Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

The information included in this section of the Alaska Housing Finance Corporation's (AHFC) Compliance Reference Manual provides brief guidance too many frequently asked questions (FAQ's) pertaining to the Low Income Housing Tax Credit (LIHTC) program. As AHFC Internal Audit and Compliance staff frequently discuss and interpret IRS rules and regulations with other state agencies and industry professionals, you may find that some of the following guidance falls contrary to what you may understand, particular for those operating in multiple states. These FAQs are based on AHFC Compliance staff interpretations and/or our understandings of IRS rules.

Ultimately, Owners, and their property managers when and where applicable, are responsible for ensuring that their properties are in compliance with all applicable rules and regulations of the LIHTC program. Owners and managers should also consult their Tax Credit legal counsel and tax accountant professional for further clarification and the specific application pertaining to their properties.

Topics addressed in this section include:

- **Certifications and Leasing**
- **Special – Needs Housing Commitments**
- **Income**
- **Assets**
- **Utilities**
- **Fees and Charges**
- **Common Areas and Common Area Units**
- **Students**
- **Reporting and Record Keeping**
- **Unit Occupancy**
- **Miscellaneous**

*Note: Changes related to the **Housing and Economic Recovery Act of 2008** (HERA) reference the specific section of HERA in parentheses.

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5.1 LIHTC (Tax Exempt Bond) Program

CERTIFICATIONS and LEASING

Annual Recertification of Income (*Sec. 3010 of HERA)

Q: How does the change in HERA affect our previous requirement to submit third-party income recertifications for all households?

A: This section of HERA allows states to waive annual re-certifications on low-income properties in any year where all initial certifications were properly income-qualified. HERA indicates that if ***any*** new household is determined to be over-income at move-in, the Owner must re-implement the recertification process on all low-income households, until such time as the Owner can prove that all low-income households are income-qualified.

State agencies, national compliance experts, and professional management companies agree that the majority of compliance errors and instances of fraud that bring into question the validity of the initial certification are discovered at the first annual recertification. To ensure proper compliance with both Federal and AHFC compliance issues, we require that each new household must be third-party recertified once, twelve months after completion of the initial move-in certification. This policy is **not** limited to 100% low income properties only. Mixed income properties, which combine market rate units and affordable housing will be required to complete full 3rd party recertification's each year within the compliance and extended use agreement in keeping with IRS regulations.

In summary:

AHFC will require Owners of 100% low-income properties to complete **initial** certifications on each new household and **one (1) annual recertification,** both with full 3rd party verifications, after which annual **self-re-certifications** may be allowed. Discontinuing annual ***third-party*** re-certifications for households that have been initially certified and recertified once occurs under the following circumstances:

- Twelve months after completion of the first **third-party recertification,** and annually thereafter, each household must complete the AHFC ***Self Recertification of Annual Income*** form. This form does not satisfy the recertification requirements of the U.S Department of Housing Urban Development under the 'HOME' Program, or U.S.D.A. Rural Development.

- Annually the Owner will certify to AHFC that all previous calendar year initial move-in certifications and re-certifications were completed properly and all households were income qualified at move-in.

- The Owner must also certify that no adult members were added to any household in the first twelve-months of occupancy. For any household changes involving adult members in the first twelve months, the Owner will certify that the entire household was income qualified as a new move-in.

- The Owner certifies that they (and/or the Owner's representatives) have immediately notified AHFC Internal Audit upon discovering any over-income household — due to resident fraud, management error, or any other reason. AHFC will evaluate each case to determine whether 100% re-certifications will be necessary for a minimum period on the building affected, after any Owner discovery to determine compliance with HERA and compliance with the Next Available Unit Rule.

- If any household is discovered to be over income at move-in during an AHFC compliance audit, AHFC Internal Audit staff will determine the appropriate remedy, including requiring 100% re-certifications to be implemented for a minimum period on all buildings in the development, to ensure compliance with HERA and IRS Code.

Q: Is back-up documentation required for self re-certifications?

A: AHFC does not require back-up documentation for self re-certifications. However, other funders of the property may require documentation to substantiate estimated income. Owners should check with the properties other funders.

Q: What does 100% "low-income" mean? If my property is only partly restricted by AHFC but all other units are restricted by another funding source, does that count?

A: Yes, if the Owner can document that all units are rent and income restricted at or below 60% AMGI, our policy applies.

Q: What if my property has market units, but I choose to also limit those units below 60% AMGI?

A: If the Owner is willing to amend the regulatory agreement, restricting all units below 60% AMGI, this policy will apply. However, amending the regulatory agreement; which would require review and approval by the AHFC **Low Income Housing Tax Credit Program Manager**, would not result in additional tax credits. The Owner must pay for the recording of any amendments to the regulatory agreement.

Changes in Household Composition

Q: A husband and wife qualified at the time of move in. They get divorced and the wife moves out. The husband has a new roommate and their combined income now exceeds the household income limit but is still under the 140% level. Does this household still qualify?

A: Yes, because the household was initially qualified and the change in household composition does not constitute a new household since the husband is still residing in the unit. Owners will want to be aware of the rules effecting changes in household composition. (Ref: IRS ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009), - chapter 4.)

Q: A household qualified at the time of move in. Four months after moving in, the household wants to add their 22 year old son. Does this household still qualify?

A: It depends. First, we recommend that all leases include a clause that no household changes can occur during the first six months so that questions regarding the household's income-qualified status can be avoided (this applies to adults, not to the birth or adoption of a child). That being said, if you wish to allow the household addition, we recommend that you re-qualify the entire household at the time of the addition. (Ref: IRS ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009), - chapter 4.)

Q: Can you explain the "totem pole" rule? It is my understanding that there must always be at least one member of the original household that remains in a unit for the unit to remain qualified. Is this correct?

A: This has always been Alaska's interpretation. The 2009 IRS 8823 Guide confirmed that the IRS agrees. However, you can avoid some problems with this issue by re-qualifying the household when a new person moves into the unit. Many properties have language in their leases stating that the household must be income-qualified when additions are made, and the additional person(s) must sign the lease.

If, when qualifying the new and additional household member, you find that together they exceed the income limits for that unit, you can still allow the additional resident to move in. However, if all the original household members ever move out, the new members are no longer qualified (see scenario below).
Scenario: *"A" moves in and is the initial (qualified) occupant. Eight months later, "B" moves in with "A". Manager re-qualifies "A" and "B" together as a new household and they are income-qualified.*

Q: Do "A" and "B" then become the new household, thus qualifying "B," even if "A" moves out years later, under the "once qualified, always qualified" rule?

A: Yes, if the *verified* combined income of "A" & "B" together (new household) is under the income limit at the point where "B" is added to the lease. If, however, the new household income is *over* the limit when "B" is added to the lease, the "totem pole" rule applies and the household remains qualified until "A" moves out – even if it is several years later. At that point, "B" must be income-qualified as a new household.

Q: If "A" had a minor child who has since turned 18, would he or she be considered a member of the original household (under this rule), even though they were not a resident or co-resident upon move-in?

A: If "A" has a child who has since turned 18 they would be considered part of the original household but once again you may want to include something in your rental criteria that covers this situation.

Divorce and Estranged Spouses

Q: We have an applicant for a tax credit property who is married but not living with their spouse. In 2006 they filed a joint tax return. She tells me that for 2007 she will file as married, filing separately, Head of Household. She currently lives with a friend. She provided a notarized statement that she has been separated from spouse since 2006. Spouse will not provide income to include. Is the notarized statement of separation acceptable to approve this applicant?

A: Separated but married spouses can create a very real problem for the owner of a LIHTC property when only one needs housing. The HUD 4350.3, Chapter 5, (section 5-6 "Calculating Income - Elements of Annual Income") provides details as to what an owner/manager needs to include as income, and is very specific as to the income to include...ie: "....head (of household), spouse or co-head, and other adult members of the family." With your scenario, the applicant is still married even if separated. We would be leery of the fact that they continue to file federal income taxes together. More than once have we found that relationships tend to mend after the estranged spouse has found low rent housing. Not to say that this situation will turn into something like that, just that you need to be sure of the circumstances and potential issue that might jeopardize the properties credits.

This is your decision to make...AHFC IAD will not tell you to lease to the applicant or not. You have the first hand knowledge (gut feel) for what's happening here. AHFC IAD might suggest, however, that in addition to the notarized statement of separation, that you also include an affidavit from the applicant(s) that the estranged spouse (or anyone else for that matter) will not move-in to the property at any time. However, should that happen, you might want to make it clear and have the applicant's acknowledgment that incomes/assets of all members of the 'newly' proposed family will be reevaluated (new certification), and if found that the combined income of the household exceeds the effective income limits, that this household will not be income eligible for the program or the property. This will result in either the current household moving out, or reconsidering moving in someone new...like missing spouse. If that doesn't sit well with the applicant, then you may need to consider moving on unless the applicant can provide you with the income/asset documentation you need to qualify them. (Ref. AHFC Form #VF-0028)

You might also consider the following guidance that we have provided to other owner/managers regarding separated (on the verge of divorce) couples.

