



Affordable Housing Compliance Manual

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PART 1 | INTRODUCTION

Chapter 1 | RIHousing Affordable Housing Programs

RIHousing's Mission

RIHousing works every day to ensure that all people who live and work in Rhode Island can afford a home that meets their needs. We do this by providing financing, education and assistance to help Rhode Islanders buy, build, rent, and keep a home. Created by the General Assembly in 1973, RIHousing is a self-sustaining corporation and receives no state funding for operations.

This manual supports RIHousing's mission and obligation under federal regulations by providing our owner partners and their management agents (owners/agents) with our policies designed to support federal Code and guidance for Low-Income Housing Tax Credit (LIHTC), HOME Investment Partnerships Program (HOME), National Housing Trust Fund (NHTF), tax-exempt bond, and other programs monitored by RIHousing.

IMPORTANT NOTE!

While setting out RIHousing's requirements under various housing programs, this manual was not intended and must not be taken as legal or accounting advice. These materials are for informational purposes only and may not reflect the most current legal developments. The manual has not been reviewed by the IRS or HUD. With respect to federal rules, this manual is to be used only as a supplement to the statutes, regulations and other guidance from the IRS and HUD. Complete coverage of all aspects of compliance with housing programs is beyond the scope of this manual. RIHousing's obligation to monitor program compliance and willingness to provide assistance does not make RIHousing liable for an owner's noncompliance. The responsibility for maintaining compliance with the programs lies with the owner of the building who has used the funding and accepted the obligations attached. Because of the complexity of federal housing programs and the need to consider how provisions apply to specific factual circumstances, the informational materials are not intended, and should not be taken, as legal advice on any particular set of facts or circumstances. Owners must seek competent professional legal and accounting advice regarding compliance for their properties.

Affordable Housing Program Histories

LIHTC

The Low-Income Housing Tax Credit (LIHTC) was passed into law with the Tax Reform Act of 1986. The LIHTC funds affordable housing by reducing taxes for owners who build housing for low-income families. The tax credits provided are based on how much is invested in the property by the owner and investors for the purpose of building and/or rehabilitating affordable rental housing. The LIHTC program is governed by Section 42 of the Internal Revenue Code (IRC §42), the regulations at 26 CFR 1.42, Revenue Rulings, Notices, and other guidance. The IRS uses HUD rules when calculating family income. Otherwise, it is the IRS rules that should be consulted when establishing policies and procedures to meet LIHTC compliance.

The Internal Revenue Service (IRS) administers the program nationwide by partnering with state housing finance agencies (HFAs). Allocating tax credits to owners and regular monitoring for compliance with the LIHTC program are handled on behalf of the IRS by the HFAs. IRS regulation requires that designated state LIHTC HFAs develop and implement a Qualified Allocation Plan (QAP) to determine how tax credits will be allocated. RIHousing's QAP is available on its website. Additionally, HFAs must create policies and procedures for monitoring compliance with the LIHTC program. Provisions in this manual support RIHousing's obligation in this regard.

The tax credit can attract investors who provide equity for a building's initial construction or the rehabilitation of an existing building. The acquisition by purchasing an existing building can also be a basis for claiming tax credits, but only if the building is also rehabilitated.

HELPFUL HINT

If you can remember "IRS", you can remember the basic provisions necessary to maintain compliance with LIHTC rules.

An owner/agent must:

I **Income limits:** Rent to income-qualified families.

R **Rent limits:** Keep rents below required limits.

S **Safe and sanitary:** Meet physical standards (keep the property "decent, safe & sanitary").

Bonus: these basic provisions form the underlying requirements for almost all affordable housing programs. Only the specific rules vary! (See Chapter 12 for details)

Note on all of the charts in this chapter: these represent the minimum requirements. The Agency may impose greater requirements at its discretion. For example, inspections may be more frequent than required based on a risk-based analysis of challenges faced at a specific property.

Many RIHousing programs draw on LIHTC program rules. To allow comparison with other programs, some key LIHTC provisions follow:

Income level served [MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
50%, 60%, or 10% through 80% MTSP [in even increments of 10%, to average no more than 60%], depending on the project's minimum set aside of 20-50, 40-60, or Average Income Test [AIT].	Federal compliance period of 15 years with a total commitment in an extended use agreement of at least 30 years.	No	N/A	Yes, for assets when total net assets do not exceed the annual asset threshold. For 100% LIHTC projects, income certification is not required after the initial certification. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	No.*	Yes	Per 24 CFR 93.404. A minimum of 4 files will be inspected. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years.	Per 26 CFR 1.42-5 and NSPIRE. Files and units will be inspected at least every 3 years. RIHousing's discretion, using the lower number on a chart in the LIHTC regulation or 20% of units. Different files and units will generally be inspected.

