

Date: March 6, 2020

TO: LIHTC Development Owners/Managers

SUBJECT: Amendments to the Low-Income Housing Credit Compliance Monitoring Regulations

On February 26, 2019, the IRS published in the Federal Register a final regulation on how state Housing Finance Agencies (HFAs) must monitor low-income housing tax credit (LIHTC) properties for compliance with the requirements of Section 42 of the Internal Revenue Code. This Letter is to alert Owners/Managers of the changes to AHFC Procedures going forward. This new regulation makes several significant changes to compliance monitoring requirements for AHFC.

Specifically the regulations:

1. Require Credit agencies to inspect at least as many units as specified by development size in the Low-Income Housing Credit Minimum Unit Sample Size Reference Chart (§1.42-5(c)(2)(iii)). In most cases this will result in AHFC inspecting more units at each inspection. The temporary regulations that predated the final regulations had allowed Credit agencies to inspect the lesser of 20 percent of the total number of units or the number of units in the Minimum Unit Sample Size Reference Chart. Note that AHFC may inspect more units than the minimum requirement at their discretion.
2. Maintain the "all buildings" rule, which requires Credit agencies to conduct on-site inspections of all buildings in a development, rather than simply applying the minimum unit sample size on a development-wide basis if a development encompasses multiple buildings.
3. Notice of inspections/reviews to owners and managers: As customary, owners and managers will receive a reasonable notice of a pending file review or physical inspection. This regulation formally defines "reasonable notice" as fifteen (15) calendar days. Exceptions will be allowed only for extraordinary circumstances, including natural disasters and severe weather conditions.

In addition, it is important to point out random unit selection guidance as indicated in the final regulation.

- AHFC must select in a random manner the units to be inspected and the program certifications to be reviewed. AHFC generally may not select the same units for on-site inspections and file review, because doing so would give prohibited advance notice unless the inspection and file review are completed on the same day.
- AHFC may choose a different number of units for on-site inspections and for program certification review provided that, AHFC chooses at least the minimum number of low-income units in each case. AHFC must select the units for inspections or program certification review separately and in a random manner. AHFC will notify the owner of the low-income units for on-site inspection only on the day of inspection.

The final regulations must be implemented by December 31, 2020. Please see the following link for more information. The updated unit selection requirements are specified in the table on page 4.

<https://www.govinfo.gov/content/pkg/FR-2019-02-26/pdf/2019-03388.pdf>

In preparation of the regulation changes AHFC will immediately implement a 30-day notice for all physical inspections for the remainder of 2020. Owners/Managers will receive a Notice Letter for the compliance review 45 days prior to administrative documents being due. If a physical inspection is warranted Owners/Managers can anticipate a phone call/email to schedule the physical inspection no more than 30 days prior to the inspection.

Due to this regulatory change, we understand that our partners will have less time to prepare for inspections and return pre-inspection paperwork. All effort made to accommodate our new scheduling requirements will be appreciated as we will have reduced flexibility with scheduling.

Should you have any questions regarding this issue please feel free to contact me directly at (907) 330 -8414.

Sincerely,



Jerusha Gatfield  
Compliance Officer