident from one building to another building without qualifying them again for the tax credit program.

Answer One: False. A unit cannot generate a tax credit until it is occupied the first time by a resident you certify eligible for the tax credit program.

Answer Two: True. A vacant unit can continue to generate a tax credit as long as you prepare the unit as soon as possible and take reasonable steps to market the unit to a qualified resident.

Answer Three: False. You can rent a market unit as long as you can demonstrate compliance with the vacant unit rule for your vacant tax credit units.

Answer Four: True. A resident who transfers to a unit within the same building remains eligible based on their original certification of eligibility.

Answer Five: True. So long as a resident's income is not more than 140% of their current income limit, they can transfer to unit in another building based on their original certification of eligibility.

Chapter Twelve Quiz

Question One: True or False? When approving a resident to live in a HOME/tax credit unit, you must compare their annual income to the lesser of the tax credit income limit or the HOME income limit that applies to the unit.

Question Two: True or False? When you have HOME funds in a tax credit property, you must rent 25% of the units in every HOME assisted building to residents qualifying with income not exceeding 50% of AMI.

Question Three: True or False? For a HOME/tax credit unit, you may charge the greater of the tax credit rent or HOME rent that applies to the unit.

Question Four: True or False? A HOME/tax credit resident receives subsidy through a housing choice voucher. The maximum HOME rent for the unit is $880. The maximum tax credit rent for the unit is $950. The housing authority administering the voucher will not approve a rent for the unit higher than $880.

Question Five: True or False? You recertify a low HOME/tax credit resident and discover their income has risen above 50% of AMI but remains below 80% of AMI. The resident becomes a high HOME resident so you may charge the high HOME rent even if it more than the tax credit rent.

Answer One: True. To live in a HOME/tax credit unit, the resident must qualify at the lesser of the HOME or tax credit income limit.

Answer Two: True. For a property to qualify for 9% tax credits with HOME funds as administered by HPD, 25% of the units in every HOME assisted building must be occupied by residents who qualified with income of no more than 50% of AMI.

Answer Three: False. For a HOME/tax credit unit, you may charge *the lesser of* the tax credit rent or the HOME rent. Remember, if the unit is rent stabilized, you may not charge more rent than allowed under Rent Stabilization.

Answer Four: True. The HOME program does not allow you to collect more than the HOME rent, even when you rent to a person on the HCV program. The revenue you receive for the unit may not exceed $880.

Answer Five: False. You want this unit to continue to generate a tax credit so you may not charge the resident more than the maximum tax credit rent.

Chapter Thirteen Quiz

Question One: True or False? The initial rent you may charge at your rent-stabilized tax credit property may be established in the regulatory agreement your owner signed for your property.

Question Two: True or False? At a rent-stabilized, tax credit property, you may always charge the maximum possible tax credit rent.

Question Three: True or False? When a resident vacates a unit at a rent-stabilized tax credit property, you may apply the vacancy increase to the rent you charge the next resident even if it results in you charging more than the tax credit rent.

Question Four: True or False? When applying an annual rent increase, the owner of a rent-stabilized tax credit property may charge the lesser of the rent allowed by the tax credit program and the amount allowed by Rent Stabilization.

Question Five: True or False? Because the tax credit program says you must sign an initial lease lasting a minimum of six months, at a rent-stabilized tax credit properties you are not required to allow a resident to elect to sign a one-year or two-year lease.

Answer One: True. HPD may establish the initial lower legal rent and higher legal rent in a regulatory agreement. For a tax credit unit, the initial rent you may charge is the lesser of the tax credit rent or the initial legal rent.

Answer Two: False. You may charge the lesser of the amount allowed by the tax credit program and the amount allowed by Rent Stabilization.

Answer Three: False. For a tax credit unit in a rent-stabilized property, you may charge the lesser of the rent allowed by Rent Stabilization or the rent allowed by the tax credit program.

Answer Four: True. You may not charge more rent than the amount by either the tax credit program or the amount allowed by Rent Stabilization.

Answer Five: False. A tax credit resident at a rent-stabilized property may elect to sign a one-year or two-year least as allowed under Rent Stabilization.

Glossary of Terms

Annual Recertification – An owner performs an annual certification of a resident's income and student status as related to their eligibility for the tax credit program. At a recertification, an owner compares a resident's income to 140% of their current income limit.