To document that a spouse is "permanently absent", one of the following, in order of preference, must be obtained by the owner/management agent:

A. A copy of official documentation from a court or official agency providing legal aide indicating that a divorce is in process; or

B. A copy of a legal separation agreement or official documentation that such is in process; or

C. A notarized statement from the tenant; and one of the following:

   1. A statement from a person who provided counsel to the tenant in an official capacity as part of his or her occupation (i.e. attorney, therapist, marriage counselor, clergy). The statement must be notarized or prepared on the "counselor's" business letterhead. Prepared statements by family members, friends, acquaintances, etc. about informal counsel are specifically excluded as acceptable documentation;

Or,

   2. A copy of a legal restraining order or documentation that the tenant has experienced Domestic Violence the tenant's notarized statement must specifically indicate all of the following:

      a. The spouses operate as separate households and the absent spouse will not reside in the unit.

      b. The spouses do not intend to file a joint tax return for the present year or for the calendar year-ending the upcoming twelve-month period. For example, if the tenant is to move into the LIHTC unit in November 1997, the statement must indicate that tax returns are not anticipated to be filed jointly for the years ending 12-31-97 and 12-31-98, and;

      c. The separation is permanent. The "counselor's" statement must specifically indicate all of the following:

- That the "counselor" has conversed with the prospective tenant regarding the marital situation within the past 30 days; and
- The separation appears to be permanent.

Q: We are in the process of completing the 1st annual recertification of a household. We have found that the head of the household (spouse of the co-head) will not be continuing in the household. As such, total household composition has changed. Is there anything that we need to do to report this in the file and is there anything that we need to be aware of to remain in compliance?

A: It is assumed that this is married couples that moved into the property and at that time were determined to be income eligible under the TC program for the effective income limit. Subsequent to the next recertification, one of the spouses has chosen not to continue to be member of the original household. The couple remains in married status as no divorce is pending or, at this time, planned. Your question is how to recertify this household with consideration to the missing spouse?
As the 'household' was determined to be income qualified at move-in, this should be a simple matter of deleting the missing household member from the household composition and reporting data. However, as the couple remain in married status, income of the missing spouse would need to be considered and added to all subsequent recertification's as it could be assumed that although the missing spouse won't live in the unit, there still may be some form of monetary support, either for the family or the children.

One other possibility that you may want to consider if for some reason income of the missing spouse is not possible to determine would be to have the current household (less missing spouse) complete a new move-in TIC, have the head of household complete an affidavit indicating that although no divorce has taken place, the missing spouse will not be part of the household and that no income is derived from the missing spouse. The affidavit should also provide that (for the properties protection) should the missing spouse return or income is provided to the household, that a new TIC would be completed to determine income eligibility of the household. Of course you would want to be certain that the new household less missing spouse would be income eligible.

140% Rule – Next Available Unit

Q: What is the 140% or "Next Available Unit" rule?"

A: If a household income exceeds 140% of the federal income limit (50% or 60% of Area Median Income) – either at recertification or upon addition or deletion of new household members, the Next Available Unit rule (NAU) must be applied. This means that the over income unit can continue to count as tax credit qualified, but only if the next unit in the building, of comparable size or smaller, anywhere in the building, is income-qualified – regardless if the unit is designated as "low-income" or "market." For 100% affordable properties, this rule is usually not an issue as all units are always rented to income qualified households.

The penalty for violating the NAU rule can be substantial. If the NAU is not rented to a qualified household as described above, **all** over income units in the building, (based on the last certification) are subject to loss of tax credits.

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17 Year Old Resident

Q: An Owner may start a certification 120 days before the effective date of the Tenant Income Certification (TIC) (whether for initial qualification or recertification). One household resident is under 18 at the time the certification paperwork is completed, but will turn 18 during the 12 months after the certification effective date. Do I need to have the 17-year-old complete paperwork?

A: Yes. The program requires that income be anticipated of **any** household member who is or will be an adult (18 year old or emancipated minor) within 12-months of the certification effective. Accordingly, you will need to complete the paperwork for a 17 year old that will turn 18 during the 1st year period. Owners would have the soon to be 18 year old complete a development application/questionnaire and obtain income verifications to support what the applicant/resident indicates on the questionnaire. Owners would only count the anticipated income of the 17-year-old for the months **after** he/she will turn 18. Note that unless emancipated, a household member younger than 18 cannot legally sign a lease or Tenant Income Certificate (TIC).

Certification Effective Date

Q: What is the effective date of the initial certification and when is the first recertification due?

A: The effective date of the initial certification should be the same date as the 'commencement' date of the unit lease. This is the date when a resident can physically move in to the unit. The income verifications must be dated within 120 days of the 'commencement' of the lease. Recertifications can be done up to 120 days **ahead** of the certification date and must be effective on the anniversary date of the initial certification date. For example, if a household moves into a unit on 4/23/10, their **initial** certification date is 4/23/10 and their **recertification** date is 4/23/11.

Verifications are only valid for 120 days. If beyond 120 days, the income/assets must be re-verified with the third-party source. Failing the receipt of third-party written verification on a second attempt, verification information may be updated by telephone. You will, however, want to accurately and clearly annotate the file indicating the date of your call and the name and title of the individual who verified the information. AHFC Compliance staff will look for such documentation to substantiate due diligence by the Owner or manager.

Change in Set-Aside Percentage

Q: A property has elected two low-income set-aside levels (e.g., 80% of the units at 60% AMI and 20% of the units at 40% AMI). A resident moves in and is qualified under the 60% set-aside. However, during the year, the resident's income declines and at the time of re-certification his income which now falls below 40% of median. Can the Owner reclassify the resident to the 40% set-aside?

A: Yes, as long as the appropriate rent (40%) is also charged. Keep in mind that the Owner is under no obligation to do an interim review to re-determine the resident's income, nor is the Owner obligated to re-classify the resident to a lower income set-aside at the time of recertification. The Owner may assign a lower income set-aside to a resident even if the property has met its minimum set-asides.

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Q: Can a property reassign a qualified household to a ***higher*** income set-aside at recertification?

A: Yes, provided that the property's minimum set-aside has been met **AND** the lease allows for such a change, **AND** proper written notice is given to the household of the rent increase.

Social Security Numbers (SSN)

Q: Is there any way to income-qualify household members who do not have any verifiable Social Security numbers or alternate numbers?

A: Yes. Verifying income of household members without SSN's is difficult, but not impossible. An alternate method of verifying income is to provide picture identification to employers, allowing the employer to verify the individual who works for them and how much the individual earns. The Owner ultimately is responsible for proper documentation of income and must be able to demonstrate that all income has been verified. Keep in mind that if the household member is employed there should be a SSN.

Note: Some Owners, management companies, funders, investors or syndicators may be more restrictive than the IRS in this matter. You must follow the ***more restrictive*** rules, if any, that apply to your property.

Note: At the time of preparing this FAQ list, the IRS has not been completely clear regarding the need for applicants/tenants to have social security numbers. Other housing programs, such as HOME, do require listing of SSN on eligibility determination documentation.

Q: What if I have a household where some or all household members do not have SSN's or other approved citizenship documentation?

A: This household could still be eligible. The Tax Credit and Tax Exempt Bond programs do not require proof of citizenship or legal status. As long as the certification process confirms that a household is income-qualified, the household may reside in the property. The property may need to use alternative methods to confirm income sources for affected household members.

Certification Form

Q: Can I ask applicants to provide proof of citizenship or immigration status?

A: Yes, but requests must be uniform (all applicants are asked the same questions) and nondiscriminatory.

Q: Is a Social Security Number (SSN) the only acceptable documentation of identity?

A: No, several types of documentation are acceptable such as Work Visas, picture identification and Alien Registrations.

Leases — Term

Q: We are using a lease that has a month-to-month term, but requires the residents to stay a minimum of 12 months or else pay a penalty to get out of their leases earlier. Is this okay?

A: No. All initial leases must state clearly that their term is for a minimum of six full months or longer. After the initial six month term, leases may convert to month-to-month, but residents cannot be charged additional penalty fees for moving out during a month-to-month tenancy. Residents who vacate a unit without written permission during a lease are obligated under state Landlord/Tenant law to pay the rent for the remaining term of the lease or until the unit is re-rented, but they may ***not*** be charged additional fees.

Q: Are SRO Units (Single Room Occupancy) required to have a six month lease?

A: No, SROs are allowed to have month-to-month agreements.

Q: We have Transitional Housing for Homeless units. Do they require six-month leases?

A: No, technically units that meet this federal designation may have month-to-month leases. AHFC IAD does, however, recommend that Owners strive to have all residents sign initial six-month leases.

Section 8 and RD Subsidies

Q: Can the resident's portion of a rent payment, for both Section 8 and RD subsidies, exceed the tax credit limit?

A: If the units are project-based, residents may pay over the tax credit Maximum Allowable Rent limit as long as they are receiving at least $1 of subsidy. If the units are tenant-based, i.e. voucher, their portion of rent cannot exceed the federal limit (50% or 60% AMI). In the case of Rural Development assistance, the Owner must refund payments over the federal limit back to RD. (For Developments with HOME funds, Owner's should be well versed with specific rent limit/subsidy limitations that may 'trump' federal limits.

Leases — Cosigners

Q: Is it okay to have cosigners on tax credit leases? Do we count their income for purposes of qualifying the household?

A: Cosigners for financial support of an affordable household is acceptable as long as they don't sign the lease. A cosigner's purpose is to guarantee payment of the qualified affordable household's rent. Cosigners are used solely for financial back-up. Cosigners cannot be part of the household and have no rights to the unit. In turn, cosigner income is not counted toward the household's gross annual income. Cosigners are not able to sign the Tenant Income Certificate. Payment made by the cosigner on behalf of the affordable household may be considered income to the household.