HOME

The HOME Investment Partnership Act is found in Title II of the Cranston Gonzalez National Affordable Housing Act of 1990. The HOME program is the largest block grant program with which Congress has entrusted HUD. HOME is designed to provide affordable housing to lower-income families, expand the capacity of nonprofit housing providers, and strengthen the ability of state and local governments to develop and implement affordable housing strategies to meet local needs.

HOME funds are provided by the Housing and Urban Development office of Community Planning and Development (HUD CPD) to state and local participating jurisdictions (PJs). RIHousing is the state PJ for Rhode Island. As such, it commits the funds to Rhode Island developers to acquire, build, or rehabilitate multifamily rental properties and monitors for compliance with HOME requirements. **Important note: there are other local PJs in Rhode Island, some of which may fund units on properties also funded with RIHousing programs. This manual only covers HOME policies for units for which RIHousing provides HOME funding. If another PJ committed HOME funds, that PJ must be consulted to ensure that the PJ-specific HOME provisions are met for those HOME units.**

All rental housing units funded using HOME must meet affordability and income-targeting requirements as outlined in the HOME Rule at 24 CFR Part 92, which was most recently revised in 2025. The HOME program designates specific units that are HOME units based, at a minimum, on the amount of HOME funding proportionate to the total cost of the project.

Many RIHousing programs draw on HOME program rules. To allow comparison with other programs, some key HOME provisions are:

Income level served [AMI]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
50, 60, or 80% AMI	Generally, 20 years for new construction rental housing with HOME funds.	No, except for HOME rental assistance programs.	N/A	Yes, but RIHousing, as the PJ uses a more restrictive approach than every sixth year of the period of affordability that the federal program allows. Full certifications with source documents are required every three years of the period of affordability. Asset self-certification and Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable for all years.	Yes, for projects with 10 or more HOME units. *	Yes. The desk review is an annual occupancy review with rent review.	Per 24 CFR 92.252. A minimum of 4 units and files will be inspected, along with the inspectable areas in each HOME assisted building. After 4 units, numbers inspected are based on a chart in HOME regulations. Frequency is per a risk-based analysis, up to once every 3 years.	Per 24 CFR 92.251 and NSPIRE. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years. A minimum of 4 units and files will be inspected, with the other inspectable areas for each building.

NHTF

The National Housing Trust Fund (NHTF) was established in the Housing and Economic Recovery Act of 2008 (HERA). It is a program that is not dependent on congressional appropriations, but rather it is funded by certain activities of Freddie Mac and Fannie Mae. The NHTF is an affordable housing production program that complements existing federal, state, and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low-income (generally 30% AMI) families. Although the primary emphasis is to assist extremely low-income families, the statute does allow that some future year NHTFs may also assist very low-income (50% AMI) families. Funds may be used for the production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation.

NHTF grants are administered by the Housing and Urban Development office of Community Planning and Development (HUD CPD) through a grantee agency in each state. The states distribute the funds to owners. All rental housing units funded using the NHTF must meet affordability and income-targeting requirements as outlined in the NHTF Rule at 24 CFR Part 93. The NHTF program designates specific units that are NHTF units based, at a minimum, on the amount of NHTF funding proportionate to the total cost of the project.

To allow comparison of NHTF to other RIHousing programs, some key NHTF provisions follow:

Income level served [AMI]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
The greater of 30% AMI or the poverty level for an area. Some units may be up to 50% AMI in future years.	Minimum of 30 years.	No	Yes	Yes, but RIHousing, as the grantee uses a more restrictive approach than every sixth year of the period of affordability that the federal program allows. Full certifications with source documents are required every three years of the period of affordability. Asset self-certification and Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable for years after move-in.	Yes, for projects with 10 or more NHTF units. *	Yes. The desk review is an annual occupancy and rent review.	Per 24 CFR 93.404. A minimum of 4 files will be inspected. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years.	Done per 24 CFR 93.301 and NSPIRE. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years. A minimum of 4 units and files will be inspected, along with the inspectable areas in each building.