Applicable Fraction – That portion of a building occupied by tax credit qualified residents. It is *the lesser* of the percentage of units or the percentage of floor space occupied by qualified residents.

Available Unit Rule – A rule that allows an owner to maintain compliance after finding a resident's income has increased to more than 140% of their income limit. The owner must rent the next (or currently) available unit of comparable or smaller size in the same building to a tax credit qualified resident. To fully protect the tax credits, an owner must rent available units of comparable or smaller size in the same building until the over-income household is no longer needed to generate a tax credit.

Building Identification Number – (BIN) – An identification number HPD assigns each tax credit building. A building's BIN may be found on its Form 8609.

Compliance Period – The 15-year period during which an owner must comply with the tax credit program to benefit from their maximum tax credit.

Credit Allocation – An award of tax credits from HPD. HPD issues a credit allocation for each building within a tax credit property.

Credit Period – The 10-year period during which an owner plans to take a tax credit generated by a building with a low income housing tax credit allocation.

Deep Rent Skew – An owner commits to renting 15% of their tax credit units to households qualifying at 40% of the area median income. The tax credit units are fixed and remain the same for the length of the compliance period.

Eighty-Twenty Property – An owner commits to the 20% @ 50% minimum set aside and receives a credit allocation for 20% of their units. The owner rents 20% of the units to tax credit qualified residents and rents the remaining units to market renters. The owner commits to deep rent skew so the tax credit units are fixed for the length of the compliance period.

Extended Use Period – The period of time following the initial 15-year compliance period an owner must continue to follow the rules of the tax credit program as required by HPD. An owner may have a regulatory agreement that establishes a property's compliance requirements during the extended use period.

Form 8609 – *Low Income Housing Credit Allocation and Certification* – HPD issues a Form 8609 for each tax credit building after the owner has submitted its cost certification documenting its development costs and its placed in service date. HPD completes Part 1 of the form, filling in the building's placed in service date and assigning its BIN. The owner completes Part 2 of the form before submitting it for the tax return for the first year of the credit period.

<u>Form 8823 – *Low Income Housing Credit Agencies Report of Noncompliance or Building Disposition*</u> – HPD issues a Form 8823 when they find an owner out of compliance with the requirements of the tax credit program and provides the owner a period of time to correct the noncompliance. At the end of the correction period, HPD sends the Form 8823 to the IRS after noting on it if the owner corrected the noncompliance.

<u>Full-Time Student</u> – A person who attends school on a full-time basis for at least five (5) months out of a calendar year. A person's status as either a full-time or part-time student is established with the educational institution they attend.

<u>Full-Time Student Rule</u> – A household comprised entirely of full-time students is not eligible for the tax credit program unless it qualifies in one of the following categories: Everyone in the household is married and files (or qualifies to file) a joint tax return with their spouse; the household consists of a single parent and at least one child and nobody in the household is claimed as a dependent on another person's federal tax return other than one of the parent's tax returns; At least one household member receives TANF or PA; or, at least one household member participates in a job training program.

<u>Gross Annual Income</u> – The gross income, before any deductions, a household is anticipated to receive during the twelve months following an income certification or recertification.

<u>Gross Rent</u> – The maximum allowable rent in the tax credit program. It includes a utility allowance which the resident uses to pay their utility bills. An owner subtracts the utility allowance from a unit's gross rent to determine how much they can charge the resident.

<u>HOME Program</u> – A block grant program through which HUD provides funds to NYC to support the creation and preservation of affordable housing. HPD allocates HOME funds to owners developing affordable housing in NYC. Owners sign a HOME Written Agreement committing to the HOME compliance requirements for their property.

<u>Housing Choice Voucher (HCV) Program</u> – A program through which HUD provides rental assistance to low income households. An owner of a tax credit property may not discriminate against participants in the HCV program.

<u>Housing Support Plus (HSP) Program</u> – A program through which NYC provides rental assistance, and other supportive services, to low income households. An owner of a tax credit property may not discriminate against participants in the HSP program.

<u>HUD Form 50058 – *Family Report*</u> - The tenant income certification a housing authority completes for a household certifying their eligibility for the HCV program.

HUD Form 50059 – *Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures* - The tenant income certification an owner completes for a household certifying their eligibility for one of HUD's multifamily programs. (e.g., project-based Section 8, Section 236, Section 202)

Income from Assets – The income generated by a household's assets. If a household's assets do not exceed $5,000, it is the actual income generated by the assets. If a household's assets are more than $5,000, it is the greater of the actual income generated by the assets or the imputed income from the assets calculated using a 2% passbook rate.