Leases — Signing with an "X"

Q: Is something special required when an applicant or resident signs his or her name with an "X" or is physically unable to sign?

A: AHFC IAD recommends that managers add a simple attestation (by the person witnessing the signature) or a notary acknowledgement below the resident signature block. The attestation should state something like "On (insert date) I witnessed (insert full name) make an "X". Or, "On (insert date), (insert name) reviewed this application with me and acknowledged it to be accurate and complete. He/she is physically unable to sign the form and asked that I sign on his/her behalf."

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Acquisition / Rehab Properties Financed with Tax Credits and Bonds

Scenario:

A bond property certifies residents at bond closing to meet bond income set-aside requirements (20@50 or 40@60). During the rehabilitation, new residents move in who are also income-qualified. At completion of the rehabilitation, units are Placed-in-Service (PIS).

The Owner determines when to take credits. S/he may try to take acquisition credits from the bond closing date or s/he may not take any until PIS. The Owner may take Acquisition and Rehabilitation credits at PIS or wait until the year after PIS to take credits. In the meantime, the Owner continues to income-qualify households and recertify annually during the rehab.

Q: Do households that initially income-qualify at bond closing or during rehab remain qualified as long as they are re-certified annually?

A: Yes, households qualified at acquisition continue to qualify as long as they are recertified annually.

Q: If the above is true, does it matter when the Owner takes credits? At closing (for acquisition), at PIS or the year after PIS?

A: The bond closing isn't important. The first year for both the acquisition and rehab credits is the year the rehab is placed in service or, if the Owner elects, the following year.

Q: If the Owner takes acquisition credits from bond closing, do the units need to be rent restricted in addition to being income-restricted and non-transient?

A: Yes, if the Owner takes credits from the date of bond closing, the units must be rent restricted from that date.

Q: If the Owner doesn't take acquisition credits until PIS, or the year after, then can the units be income-restricted for qualification only and not rent-restricted until credits are taken?

A: There is no guidance about whether units should be rent-restricted prior to the beginning of the compliance period. However, as a matter of policy, if households are qualified at acquisition, it makes sense to limit the rents at that time as well.

Q: Does the Owner initially have to sign six month leases with qualified households?

A: Since the Owner is eventually taking tax credits, six month leases must be signed with all qualified households at initial move-in. Only bond-financed properties *with no tax credits* may initially sign month-to-month leases with their qualified households. Existing households who remain after bond closing do not need to sign new leases.

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SPECIAL-NEEDS HOUSING COMMITMENTS

Elderly Commitment and Households with Children

Q: We have a property that has an Elderly Commitment for 55 and older residents. Must we allow children in our property?

A: It depends. There is a special provision in the Fair Housing Law which allows Elderly Housing to legally refuse to house families with children. You would need to confirm that your development is actually Elderly Housing. In addition, you need to be aware that age is not a federally protected class so there can be restrictions. You also do not want to run afoul of the general public requirement of Section 42 which does not have a definition of elderly. Different rules may apply for developments with housing under HUD, Rural Development and there may be waivers. Fair Housing laws allow Elderly properties to exclude children as long as all rental eligibility and marketing information clearly identifies the property as an "adult" elderly facility. Also, if you allow a child in one unit, you must allow children in all other units. For more information, Owners may want to contact the appropriate Fair Housing Agency. (See website list).

Q: Do all household members in an Elderly property have to be 55 or older?

A: No. However, you must actively market and rent each unit to elderly households, and each unit must have at least one individual who is 55 or older.

Q: What happens if a 55 year old and a 30 year old live together at a 55+ property and the older person leaves or dies?

A: The 30 year old may remain in the unit. HUD allows up to 20% of the units to be under age 55 for purposes of attrition (the 80% Elderly rule). If, at any time, the percentage of units with elderly residents falls below 80%, the property is no longer considered Elderly, and must be open to all age groups.

Q: Does the 80% Elderly rule apply to 62 or older properties?

A: No, **all** residents in a 62+ property must be age 62 or older.

Q: What about Elderly properties with HUD or Rural Development financing?

A: If a property was specifically financed as a HUD or RD Elderly property, the occupancy rules of those programs apply. For instance, many of these agreements allow Elderly properties to house elderly *or* disabled persons.

Once Qualified, Always Qualified

Q: A household of four is initially qualified for a 3 bedroom unit. During the re-certification process it is found that one of the household members has moved out, would this unit still be in compliance with the three household members left?

A: Yes. Once a household qualifies at move in, the household remains qualified (as long as at least one member of the initially qualified household remains in the unit).

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Q: Do I have to re-confirm that my Disabled residents are still disabled at recertification?

A: No.

Disability Verification

Q: Can Social Security and Supplemental Security Income benefits statements be used as third-party verification of disability?

A: Yes. Social Security disability payments are adequate verification of an individual's disability status. Receipt of veteran's disability payments may also qualify a person as disabled, depending on the amount of information included on the third-party document. The resident should also acknowledge that they have a disability.

Marketing Vacant Units

Q: Do I need to advertise our vacant units in newspapers or can I advertise them through other media?

A: There are many ways to advertise units that will meet your marketing requirement. At a minimum and at least annually, the Owner should notify (1) AHFC Public Housing, (2) at least two agencies in the area of the Project, and (3) the general public. To satisfy requirement number three, Owners may use the Internet and/or other media. You should be able to demonstrate that the media method chosen is an effective method of marketing to your property's targeted population in the general area of your property and is in compliance with the Fair Housing Act and state and local law.

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INCOME

Annual Income Limits and the HUD Hold Harmless Policy (Sec. 3009 of HERA)

Q: How does this change affect future changes to Annual Income Limits?

A: This section of HERA modifies the determination of the Area Median Gross Incomes (AMGI) limits for purposes of tax-exempt bonds and tax credits. HERA continues HUDs existing "hold harmless" practice that ensures AMGI will not decline for a project, even if the area median income declines. It also currently provides for a minimum increase in median incomes and beyond and resets the clock for some projects, using 2008 as base year. It is possible that developments in the same city may have different median income levels, depending on the Placed-In-Service date.

Rent and Income Limits

Q: Where can I go to find the income limits for a 9- and 10- person household?

A: The base for a household of four is 100% of median income levels. This base number is then adjusted up 8% for each additional household member. So the figure for 8 is 132% of median, 9 is 140% of median, and 10 is 148% of median, etc. For example, in Anchorage in 2010 (effective 05/14/10), the maximum household income for household of four @ the 60%* set-aside is $50,820. Multiply that by 140% and you will see that the maximum income level for a household of nine is $71,148.

Note: Statewide income and rent limits can be found through the HUD website (http://www.huduser.org/portal/datasets/il/il10/ak.pdf) and by looking up the state and specific census area. As an alternative, limits may be found by accessing the ***Novogradac and Company LLC*** website (www.novoco.com) and 'clicking' on the site's 'Rent and Income Calculator'. Simply follow the sites directions. You will need to know your census area.

*Limit Referenced is the HERA 60%. MTSP for the same is $50,160.

Tips

Q: Are tips included in income? If so, how should tips be verified (e.g., a resident is a waitress, hairdresser, barista or casino worker)?

A: Yes, tips are income and must be included when determining annual gross income. If tips are not included on the ***Employment Verification*** form, and the employer cannot verify a tip amount, the Owner must add in 20% of the resident's verified gross annual income for those residents working in the service industry. The 20% amount is to be used only after attempts to clarify the actual tips with the employer are unsuccessful. If an employer verifies a higher or lower tip amount then the amount verified should be used. An applicant or tenant may also self certify tip income. **(Ref: 'Tip Income Affidavit', AHFC Form #VF-0018)**

Zero Income

Q: How do I verify the circumstances of an adult household member with no income from any source?

A: The individual must complete the ***Certification of Zero Income*** form and provide written explanation of how they will pay their rent and living expenses.

Q: A prospective resident does not currently have a job and has no other income. However, he or she is looking for and expects to find a job soon. How do I calculate their income?

A: Generally, the Owner must use current circumstances to determine anticipated income. Thus, the property Owner would calculate the resident's projected annual income by annualizing the resident's current income. However, if written third-party verification confirms that changes are expected to occur during the upcoming year, then the property Owner should use that verification to determine the total anticipated income. Thus, if the prospective resident is now earning zero, but is under contract to start a job mid-year and anticipates receiving $12,000 in income from that job during the year, then $12,000 should be included as income. If the prospective resident is receiving unemployment, calculate it for 52 weeks or until the planned start date of another job. However, AHFC IAD will accept alternative calculations if your investor/syndicator has stricter requirements.

Student Income

Q: Do I count all of the income from a fulltime student over 18 when calculating the households' annual income?

A: If the student is employed but ***is not*** the head, co-head or spouse, and is a dependent of the Household, you count only the first $480 of their wages for the entire 12-month period. Also, count **all unearned income** (Alaska Permanent Fund Dividend, Social Security benefits, TANF, unemployment, etc.) for any students. For students who ***are*** the head, co-head or spouse, count all income AND count all financial assistance in EXCESS of assistance for tuition. If the student is receiving financial assistance for school (grants, scholarships, work study programs, financial aid, etc.) count all the financial assistance as income (excluding loans and the portion of assistance used for tuition). This is true for both fulltime and part-time students. However, if the student is 23 or older with at least one dependent, you should **not** count ANY of the financial assistance as income.