Other Programs

RIHousing is required by federal regulation to create significant policies dictating how the LIHTC, HOME, and NHTF programs work in Rhode Island, and it is granted considerable discretion in doing so. In addition, RIHousing distributes and/or monitors other federal and state housing funding programs. This manual does not reproduce applicable federal guidance for these. For instance, Section 8 project-based rental assistance (PBRA) and other HUD Multifamily Housing (HUD MFH) programs are governed by the HUD MFH Handbook 4350.3, which provides over 1,000 pages of guidance dictating all aspects of how to manage Section 8 PBRA. This manual does not reproduce that guidance, although many of these federal provisions are summarized in Chapter 12 and the Special Supplement Multiple Program Guide. Local programs often also have identical rules to the ones that RIHousing has designed for LIHTC/HOME/NHTF programs. For instance, RIHousing applies the same rules relating to how to calculate and verify income for families across all its programs, except where there are federally imposed rule differences. This manual will mention significant differences from LIHTC/HOME/NHTF policies and/or specific RIHousing policies and procedures that apply to specific programs.

Information on other programs monitored by RIHousing is included below.

* Note on the “RIHousing review financials” column: Loan agreement or regulatory agreement requirements may vary on the financial requirements for programs with an asterisk. These documents should be consulted and reviewed carefully to ensure that financial compliance is met and may require more than what is stated in this chart.

Acquisition Revitalization Program Production Fund [ARP, APF]

[Program Description](#) | ARP and APF provide incentives to encourage developers to redevelop foreclosed and/or blighted properties.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site/unit inspection sampling and cycle
120% AMI	Minimum of 30 years.	No	Yes	Yes, for assets when total net assets do not exceed the annual asset threshold. Income determinations of PHAS and other specific means-tested programs that are no older than 12 months are acceptable.	RIHousing conducts an annual audit to confirm that there are no significant issues. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	Sites inspected every 3 years, mirroring LIHTC

Building Homes Rhode Island [BHRI]

[Program Description](#) | This state fund is for the development of affordable rental housing opportunities.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site/unit inspection sampling and cycle
Varies, but up to 80% AMI.	Minimum of 30 years.	No	No	Yes, after initial certification when total net assets do not exceed the annual asset threshold. Income determinations of PHAS and other means-tested programs that are no older than 12 months are acceptable.	No *	Yes. RIHousing conducts annual desk audits.	No.	Site inspection on an annual schedule, but may be flexible, as set by the mortgagee. Units are not inspected.

Capital Magnet Fund [CMF]

[Program Description](#) | The CMF provides owners of existing affordable housing developments with incentives to maintain these developments as quality affordable housing.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site/unit inspection sampling and cycle
Varies, but up to 120% AMI.	Minimum of 30 years.	No	No	Yes, after initial certification when total net assets do not exceed the annual asset threshold. Income determinations of PHAS and other means-tested programs that are no older than 12 months are acceptable.	As needed. RIHousing may hold funds. Check the regulatory agreement for a level of surplus cash which would require audits. *	Yes. RIHousing conducts annual desk audits.	No, but individual regulatory agreements may impose requirements.	Site inspection on an annual schedule, but may be flexible, as set by the mortgagee. Units are not inspected.

Community Revitalization Program [CRP]

Program Description | The purpose of the CRP is to finance the acquisition and redevelopment of blighted properties to increase the development of affordable housing. The source for CRP is State and Local Fiscal Recovery Funds [SLFRF] funded through the American Rescue Plan Act of 2021 [ARP]"Text.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site/unit inspection sampling and cycle
80% AMI	Minimum of 30 years.	No	Yes	Yes, after initial certification when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other means-tested programs that are no older than 12 months are acceptable.	No *	Yes. RIHousing conducts annual desk audits.	Per 24 CFR 93.404. A minimum of 4 files will be inspected. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years.	Per LIHTC 26 CFR 1.42-5 and NSPIRE. Files and units will be inspected every 3 years, using the lower number on a chart in the LIHTC regulation or 20% of units.

Developing Affordable Housing [DAH, DAH1, DAH2]

Program Description | The DAH programs provide funding for the development of new single family and multifamily units for families with incomes below 80% of Area Median Income. The source for DAH is State and Local Fiscal Recovery Funds [SLFRF] funded through the American Rescue Plan Act of 2021 [ARP]. These funds are combined with LIHTCs in Rhode Island and must meet LIHTC requirements. **See also the "RI Rebounds Production Fund."**

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site/unit inspection sampling and cycle
80% AMI	Minimum of 30 years.	No	Yes	Yes, for assets when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	No *	Yes	Per 24 CFR 93.404. A minimum of 4 files will be inspected. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years.	Per LIHTC 26 CFR 1.42-5 and NSPIRE. Files and units will be inspected every 3 years, using the lower number on a chart in the LIHTC regulation or 20% of units.