Income Limit – The maximum income a household can receive in a year and qualify for a tax credit unit. The income limit for a tax credit property is established in its minimum set aside. If an owner commits to the 20% @ 50% set aside, a household must qualify at 50% of the AMI. If an owner commits to the 25% @ 60% set aside, a household must qualify at 60% of the AMI. If an owner commits to deep rent skew, they must rent 15% of their tax credit units to households qualifying at 40% of AMI.

Initial Certification of Eligibility – The original income certification an owner completes for a household certifying their eligibility to occupy a tax credit unit.

Maximum Allowable Rent – The maximum possible rent an owner may charge for a tax credit unit. The maximum allowable rent is a gross rent. An owner subtracts the utility allowance approved for the unit to determine the actual rent they may charge a resident.

Minimum Set Aside – An owner must commit to meeting a minimum set aside in exchange for an allocation of tax credits. An owner may commit to renting at least 20% of the units at a property to residents qualifying at 50% of AMI, or to renting at least 25% of the units at a property to residents qualifying at 60% of AMI.

Placed in Service Date – (PIS date) - The date an owner activates the tax credits for a building. The PIS date for a building with tax credits for new construction is the date on the certificate of occupancy or temporary certificate of occupancy. It is the date of acquisition for acquisition credits.

Resident Selection Plan – An owner's policies for selecting residents for a tax credit property. A resident selection plan includes the eligibility criteria a household must meet to qualify for the tax credit program plus the screening criteria the owner applies when deciding to rent a unit to a qualified household.

Tenant Income Certification – (TIC) – A certification signed by a resident certifying their eligibility for the tax credit program. By signing the TIC, the resident attests to the truthfulness of the information about their household on the TIC. Owners must use the TIC form required by HPD. All adult household members must sign the household's TIC.

Tenant Rent – The maximum rent an owner may directly charge a tax credit resident. It is calculated by subtracting the utility allowance from the maximum allowable (gross) rent.

Transfer Rule – A tax credit resident may transfer within the same building without requalifying for the program. They may transfer to another building at the same property if their income is not more than

140% of their income limit. The two units involved in the transfer swap their status as a tax credit or market unit and the resident takes their lease, TIC and its effective date to their new unit.

Two-Thirds Rule – A unit first rented to a qualified resident after the first year of the credit period generates 2/3 the tax credit it would have generated if rented during the first year of the credit period.

Utility Allowance - That portion of the maximum allowable (gross) rent a resident keeps to pay their utility bills.

Vacant Unit Rule – The rule that allows a unit, vacated by a qualified resident, to continue to generate a tax credit while the owner prepares it for occupancy by a new tax credit resident. The owner must prepare the unit for a new resident and make reasonable marketing steps to rent the unit to a new low income resident.

Appendix

The following links will connect you to valuable information for the tax credit program. The addresses were correct as of December 2007. HPD does not attest to the information or security provided by these web sites.

Section 42 of the US Tax Code

Section 42 governs the low income housing tax credit program.

http://www.fourmilab.ch/ustax/www/t26-A-1-A-IV-D-42.html

Treasury Regulations for the Low Income Housing Tax Credit Program

The treasury regulations provide guidance from the IRS on how to implement Section 42 of the US tax code.

http://www.novoco.com/low_income_housing/lihtc/irs_guidance.php#treasury_142

Chapter Three of the HUD Handbook 4350.3, Rev. 1

This chapter provides instruction on how to determine an applicant's household size for selecting the correct income limit.

http://www.hud.gov/offices/adm/hudclips/handbooks/hsgh/4350.3/43503c3HSGH.pdf

Chapter Five of the HUD Handbook 4350.3, Rev. 1

This chapter provides instruction on how to calculate a household's annual income and on how to verify annual income and other household characteristics.

http://www.hud.gov/offices/adm/hudclips/handbooks/hsgh/4350.3/43503c5HSGH.pdf

Appendix Three of the HUD Handbook 4350.3, Rev. 1

This appendix from the HUD handbook provides instruction on the acceptable methods to document annual income and other household characteristics.

http://www.hud.gov/offices/adm/hudclips/handbooks/hsgh/4350.3/43503x3HSGH.pdf