Q: Can books be counted as part of tuition?

A: It is our understanding that only tuition specifically can be subtracted from financial aid. HUD does not consider books as tuition, so they cannot be subtracted from the student's financial assistance income.

Permanent Fund Dividend

Q: Could you please clarify what AHFC would like to see in the files if an applicant states they are not and will not be receiving the Permanent Fund Dividend? We are currently using our own form supported by the printouts from the PFD website stating, "No Application Found" to determine receipt and to determine eligibility.
Would any of the following or a combination of these items work?

- Purchase, lease, or rental agreement of a place *outside* of Alaska.
- Drivers license of when identification was issued and previous license from another state.

- Utility bill or another bill that would indicate residency outside of Alaska past the application for PFD deadline.
- Printout from PFD website indicating no application

A: Great question and thanks for asking it. It would appear that the form being used is similar (the same?) as the AHFC's form #VF-0011. We fully understand that the PFD Office, as well as the PFD website, may not always be clear or decisive as to receipt of the PFD. From the audit perspective, when we review a tenant/household file, particularly for a new move-in, we'll look for this form or similar as well as look for and crosscheck any and all of the 4 points you've included. For adult members of a household, we'll look for the issue date of a drivers license or ID as provided by the State of Alaska, employer verification of date(s) of hire, possibly the information from the 'Work Number' or a credit report or tax returns, financial institute locations, info regarding current and past employment as well as past resident addresses either in or out of the Alaska, child support and divorce documentation if applicable, ownership of real property, etc. The household's answers to the property's application and/or questionnaire can also play a significant role. For minors joining the household after the fact, verification can be a bit more 'tricky' so there's a reliance on the adult documentation.

AHFC IAD guidance has always been that the PFD for all members of a household should be counted unless it is absolutely clear that any member of the household did not receive it. If an applicant tenant/household cannot provide you with this absolute proof (they need to help you determine eligibility), then our suggestion would be to move-on to the next applicant until they can.

Just a reminder, AHFC IAD allows the use of the prior year's PFD amount in anticipation of household income until the subsequent PFD amount is known, usually announced in late September or early October of each year.

Q: We are running into a little problem verifying some persons with and without PFD's due to this new "My Alaska" accounts.

For those who do not receive a PFD we can have the applicant/tenant enter their name etc. into the My Alaska site and it will show that they don't have an account. We can then back it up with something like proof they just moved to Alaska like UT bill, lease, or ID from out of state as the backup.

What would you like to see (or what would be an example as proficient to prove) as an auditor in the file to show that one does or does not qualify for the PFD in the next 12 months now that we cannot get this verification 3rd party. I know you can't tell us what to do, but if there are suggestions you may have of what others are using that is sufficient to prove it would be much appreciated. Do we need additional statements from the applicant/tenant or will use of the above be sufficient?

A: Take a look at AHFC IAD Form #VF-0011 for the Alaska Permanent Fund Dividend. While this form is not required, other developments have found it useful. The application for the PFD indicates that proof of residency can be determined by providing proof of the following:

- Purchase, lease or rental of a place to live in Alaska.
- Date of permanent employment in Alaska.

- Date Alaska drivers license or Alaska ID was issued.
- Or other documentation indicating intent to stay (example applied for public assistance).

AHFC IAD would feel comfortable with any of the above stated documentation as additional proof to establish non-eligibility.

Child Support

Q: How do you handle single parents who have dependents living in a unit with them, but receive less than a court ordered child support amount, OR, are recently separated and have no court order for support?

A: Use AHFC's IAD *Child Support Certification* (VF-0030) form to document 1) the amount of support owed; 2) the amount actually received and projected to be received in the next 12-months; and 3) that reasonable attempts have been made to collect support. Development Owners and Managers may have more stringent requirements regarding child support. AHFC IAD, however, encourages Owners and Managers not to deny housing simply because the parent has failed to complete or not had time to complete all possible collection efforts as detailed in the HUD Handbook 4350.3.

Basic Allowance for Housing ("BAH") for Military (Sec. 3005 of HERA)

Q: Is Basic Allowance for Housing (BAH) for military now excluded from income for purposes of income qualifying a household?

A: In Alaska, there are no military base locations that qualified for the exclusion. As such, BAH received by applicants and households in Alaska based properties **must** be counted as income.

Rental Assistance

Q: Should Owners include rental/housing assistance when determining household income?

A: In general, yes. However, and although there is no conclusive guidance from HUD or the IRS, AHFC IAD would not consider rental assistance from a city or state government source, or from the HUD Section 8 program as income to the resident.

The Owner should verify that the government source also does not consider the supplement as income to the individual and would not be issuing IRS Form 1099s to those individuals. Rental assistance from a non-government source, such as a church, charitable foundation, or individual, must be counted as income.

EIV System

Q: Can I use the EIV system to verify income?

A: No. HUD does not currently permit Owners to use EIV information for verifications in the Tax Credit program. Tax credit property Owners must be able to provide hard copy back-up data for audit purposes.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

HUD & RD Income Verification

Q: HUD certifies income using the HUD 50058 or 50059 forms. RD certifies income on the RD 3560 form. Do we still need to complete the AHFC Tenant Income Certification (TIC) form if resident income is certified by HUD, RD or a PHA on behalf of HUD? Are there other verifications that will be needed?

A: Yes. AHFC IAD requires the completion of a separate Tenant Income Certification (TIC) (TC-0003) for each household regardless of other programs included in the development. In addition a ***Student Certification form*** (TC-0010) will also be required. Proof of age will also be required for elderly properties.

Treatment of VA Disability Income (Sec. 2608 of HERA)

Q: Do we still need to count disability income from the Veterans Administration in calculations of household income?

A: Yes. However, deferred income payments from the VA, whether received monthly or in lump sums, are excluded from income. AHFC IAD believes this may result in a change to the HUD Manual, 4350.3 Rev-1; Change 2, page 5-83, #13, under income exclusions, by adding this exclusion to the similar exclusion of deferred payments from Social Security. This does not apply to pension or regular, non-deferred disability payments. Lump sums are counted as assets. (pg 5-33 4350.3).

Unemployment Benefits

Q: As far as Unemployment Verifications go, we used to have people provide us with their Unemployment Letter which stated the amount they were to receive. Apparently, the UI office is no longer sending these out. We then asked for bank statements with the direct deposit amount on them. Now, they are no longer putting it in bank accounts, but giving clients a debit/credit card. They recharge it monthly with whatever amount they receive in Unemployment. There is no statement that they receive. Do you have any ideas for how you'd like to see this verified?

A: As you know, the State of Alaska's Unemployment Office has taken significant steps over the past few years to restrict access to information considered private…no doubt for good cause…, to anyone other than the person the information is intended for. Given this, and for our affordable housing programs, in cases where information is restricted beyond the actual recipient, determining eligibility by way of 3rd party is nearly impossible.

Your applicant or tenant at some point had to formally apply for the UI benefit. This may have been done in person or online. In either case, AHFC IAD believes that regardless of what form the benefit is provided, there has to be a paper trail and a way to track it. It appears from the website that UI benefits, as well as other state business by an individual, can be accessed by going through the States **'my Alaska'** link. Initially, a password is provided so that future access can be made. The UI website lists **'my Alaska'** as a source for data.

Not to make it any more difficult than it already is, AHFC IAD's guidance would be for the applicant/tenant of your property to access their **'my Alaska'** information in the presence of you or your staff in order to get the information needed and printing this for the file.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

ASSETS

Asset with Multiple Owners

Q: A recent applicant had a Certificate of Deposit (worth $100,000) she divided into quarters, distributing three portions to three other people (not members of the household), and keeping one portion for herself. She did this one month prior to moving into our property. How should we value this asset?

A: Include the entire amount of the CD when determining the applicant's income, but separate it into two different asset categories. The amount the applicant currently owns ($25,000) should be counted as a regular asset and the earnings calculated accordingly. The $75,000 that was given away should be counted as ***an asset that was disposed of for less than fair market value***. It should be counted for two years from the date of disposal, so count the $75,000 at initial qualification and at the first annual recertification.

Valuing Real Estate

Q: Do I need to get a market analysis to verify the value of real estate owned by an applicant?

A: Real estate is one of those things that can be verified in numerous ways. The goal is to obtain approximate **market value** and to document your reasonable attempts to get this information. Copies of real estate tax statements (including those obtained from online real property value tools); a realtor's record of recent comparable sales in the real estate's vicinity, and letters from realtors or local banks in the area, and possibly a Broker's Opinion of Value can all be used to establish the value of real estate. One good indicator of value is a copy of the listing agreement if the property is currently for sale. The best indicator of actual value would be a copy of the HUD-1 Settlement Statement issued at closing, showing net proceeds to the seller. This would come into effect in determining assets sold for less than fair value.

In the event that there is a significant difference between the appraised and the market value of a property, and the applicant is close to the income limit, you might want to think about a market comparison, but it is not necessarily required. If all else fails, document the file with attempts to get information, and use a self-certification as the last option.

Q: Does market value equal the asset's cash value?

A: No. You must deduct the total amount of mortgage(s) plus the cost of selling the real estate to determine the cash value of an asset. Realtor fees can vary but can be as much as 6-10% for real property.

Q: What if the resident sold the real estate on a contract and receives payments on a mortgage or Deed of Trust?