Emergency Rental Assistance [ERA 2]

Program Description | The Emergency Rental Assistance Program (ERA) 2 is a federal program that provides financial assistance to eligible families to help with rent, utilities, and other housing-related expenses, aiming to prevent evictions and promote housing stability. It is funded by the American Rescue Plan Act of 2021. ERA 2 is the second phase of the program, following the initial ERA 1. All ERA-2 programs align with LIHTC or HOME requirements.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site/unit inspection sampling and cycle
80% AMI	Minimum of 30 years.	Yes	Yes	Yes, for assets when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	No*	Yes	Per 24 CFR 93.404. A minimum of 4 files will be inspected. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years.	Per LIHTC 26 CFR 1.42-5 and NSPIRE. Files and units will be inspected every 3 years, using the lower number on a chart in the LIHTC regulation or 20% of units.

HOME - American Rescue Plan [HOME-ARP]

Program Description | HOME-ARP seeks to address homelessness and housing instability for specific vulnerable populations. Populations served include those who are homeless or at-risk of becoming homeless, those fleeing, or attempting to flee VAWA violence or human trafficking, and veterans and their families. **As of 2025, no HOME ARP awards have been made in Rhode Island.**

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
80% AMI for income-eligible units. When other programs are combined with HOME-ARP, the other program AMI set-asides apply.	15 years. If used for rental assistance, the greater of 15 years or the length of the HAP contract.	No, except when used for rental assistance.	No, except for income-eligible units, which apply the HOME rules.	No, RIHousing, as the PJ uses a more restrictive approach than the program allows. Full certifications with source documents are required annually. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	Yes, for projects with 10 or more HOME units. *	Yes. The desk review is an annual occupancy review with rent review if units are income-based HOME-ARP.	Per 24 CFR 92.252. A minimum of 4 units and files will be inspected, along with the inspectable areas in each HOME assisted building. After 4 units, numbers inspected are based on a chart in HOME regulations. Frequency is per a risk-based analysis, up to once every 3 years.	Per 24 CFR 92.251 and NSPIRE. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years. A minimum of 4 units and files will be inspected, with the other inspectable areas for each building.

Housing Production Fund [HPF]

Program Description | The HPF provides capital for housing projects and HPF-ELI provides an operating subsidy. HPF is generally used as a subordinate source of financing in a deal and there are a note and a mortgage. Reporting requirements, applicable income limits, and other compliance requirements are dictated by the primary funding source and any other deed restrictions or regulatory agreements on record.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
Varies, up to 80% AMI.	Will terminate with the primary funding.	No	Yes	Determined by the primary funding.	Determined by the primary funding. *		File, site, and unit inspections are determined by the primary funding source.	

Housing Production Fund - Extremely Low Income [HPF-ELI, RI-ELI]

Program Description | The Housing Production Fund (HPF) was established in Section 42-128 of the Rhode Island General Laws, known as the Housing Resources Act of 1998, to provide funding for the planning, production, and preservation of affordable housing. These funds are administered by RIHousing. The law has a priority for families either exiting homelessness or earning not more than thirty percent (30%) of area median income. RIHousing has established the Housing Production Fund Extremely Low-Income Operating Reserve (HPF-ELI) Program to support units serving that population.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
30% AMI	Until funds are expended, extendable by petition.	Yes, but delivered to owners as operating subsidy through a quarterly voucher system.	Yes	Yes, for assets when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	RIHousing reserves the right to review financials. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	Inspected by the mortgagee annually unless covered by another inspection. Units not specifically inspected.

HUD Risk Share [HUD Sec 542(c)]

Program Description | This is a HUD-insured program where RIHousing holds the mortgage. The HUD Risk Share program, specifically Section 542(c), allows qualified State and local Housing Finance Agencies [HFAs] to originate and underwrite loans for multifamily affordable housing, sharing the risk of potential losses with HUD's Federal Housing Administration [FHA]. This program, a partnership between HUD and the Treasury's Federal Financing Bank [FFB], aims to increase the production of affordable multifamily housing by leveraging the expertise and resources of HFAs.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
N/A	Will terminate with the primary funding.	No	No	N/A	Yes	No	No	There is an annual site inspection. Units are not inspected.