A: The mortgage or Deed of Trust current value (amount owed to Resident holding the DOT) is considered an asset. If the resident receives monthly principle and interest payments, the interest portion of those payments must also be counted as income.

Q: What do I need to get to prove that a house is in foreclosure? Is a notice on a credit report enough?

A: No. Foreclosures are handled by a trustee. The type of proof that you need depends upon the type of foreclosure.

TYPE Proof Required

1. Regular Foreclosure Notice of Court Sale
2. Deed in Lieu of Foreclosure Copy of the Deed
3. Judicial Foreclosure Notice of Court Sale
4. Short Sale (Before foreclosure for less than what is owed)
5. HUD1 Settlement Statement (Agreement from lender)

Q: Do I subtract the amount the household lost in the foreclosure from the Adjusted Gross Income?

A: No, you would not subtract the amount lost in a foreclosure when figuring income. Provided the foreclosure can be documented, no adjustment to income should be made for the house-positive or negative.

Q: I need clarification on an asset disposed of for less than fair market value.

An elderly couple sells their condo to their niece for $85,000. No appraisal was done. We requested Market comparisons for units recently sold in the neighborhood. The highest 'comp' provided is an active unit listed for $104,500. I checked 'Ingens' on the unit sold by the applicant and find an assessed value of $107,100. The 8823 guide, page 4-14, explains disposal of an asset for less than fair market value.

My questions:

- Do I use as income the difference between the assessed value and the selling price?
- Or, do I use as income the difference between the listing price of the comparable and the selling price?
- Or, do I use as income the difference between the preferred value above less the seller's mortgage payoff and closing costs?
- If this couple is determined eligible, is this income used at admission and the first annual recert?

A: A review of HUD Occupancy Handbook 4350.3, Chapter 5 addresses this situation. The first thing that needs to be determined is if the asset was disposed of within the last two years. If the asset was disposed of over 2 years ago, just document the sale date (sale contract will do showing the sale date) and move on. If, on the other hand, the asset was disposed of within the last two years, you need to verify what the property was worth.

- Considering the given comparable value and the assessed value, you would use the higher of the two, making sure the verifications are in the file.
- You will also need to verify the cost to dispose of the asset, which in this case would be the remaining mortgage (if there was one) and other related closing/selling costs (usually you can find all this information on the sales contract).

- Next you want to calculate the cash value of the asset (review the example on page 5-23 of the 4350.3) using both the assessed value and the actual paid by the niece.
- Lastly, you want to find the difference between the cash values.

Given your example:

Assessed value: $107,100.00 minus mortgage balance, minus closing cost = cash value (A)

Paid by niece: $85,000.00 minus mortgage, minus closing cost = cash value (B)

Cash Value (A) minus Cash Value (B) = amount disposed of less than fair market value

Remember this type of asset is only counted for two years from the disposal date (refer to page 5-35 of the HUD occupancy handbook).

Rental Properties

Q: A prospective resident has a vacation timeshare that she occasionally rents to the public. Do I include the rent that the resident will receive when determining the resident's income? Is there anything else I need to know about vacation rentals or other like assets?

A: A vacation timeshare is considered an asset. Therefore, income includes any amount to which household members have access. If the **total** cash value of all the household's assets is more than **$5,000**, then income includes the greater of a) the actual amount of money derived from the asset or b) 2% of the market value of all the household's assets (called the HUD imputed income amount). For example, "Sally" has an interest in a timeshare and the market value of her interest is $25,000. Two percent of $25,000, or the imputed income amount, is $500. Sally occasionally rents the timeshare out, and next year, Sally expects to receive $200 in rental income after paying all expenses. Because the imputed income amount is greater, you must include $500 in Sally's gross annual income estimation.

Q: I have an applicant that owns a house. The owner intends to have his son live in the home and to essentially take care of it. Assuming the applicant will income qualify, what should I be looking for and what will AHFC want to see in the tenant file?

A: You will want to fully understand the financial circumstance of the house. First of all you need to find out if there is any outstanding debt on the home. See the question and answer above regarding 'Valuing Real Estate' as to how to determine a true cost of the asset. Once done, you will want to review any agreement that the Owner may have with the 'renter' or, in this case, a caretaker…the son. In reading the agreement, you will need to determine if there are any tasks or expenses that the son will be required to do or pay for in exchange for living in the house. For example, if the son is responsible for paying all utilities for the house, this is an expense that the Owner of the house will not be paying. As such, the amount of the utilities (estimated based on prior history costs) will become income to the Owner and will need to be considered when determining total anticipated income prior to be income qualified for your development. If there are any other asset expenses being paid by someone else (debt payment, taxes, maintenance expenses, etc.) this will most likely be considered income to the Owner.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

IRAs, 401(k) Accounts, Annuities

Q: When valuing an asset, do I need to determine the resident's original investment?

A: No, HUD changed this rule. To determine the value of an asset, start with the current value of the asset (annuity or IRS balance) and deduct any fees and penalties for converting to cash, plus any tax penalties.

Example:

Ms. Jones has an annuity with a current value of $68,000, earning annual interest of approximately 4.85%. If Ms. Jones withdraws the balance, she would need to pay $7,500 in surrender fees plus $2,500 in tax penalties. The cash asset value of her annuity for purposes of determining her total assets is $68,000 minus $10,000 = $58,000 (added to other assets to determine the imputed interest). The income from Ms. Hanson's annuity is $68,000 x 4.85% = $3,298.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

UTILITIES

New Utility Allowance Procedures

Q: The IRS published a final utility allowance regulation effective July 29, 2008. Has AHFC changed its procedures regarding the review of annual utility allowances based on this final regulation?

A: AHFC IAD follows the specific utility allowance options as noted by Treasury Regulation 1.42-10. Owners and Managers should be well versed in what the requirements are of this regulation as well as the specifics included in the IRS's ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009), and specifically chapter 18. The procedures identified will allow Owners several methods in determining acceptable utility allowances and program required procedures in addition to those methods previously permitted by the IRS. The AHFC IAD staff must approve requests for use of these additional methods and the proposed rates must be posted for resident comment 90 days prior to implementation.

Which Allowance Schedule Should I Choose?

Q: I am working on a potential development site in the Kenai area, for which I intend to apply for tax credits through the AHFC within the next month. When structuring my proformas I usually just plug in the area PHA Section 8 utility allowances. However, they tend to be high because the properties that go into those numbers tend to be older and less energy-efficient. If I'm not mistaken, I believe there is a provision that allows a property to use either Section 8 allowances OR estimates from the local utility company. What is AHFC's position on this issue?

A: Reference the answer above to the question regarding 'New Utility Allowance Procedures'. Utility allowance rules are governed by the IRS and outlined in Section 1.42-10. See also chapter 18 of the ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009). If the property is not regulated by HUD or RD, you may be able use an estimate from a local utility company or several other alternate methods described in this publication. Briefly, if you choose to use alternate calculation methods, you need an updated estimate every year and you may not switch back and forth year to year between alternate methods and PHA estimates. **Estimates must be based on actual usage and be approved by the utility company or AHFC,** and must clearly identify effective dates that cover the entire reporting period.

Water/Sewer Allowances

Q: The Owner of our property is interested in the possibility of our residents paying their own sewer and water. Is this a question for AHFC IAD or the housing authority under our Section 8 Project based contract? What would be involved if he decided to go this route?

A: The residents may pay their own sewer and water although this is unusual. The costs of these utilities would need to be included in the utility allowance and subtracted from the Maximum Allowable Rents to determine the rent the residents can pay. To compute such an allowance, separate metering to each unit would be required. Reference chapter 18 of the ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009).

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

Studio Unit Allowances

Q: If a utility allowance schedule doesn't show allowances for studio units, what utility allowance should I use?

A: It is permissible to use the rate for a one-bedroom unit if you are unable to obtain an allowance for a studio unit.

Q: The utility allowance schedule I use has a studio utility allowance, but not for the type of studios I have. What amount do I use for my type of studio units?

A: You can use the other studio allowances contained in the schedule.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

FEES and CHARGES

Pets

Q: Can I charge pet fees/deposits?

A: There is no restriction on pet fees. Although not defined, the fee should be reasonable. Properties may determine a reasonable pet fee/deposit to charge residents. The fee can be partially, or all, nonrefundable upon move-out. Any fee scale that is charged must be consistent for all residents (same amount for same size dogs, cats, etc.). The fee should be posted and made available to all. If the pet is considered a service, therapy, or assistance animal, a pet fee/deposit cannot be charged.

Q: Can I charge a month-to-month pet fee in addition to an up-front pet fee/deposit?

A: Yes, since having an animal is **optional**, such a fee would not be considered as part of the rent calculation. Again, however, you may not charge a monthly pet fee for service, therapy, or assistance animals.

Month-to-Month

Q: May I charge month-to-month “fees” to residents who do not want to execute a new lease (after the initial required six-month term expires)?

A: The month-to-month lease “fee” is considered additional rent. As long as the rent + fee + utility allowance + any other ‘non-optional fee (city/borough bed tax?) does not exceed the Maximum Allowable Rent limit, you may charge this “fee”. We recommend simply having a different published rent for long-term leases vs. month-to-month leases and avoiding calling this a “fee”.

Washers & Dryers

Q: May we charge extra for clothes washers and dryers?

A: We assume your question about charging for clothes washers and dryers is about putting them in units at the resident's request and that there are other laundry facilities on site or close by (coin washers and dryers). There is no problem with charging for these washers and dryers as long as it is optional and not a requirement of leasing the unit. You may not, however, tell a potential resident that he or she may not rent a particular unit because they don't want to pay extra for the W/D and management doesn't want to move it. Although unusual, Owners and Managers will want to verify that such appliances have not been included in the developments/building’s **Eligible Basis**. If this happens to be the case, it will not be permissible to charge tenants for their use. Reference chapter 11 (page 11-2) of the ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009).

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

Club House Fees

Q: Can we charge for an after school babysitting service in the club house? Could we charge a monthly fee for snacks and crafts? Can anyone from our property be able to use the clubhouse whenever they want? For example, could a person just come in there in the afternoon during office hours without reserving the clubhouse? Can a person just come in and have a birthday party in the middle of the day during office hours?
Originally, 'Nine Star' had staff come over to the clubhouses to provide tutoring to kids in the after school program, helping with reading and help in our computer lab, etc. At this time we have no one to provide that assistance for the program and need to hire qualified child care provider.

A: Your question centers on a common area (the clubhouse) that has to be available to all tenants in the development. If the clubhouse is included in the eligible basis, there must not be a separate fee for its use and it must be made available to all tenants in the development on a comparable basis. For example, coin operated laundry and vending machines are acceptable if not originally included in the Eligible basis.
A reservation policy for the clubhouse doesn't appear to be a problem, so long as all tenants have the option of making a reservation. Tenants should be informed of the facilities and reservation policy along with the snacks and crafts that are available for their purchase. It must be an option, not a mandatory charge otherwise it could give the appearance of a charge for use of the room.

Policies can be implemented for use of the clubhouse, so long as they are fair to everyone and any services must be optional.

Cable/Phones

Q: A resident does not own a television but she was told by the property manager that she had to pay an additional $20.00 for cable. It was stated that this was mandatory since the majority of the residents voted in favor of having cable. Can the property manager do this?

A: Yes. However, if the charge for cable is **mandatory** then it is treated as a utility and deducted from the Maximum Allowable Rent along with the other utilities. This also applies to mandatory telephone for security entrances as an additional fee.

Parking

Q: May a property charge for parking?

A: It depends. Parking is generally considered part of the property's common areas. If the Owner financed the parking areas with tax credits, they must be available to all residents on a non-discriminatory basis and the Owner **may not** charge a fee for their use. If an Owner has provided uncovered parking spaces for each unit and also has optional covered parking, or garages **that were not financed with credits**, it is then permissible to charge for the *optional* parking, if the covered parking is not included as a common area. Reference chapter 11 (page 11-2) of the ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009).

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

Carpet Cleaning (and other cleaning fees)

Q: Can we charge the tenant vacating a LIHTC unit for cleaning the carpet?

A: It depends on whether or not the cleaning is required for normal usage or as a result of damage.

A mandatory cleaning of carpets by a carpet professional conflicts with the LIHTC Program and may adversely affect the credits that can be claimed for the affordable unit, possibly for a protracted amount of time. Owners and managers need to be aware of the IRS' ***'Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition' (2009),*** and specifically chapter 11 regarding 'Gross Rents(s) Exceed Tax Credit Limits' regarding the following.

Page 11-9 of chapter 11, Example 3: Owner Charges Impermissible Fee:

"It is not permissible for owners to charge tenants a fee for maintaining low income units in a condition suitable for occupancy under IRC §42(i) (3). Under Treas. Reg. §1.42-5(g), compliance with the requirements of IRC §42 is the responsibility of the owner of the building for which the credit is allowable…"…

In addition, page 11-10 of chapter 11 further states:

"Once a unit is determined to be out of compliance with the rent limits, the unit ceases to be a low-income unit for the remainder of the owner's tax year. A unit is back in compliance on the first day of the owner's next tax year if the rent charged on a monthly basis does not exceed the limit. An owner cannot avoid the disallowance of the LIHC by rebating excess rent or fees to the affected tenants."

In essence, noncompliance may result under two situations. If a household is charged a mandatory cleaning fee (carpet cleaning… or any other mandatory fee that is not considered associated with damage to the unit), such fee must be added to the household's out of pocket rent portion in addition to the established utility allowance; if applicable as well, as any other unit non-optional fees. If the combined amounts exceed the effective and allowable monthly rent limit for the specific unit, noncompliance occurs. In addition, if an impermissible fee (normal and standard carpet cleaning) is charged and counter to the LIHTC program…noncompliance occurs. If either situation occurs; as indicated by page 11-10 of the Form 8823 Guide, the owner of the LIHTC development credits risks losing **all** credits for the balance of the development's **taxable year** for that unit in addition to the noncompliance.

Although not necessarily an issue for AHFC IAD with regards to LIHTC compliance, owners and managers should also be aware of a similar mandate under the '***Alaska Uniform Residential Landlord and Tenant Act'*** (http://www.law.state.ak.us/department/civil/consumer/3403010.html), and '***The Alaska Landlord & Tenant Act: what it means to you'*** http://www.law.alaska.gov/pdf/consumer/LandlordTenant09_web.pdf , both indicating that landlords are prohibited from charging tenants for carpet cleaning at the time of move out. Naturally there are exceptions. Owners and Managers should review AS 34.03.120(a), AS 34.03.070(b), and AS 34.03.040(a) (1) of the Act.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

Assisted-Living Fees

Q: Can Owners charge fees for assistance with daily living, such as meals and medical professional assistance?

A: Yes, as long as these fees are entirely optional. AHFC IAD recommends that such services and subsequent fees be carried out under a separate 'service agreement', separate from the unit lease. Mandatory fees of any kind, including assisted living fees, must be clearly optional or the Owner risks loss of tax credits for those units affected. Reference chapter 11 (page 11-2) of the ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009).

Other Fees

- Security Deposits must be refundable.
- Break lease fees are permitted if they are after the first six month term and are in lieu of paying rent for remaining term of the lease.
- Application/screening fees must not exceed "out of pocket expenses" to the Owner. No fee may be charged for recertifications.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

COMMON AREAS and COMMON AREA UNITS

Differences

Q: What is the difference between a Common Area and a Common Area Unit?

A: ***Common Areas*** are areas that are reasonably required for the property and include such things as swimming pools, other recreational facilities, community buildings and parking areas. These areas must be made available to all residents at no extra cost. If the property has a community room and one of the residents wants to use it for a meeting or similar use, the Owner is not allowed to charge the resident for using the area. The Owner is, however, allowed to assess a reasonable charge for cleaning.

Common Area Units are provided by the Owner for use by full time managers, maintenance, or security personnel. These units are not considered residential rental units as they are not for rent to the general public. According to the IRS ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009); Chapter 8, an Owner may not charge the manager, maintenance or security personnel rent for these units. The occupants of such units do not need to be income-qualified. The Owner must be able to clearly document the need for a common area unit as necessary for operations of the project. If you can income qualify the household, it's always a good policy to do so.

Rent for Common Area Units

Q: Can I charge any rent for a Common Area Unit?

A: In most cases, no rent should be charged to residents occupying a Common Area Unit. According to the IRS ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009), "If the owner is charging rent for the unit, the Service may determine that the unit is not reasonably required by the project because the owner is not requiring the manager to occupy the unit as a condition of employment." (Ref. Chapter 8; page 8-5 – 'Resident Managers and Maintenance Personnel'.)

Q: Is the value of free rent to Managers, Maintenance and Security Personnel counted as income to the employee?

A: No. According to IRS Code Section 119, the value of meals and lodging to employees (and, generally, their spouses and dependents) is excluded from gross income *if they are furnished for the convenience of the employer on the employer's business premises.*

Owners must be able to demonstrate (through employment contracts or other written documentation) that staff is required to live on-site as a condition of employment. Staff may be responsible, for instance, to respond to resident requests after business hours or maintain ongoing security. When a staff person ceases employment, they must either move out of the Common Area Unit or be income-qualified and pay the appropriate set-aside rent.

Changing Location of Common Area Unit

Q: How do I change the location of my Common Area Unit?

A: The following are the requirements for changing the location of a Common Area Unit:

The Owner must submit a written request to AHFC's **Low Income Housing Tax Credit Program Manager** for consideration. The request must include:

- The proposed changes in Common Area Units and the rationale for each proposed change.
- The bedroom size and square footage of the current Common Area Unit and the size of the proposed unit.
- The location (building and unit number) of the current and proposed Common Area Unit.
- For 100% Low-Income properties: Pending approval from the AHFC LIHTC Program Manager, a Form 8823 will not be filed notifying the IRS of the change.
- For Mixed Income properties (Market Rate Units with Low-Income Units): IRS Form 8823 **must** be filed to inform the IRS of a possible change in qualified basis.

Fair Housing Act--Accessibility

Q: Do Tax Credit financed properties need to meet Fair Housing Accessibility requirements?

A: Yes. All properties built after 1992 must be accessible to disabled persons. Ground floor units on buildings with four or more units and all units and common areas (this would include children's playground areas) in buildings with elevators must be accessible to disabled persons.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

STUDENTS

Student Status and Foster Care (Sec. 3004 of HERA)

Q: Is there now another exception to the fulltime student household for those persons who previously received foster care assistance?