HUD Section 8 Project-Based Rental Assistance [HUD Sec 8 PBRA]

Program Description | Project-based Section 8 HAP contracts, overseen by RIHousing as the contract administrator. Extensive instruction to owners/agents is available in HOTMA Notice 2023-10, the HUD Handbook 4350.3, and other HUD MFH guidance.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
Varies, generally 50% AMI with deeper targeting at the higher of 30% AMI or the poverty level [capped at 50% AMI]. Very old contracts may have up to 80% AMI limits.	Length of time specified in HAP contract.	Yes, through a monthly voucher system.	No	Upon HOTMA implementation: Yes, for assets, when total net assets do not exceed the annual asset threshold, except every third year when full 3 rd -party documents are required. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	No. HUD may conduct a financial review if the federal agency conducts a Management Occupancy Review [MOR] directly. *	Risk based as part of the HUD Management Occupancy Review [MOR] process.		Risk based as part of HUD REAC NSPIRE reviews.

Note: the two major HUD rental assistance programs monitored by RIHousing include HUD Section 8 PBRA and Section 811 PRA, two forms of project-based rental assistance. When the term “HUD” is referred to as a housing program in this manual, it generally refers to Section 8 PBRA. HOME and 811, although also HUD programs, are always referred to as “HOME” and “Section 811.”

HUD Section 811 Project-Based Rental Assistance [HUD Sec 811 PRA]

Program Description | The Section 811 Project Rental Assistance (PRA) Program seeks to expand the supply of supportive housing that promotes community integration for low-income people with disabilities by leveraging mainstream affordable housing, Medicaid, and other community-based supportive service resources. To ensure community integration of PRA units, no more than 25 percent of the total units in eligible multifamily properties can: 1) be provided Section 811 PRA funds; 2) be used for supportive housing for persons with disabilities; or 3) have any occupancy preference for persons with disabilities. The person with the disability who is assisted must be an adult under age 62, and be eligible for community-based, long-term services as provided under the state’s plan for medical assistance under Title XIX of the Social Security Act (Medicaid), state funded services, or other appropriate services defined in the written partnership agreement. **As of 2025, all 811 sites in RI are layered with LIHTC.**

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
The higher of 30% AMI or the poverty level.	A minimum of 20 years.	Yes, through a monthly voucher system.	No	Upon HOTMA implementation: Yes, for assets when total net assets do not exceed the annual asset threshold, except every third year when full 3rd party documentation is required. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	No *	Not for 811, though all are layered with LIHTC	Per the 811 Rental Assistance Contract (RAC), but at least every 3 years.	

Middle Income Loan Program [MI]

Program Description | The purpose of the MI Loan Program is to finance innovative proposals that seek to develop housing affordable to families with incomes between 80% - 120% AMI who are increasingly caught in the gap between rising housing costs and ineligibility for other traditional state and federally financed affordable housing. The source for MI Program is State and Local Fiscal Recovery Funds [SLFRF] funded through the American Rescue Plan Act of 2021 [ARP].

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
120% AMI	30 years	No	Yes	Yes, after initial certification when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other means-tested programs that are no older than 12 months are acceptable.	Per individual regulatory agreements, defaults to annual audits, RIHousing reserves the right to do more. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	Inspected by the mortgagee annually unless covered by another inspection. Units not specifically inspected.

Naturally Occurring Affordable Housing [NOAH]

Program Description | The intention of the NOAH program is to provide financing to housing developers pursuing the preservation of existing affordable housing with rents at 80% AMI or less. The RIHousing NOAH loan program requires that at least 40% of the units are restricted to 80% AMI for 20 years. The NOAH program is modeled after Work Force Housing [WFIC]. **As of 2025, no NOAH housing is funded.**

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
80% AMI	20 years	No	Yes	Yes, after initial certification when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other means-tested programs that are no older than 12 months are acceptable.	RIHousing conducts an annual audit to confirm that there are no significant issues. *	Yes	Per 24 CFR 93.404. A minimum of 4 files will be inspected. The first inspection must be within 12 months of completion. After that, frequency is per a risk-based analysis, up to once every 3 years.	Inspected by the mortgagee annually unless covered by another inspection. Units not specifically inspected.