A: Yes. If you have a household composed entirely of income-qualified fulltime students and one of those students was previously under the care of a state foster care program, the household remains qualified for a tax credit unit. The Owner must obtain written verification from a state foster care administrative entity that the student was previously in a foster care program. It's not clear whether the Owner agent, acting as a third party, could obtain documentation. If the Owner agent is unable to obtain written verification, AHFC IAD will allow copies of documentation directly from the resident as proof of this exception to the fulltime student rule. **(Ref: 'Foster Care Verification', AHFC Form #TC-0006)**

Qualified Resident Goes Back to School

Q: An eligible resident moves in and two months later goes back to school fulltime. Is he still qualified?

A: It is permissible for a unit to be occupied by a full-time student where there are other residents in the household that qualify. However, when a unit becomes occupied ***entirely*** by students (defined as individuals enrolled ***fulltime*** at an educational organization for at least ***five calendar months*** during the year), the unit becomes disqualified unless one of the following exceptions applies: The unit is occupied by at least ***one*** individual who is **(1)** enrolled in a job training program receiving assistance under the Workforce Investment Act (formerly JTPA) or **(2)** receiving benefits under Title IV of the Social Security Act (e.g. TANF), or if the unit is occupied ***entirely*** by fulltime students and each of the students are **(3)** single parents and the single parents are not dependents of another individual, nor are their children dependents of another individual *except another parent of such children,* or **(4)** the students are married and eligible to file a joint return, or **(5)** one of the students was previously under the care of a state foster care program.

Bond Student Rules (Sec. 3008 of HERA)

Q: Are the Student rules now the same for properties with Tax Credits and Bonds?

A: Yes. HERA aligns Tax Credit and Tax-Exempt Bond rules that previously conflicted for jointly funded properties. HERA allows Owners to apply the more lenient Tax Credit Student rules and exceptions. Based on the way this rule was changed in Section 142 of the Code, AHFC IAD also believes this rule ***applies*** to Tax-Exempt Bond properties that have no Tax Credit funding.

Verifying Student Status

Q: Regarding a current resident that is intending to start college - how often do we need to verify the fulltime or part-time status? If he/she goes fulltime one quarter and then part time the next, does that allow him/her to continue to live at the property?

A: Students that are "fulltime" for more than five calendar months during the calendar year are generally prohibited from tax credit housing unless they meet one of the exceptions described above under the topic '**Qualified Resident Goes Back to School'**. Whether a student is attending school "fulltime" is determined by the school that the student is attending. Property management would need to make an initial determination of whether a household was likely to exceed the five-month rule during the calendar year, and if so, the resident should not be allowed to move in (unless the student is part of an otherwise qualified household). It is important to inform prospective residents about the student issue in their lease and ask that they inform management immediately of any student status changes. Many management agencies are checking quarterly to prevent a recapture problem, but there is no requirement to check any more often than annually at re-certification. Remember that a full-time student, unless meeting one of the five exceptions, is not eligible for the LIHTC program.

Q: We have an applicant for our SRO who is a single person, age 18, attending school through 'Nine Star' to receive her high school diploma which she should receive by Christmas of this year. I did not know until today that 'Nine Star' is part of the Anchorage School District. She currently lives with her parents in Wasilla. Is this applicant eligible or not for Section 42? Where can I find the reference for this situation?

A: You need to determine if the course of study is considered full-time or part-time. Refer to the definition in the IRS ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009), Chapter 17, page 17-1. If full-time, you will also want to determine if any of the full-time student exceptions apply… (See IRC 42(I) (3) (D) as well as IRC 42(i) (3) (D) (ii) (II).

Exceptions

Q: If I have a written confirmation from an applicant's ob-gyn that the applicant is pregnant, and she is a full time student, may I rely on the pregnancy verification that one other person in the household is not a full time student, therefore it will be a two-person household: Mom is full time, baby is not?

A: We are uncertain how the IRS would view this. While an unborn child can be counted toward household size when determining the income limit (or determining qualification for the Large Household Commitment, we don't believe this scenario would count as an exception to the student rule.

Q: Do married students need to actually file a joint return to qualify as an exception?

A: No. It is only necessary to verify that married students are eligible to file jointly, not that they actually did.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

REPORTING and RECORD KEEPING

Tax Credit Annual Reports

Q: When are tax credit annual reports due and what must be included?

A: Annual reports will be due within 45 days of AHFC IAD's 'Notice Letter' advising of the annual compliance review. Although AHFC IAD attempts to tie the notice date to the Placed-in-Service date, this is not always possible due to coordination with other reviews in your properties areas as well as weather and travel considerations. Your submitted package will include, however not limited to, the ***Certificate of Continuing Property Compliance (CCPC), utility allowance*** documentation used to calculate rents for the entire reporting period, an ***Affirmative Marketing Report***, if applicable, and ***household certification documentation*** for the affordable units selected by the AHFC IAD for our review. For a complete list and details of submittal data required for the LIHTC program annual reporting, please review the introductory section of this manual. If you are scheduled to have an on-site visit from AHFC IAD, submittal documentation will be required to be submitted prior to the on-site visit.

Q: If more than one household occupies a unit during the reporting period, will I be required to submit resident packages on all households?

A: Possibly. Once AHFC IAD has received your submittals, we will review all data to determine which tenant file/packages we want to examine. In some cases, this may include households that have vacated the unit during the compliance period and possibly before. As a side note, if any units were vacant for the entire compliance period, you will be asked to provide additional clarification regarding the vacancy.

Record Keeping

Q: How long must I keep resident income qualification paperwork?

A: Records must be retained for six years after the due date for income tax return filing (plus any extensions). For instance, if a resident moved into your property during 2010 and the 2010 partnership income tax return was filed in June of 2011, records for that resident must be retained until June of 2017. **First Year records must be kept for six years beyond the initial compliance period. (15 years plus six years after filing first return = 22 years)**. Do you know where your property's 1st year records are stored?

Q: Can I keep records electronically?

A: Yes, as long as the electronic storage system meets requirements of Revenue Procedure 97-22.

Q: Does AHFC IAD report noncompliance that happens before final 8609s are issued?

A: Yes, the IRS instructs us to report pre-8609 noncompliance directly to the IRS Headquarter analyst responsible for the Tax Credit program.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

Q: Can an Owner file draft 8609s with their income taxes?

A: This is a question that should be addressed with your properties tax professional. AHFC IAD will not/cannot advise on tax reporting, accounting, or legal issues. We are aware, however, that the IRS requires Owners to file tax extensions until final 8609s are issued or file without 8609s, then submit amended returns later.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

UNIT OCCUPANCY

General Public Use (Sec. 3004 of HERA)

Q: Does HERA allow preferences in our properties for special needs and other types of housing?

A: Yes. HERA allows preferences for Special-Needs housing; housing targeted for groups under a state or federal program, such as AHFC's targeting for the disabled and Homeless. Housing preferences for individuals involved in artistic or literary activities should be addressed to AHFC's **Planning and Program Development Department** for guidance. Properties with set-asides that meet the requirements of this section of HERA may continue to provide preferences for households that meet the above stated criteria. All properties must continue to abide by Federal Fair Housing laws.

Turning a Unit

Q: What's a reasonable amount of time to turn a unit?

A: The IRS expects that vacant units are always rent-ready and available to the public. That said AHFC IAD considers no more than 15 days to be a reasonable amount of time to prepare a vacated unit for occupancy by the next household depending on the level of repairs needed. Your Management Company or Owner may have stricter expectations for this timeframe.

Q: Can we maintain a Model Unit at our property?

A: Yes, however, Model Units must be rotated on a regular basis and be available to interested renters.

Daycare/Home Business Use of a Unit

Q: Can my residents operate a home business in their unit, such as a small daycare or other small business.

A: Yes, but the Owner must ensure that strict guidelines are placed on any home business. AHFC IAD suggests that Owners develop House Rules including, however not limited to, the following:

- The unit must be the principle residence for all household members included on the lease.
- No sign should be displayed that advertises the home business.
- If a daycare, it must meet state and local laws and ordinances and be properly licensed for the number of children they care for.
- Any business, including daycares, should not infringe on the rights of other residents in the building. Your House Rules, for example, should outline acceptable hours for a daycare or other business; number of children cared for in various sized units; number of children who can be cared for from outside the property; number of clients who may visit a home business in a given day; extra deposits required, if any, for daycare or other business.

- Residents who are self-employed should list all income on their tax returns and must be reviewed to properly calculate all income during recertifications. In determining annual income, it may be necessary for Owners to analyze whether deductions related to the percentage of a unit used for any home business are reasonable.

Moving Over-Income Households

Q: In a **mixed-income** tax credit property, (combination of market rate and affordable units) can a previously qualified over-income household move to another unit and remain qualified?

A: Yes, as long as the household moves/transfers **within the same building**, they remain qualified. The IRS clarified that a household ***may also*** move to a different building and remain qualified, ***if*** their income at the last certification did not exceed 140% of the qualifying limit. The units essentially "swap statuses."

These rules are particularly important during the first credit year. If a qualified household moves from one unit to another, the unit they occupy at the end of the first credit year is "qualified". The unit they left would revert to its previous "empty" status and would need to be occupied by another income-qualified household to be considered a tax-credit-qualified unit.

Q: What about moving households in a 100% tax credit low-income property?

A: As the IRS no longer requires annual recertifications of households (Section 3010 of HERA) in a 100% low-income property, households that were initially income-qualified may move from building-to-building, without restriction. Bear in mind, however, that AHFC IAD requires that the 1st recertification even in a 100% tax credit unit will be required.

Q: Does this also apply to 100% tax credit properties that were also financed by **Tax-Exempt bonds**?

A: Yes, as long as the property is 100% low-income restricted, and all units are income qualified at move-in.

Next Available Unit/140% on Bonds (Sec. 3008 of HERA)

Q: Are the 140% rules now the same for properties with Tax Credits and Bonds?

A: Yes, for ***jointly financed*** properties. HERA aligns previously conflicting tax credit and tax-exempt bond rules for jointly funded properties. The Next Available Unit Rule is now a Building Rule vs. a Project Rule. In other words, if the income of a household in a bond and tax-credit financed property increases above allowable levels, that household will continue to be considered "qualified" if the next available unit in the same **building** is rented to an income-qualified household.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

Move-out After Lease Signing

Q: We have an applicant who qualified for a unit at our property. They signed a six month lease, took the unit keys and gave us a rent check on Monday. On Tuesday the applicant came in, turned in the keys and told us her check would bounce and that she was not going to rent the unit. Can we count this unit as initially qualified by this applicant?

A: As long as you have thoroughly documented the circumstances leading to this vacancy, emphasizing that all signs indicated this applicant intended to rent long-term, you may count this unit as qualified.

Casualty Loss

Q: I know there has been some guidance by the IRS regarding the treatment of casualty losses. I understand that we must report casualty loss that takes a unit out of service for an "unreasonable" period of time. My understanding is that a two-year period is not a reasonable amount of time. Is this correct?

A: The IRS did not provide further guidance regarding the treatment of casualty losses in an IRS Chief Counsel Memorandum dated May 4, 2002 (CCA 200134006). According to the memorandum, state housing agencies must always report a casualty loss that takes low income units out of service. The taxpayer cannot claim the credit while the unit is out of service. However, if the property is in an area designated as a **federal** disaster area, the Owner may be able to claim credits. Owners should check with their tax accountant professional.

What is "reasonable" depends on the damage, but under the CCA, the two years following the end of the tax year in which the casualty loss occurred is a "reasonable" time period to repair the damage or replace the property. Thus, for severe damages, two years is likely reasonable. **However, AHFC IAD suggests that most damages can, and should, be repaired within a few months.**

Q: Units are vacant for a variety of reasons, including fires, floods, mold issues, or residents who trash units upon move-out. What exactly is considered a "casualty loss"?

A: Casualty losses are sudden, unexpected damages – generally due to natural causes such as hurricanes, tornados, floods and earthquakes. Damages incurred over long periods of time like dry rot, termites, mold damage, poor construction or resident-caused destruction, do not qualify as "sudden" casualty losses. However, regardless of the cause, Owners must make repairs to units with damages in a timely manner to maintain qualified basis and prevent possible loss of credits.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

MISCELLANEOUS

Data Collection Requirement (Sec. 2835 of HERA)

Q: Do we need to start collecting and reporting demographic information on all tax credit financed properties?

A: Yes. HERA requires states to begin collecting and reporting specific information on all tax credit financed properties. Beginning in 2009, Owners should begin collecting information on race, ethnicity, family composition, age, income, use of rental assistance, disability status and household rent payments, for all units in tax credit financed properties. Demographic information will be required for the Head of Household and for all members of the household. HERA required states to work with HUD to establish a reporting system. In 2010, AHFC created a web based reporting system for use by properties consisting of a simple Excel spreadsheet form for Owners to satisfy data submissions. Data provided is then converted to the HUD approved XML download by AHFC. Owners of record are advised annually via email as to when the web reporting system is available. The reporting 'window' for reporting to AHFC will be in approximately three months prior to the deadline imposed on the state by HUD, but not earlier than three months after the end of the year.

The first data collection reporting was due on October 31, 2010 for all households occupying tax credit financed properties as of December 31, 2009. The next reporting is estimated to be due on or about October 31, 2011 for the year ending December 31, 2010. This is subject to change.

Reporting Resident Misrepresentation of Fraud to IRS

Q: Should tenant fraud be reported to the IRS?

A: Yes, Owners and managers should report instances of resident fraud to the IRS Fraud Hotline at 1-800-829-0433. (Ref: IRS ***Guide for Completing Form 8823; Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition***; (Revised October 2009); Chapter 25.

Q: Is fraud considered reportable noncompliance?

A: It depends. If the Owner corrects fraud issues and informs the state agency, noncompliance is not reported. If the state agency discovers fraud, an IRS Form 8823 must be filed.

Regulatory Period

Q: How is the expiration date for the regulatory agreement period calculated?

A: For tax credit properties, the date is keyed off of the first year the Owner takes credits, which can be either the Placed-in-Service year or the following year. For Further clarification, owners should contact AHFC's **Low Income Housing Tax Credit Program Manager**.

Selling a Tax Credit Property

Q: What kinds of restrictions apply to the sale or transfer of a Commission-financed property?

A: Selling or transferring a property that has an existing regulatory agreement requires written approval by AHFC, and may require a regulatory agreement amendment. Transfer requirements are similar for bond-financed and tax credit properties. Further clarification should be directed to AHFC's **Low Income Housing Tax Credit Program Manager.**

Bond Posting Requirement (Sec. 3004 of HERA)

Q: Do Owners need to post a bond upon transfers of Ownership?

A: If the seller can meet the requirements of HERA, posting a bond is not necessary. Briefly, HERA eliminates the requirement for a seller to post a bond on transfers of ownership as long as there is a reasonable expectation that the project will remain low income (in compliance with federal requirements). It also extends the IRS recapture period for transfers of ownership to three years beyond the time when an Owner notifies the IRS of a recapture event. All transfers of ownership, including managing member and general partner changes must also be approved by AHFC and abide by our transfer process requirements. For Further clarification, owners should contact AHFC's **Low Income Housing Tax Credit Program Manager**.

Recertification Waiver and Miscellaneous

Q: Since the IRS no longer requires annual income recertifications, does AHFC still review requests for waivers?

A: Yes. As AHFC IAD still requires one annual recertification on every new household after the initial move-in certification, Owners who wish to eliminate all third-party recertifications may still apply for a waiver, but tenant annual reviews will not be exempt until after the 2nd year of residency. Keep in mind that this policy only effects 100% affordable developments. Mixed income properties (those with market rate units) will still be required to complete annual household certifications. The waiver process will be the same as before, including a third-party auditor review to determine 100% "in-compliance" status. However, upon completion of a satisfactory review, AHFC IAD may approve the waiver based on a review of previous compliance.

Q: Please clarify the statement: "Buildings receiving funding from agencies that require annual third-party income certification including, but not limited to RD and HUD *may not* be eligible for the waiver."

A: The Owner may be approved for the recertification waiver, but this will apply only to Tax Credit-financed units. The Owner may need to perform the required certifications for other units affected by funding programs which require annual third-party certifications, such as RD and HUD, etc.

Q: How will we be expected to monitor for state Special-Needs Commitments? Will we have to meet the requirements only at move in or will we need to do a form to go with the annual self-certifications to disclose these Special Needs and if so, will we need to verify the Special Needs upon recertification?

A: You will want to clarify this through the reading of your Agreement with AHFC. In general, however, once a household is initially qualified for a Special-Needs Commitment, they remain qualified.

Section V

FREQUENTLY ASKED QUESTIONS

5.1 LIHTC (Tax Exempt Bond) Program

Q: Exactly which files will the AHFC Auditor need to review?

A: The AHFC IAD Auditor or 'Compliance Specialist' will review the initial certifications for every household occupying your property as of the end of the calendar year immediately preceding the year in which you request the waiver. In addition, the specialist will review the initial certifications for the last household to occupy a unit that is vacant as of the end of the calendar year. For example, if you submit the written request for the waiver in 2011, the specialist must review initial certifications for all households living at the property (or previously in vacant units as just described) as of December 31, 2010.

Annual Compliance Reviews

Q: After the annual review of our property is started, how long will it take before we receive the audit results?

A: Depending on the clarity and accuracy of the documentation submitted, a review may take anywhere from one week to as much as six months to complete.

Extended Use Agreement

Q: We are preparing to dissolve the partnerships that we created to build rental properties with LIHTC. The 15 year compliance period has ended for one and will end for the other shortly. At this point, we have 15 years of extended use requirements, correct? What does this mean as far as monitoring and compliance? I understand we must maintain rent restrictions for 15 more years, but do we continue to verify income of tenants?

A: Unless your development Agreements indicates something different, AHFC IAD is required to monitor the same data during years 16-30 (the 'Extended Use Period') as we have for the initial 15 (actually 17) year IRS 'Compliance Period'. Through year 30, AHFC IAD will provide you with an annual monitoring 'Notice Letter' identifying the required development annual data to be submitted.

Future data requests will, for the most part, continue to be the same although please be aware that the notice letter continues to be edited/modified as affordable housing programs change. Data requests will include, however not limited to, the 'Unit History' identifying any and all changes in the affordable unit status, and tenant/household 'Tenant Income Certificate' summarizing household composition, rents and utilities charges, along with program timely income and assets verifications.

Although you will want to verify this with your Agreement documentation for your developments, rent and incomes will probably require you to maintain the same restrictions through the extended use period that you have for the compliance period.

Any changes in ownership as suggested will need to be addressed thorough AHFC's **Low Income Housing Tax Credit Program Manager**.