Neighborhood Opportunities Program [NOP]

Program Description | The NOP in Rhode Island provides funding to make rental housing affordable for low-income individuals and families. It bridges the gap between what low-wage residents can afford and the actual cost of operating rental units, ensuring rents are both sustainable for owners and affordable for tenants. **This program is sunsetting.**

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
40% state median income	Until funds are expended.	Yes, but delivered to owners as operating subsidy through a quarterly voucher system.	No	N/A	RIHousing reviews quarterly and annual financials. *	No	No	There is an annual site inspection. Units are not inspected.

Preservation Loan Fund [PLF]

Program Description | The PLF provides a flexible source of capital to be utilized for the preservation of existing affordable housing, priority is given to developments currently funded by RIHousing. The proceeds are used to reticence the 1st or 2nd mortgage as part of a refinance or repositioning of the property for approved capital repairs to maintain properties in good working order. Repairs must be approved by RIHousing in advance of making a loan. Eligible properties include multifamily rental housing with expiring federal rental subsidies, including HUD or USDA Rural Development Programs, and/or LIHTC developments. Also eligible may be existing market rate properties with more than 50% of current rents equal to or less than 80% of area median income.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
Based on the terms of the loan, under 80% AMI.	Minimum of 40 years or terminating when new loan does.	No	No	Yes, after initial certification when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other means-tested programs that are no older than 12 months are acceptable.	RIHousing reviews quarterly and annual financials. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	Inspected by the mortgagee annually unless covered by another inspection. Units not specifically inspected.

Priority Projects Fund [PPF]

Program Description | The purpose of the PPF is to provide funding for the development of new supportive housing and multifamily units for extremely low-income and vulnerable Rhode Islanders. The source for PPF is State and Local Fiscal Recovery Funds [SLFRF] funded through the American Rescue Plan Act of 2021 [ARP].

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
30% AMI	30 years	No	Yes	Yes, for assets when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	RIHousing conducts an annual audit to confirm that there are no significant issues. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	There is a site inspection annually and units are inspected every 3 years, mirroring the LIHTC.

Rhode Island Rental Assistance Program [State RAP]

[Program Description](#) | The Rhode Island Rental Assistance Program is a subsidy program administered by RIHousing.

This program is sunsetting.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
60% AMI	This program is sunsetting.	Yes, but delivered to owners on behalf of tenants through a monthly voucher system.	No	Upon HOTMA implementation: Yes, for assets when total net assets do not exceed the annual asset threshold, except every third year when full 3rd party documents are required. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	No *	No	No	There are no site or unit inspections.

RI Rebounds Production Fund [RIRPF, DAH1]

[Program Description](#) | The same as DAH, but RI Rebounds covered home ownership as well. Funds the new production of affordable housing. The source for DAH is State and Local Fiscal Recovery Funds [SLFRF] funded through the American Rescue Plan Act of 2021 [ARP]. **Future projects are no longer funded by this program.**

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
80%	30 years	No	Yes	Yes, for assets when total net assets do not exceed the annual asset threshold. For 100% LIHTC projects, income certification is not required after the initial certification. Income determinations of PHAs and other means-tested programs that are no older than 12 months are acceptable.	RIHousing conducts an annual audit to confirm that there are no significant issues. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	There is a site inspection annually and units are inspected every 3 years, mirroring the LIHTC.

RI Financed

[Program Description](#) | When there is an RIHousing held mortgage.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
Varies		no	n/a	certifications not required.	Yes	No	No	Annual site inspection, no units.

RI-ELI

[Program Description](#) | See "Housing Production Fund - Extremely Low Income."

Road Home

[Program Description](#) | The Rhode Island Road Home Emergency Housing Assistance program is a state-funded program providing tenant-based rental assistance to individuals and families experiencing or at risk of homelessness. **The funding is sunsetting.**

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
60% AMI	This program is sunsetting.	Yes, through a monthly voucher system.	No	Upon HOTMA implementation: Yes, for assets when total net assets do not exceed the annual asset threshold, except every third year when full 3 rd party documents are required. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	No *	No	No	There are no site or unit inspections.

Site Acquisition Program [SAP]

Program Description | SAP provides grant funding for the acquisition of properties for future redevelopment of affordable and supportive housing. Eligible properties include residential and commercial sites, and vacant lots located in Rhode Island. The funding source for the TOD Program is State and Local Fiscal Recovery Funds [SLFRF] funded through the American Rescue Plan Act of 2021 [ARP].

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
80% AMI	30 years	No	Yes	Yes, for assets when total net assets do not exceed the annual asset threshold. For 100% LIHTC projects, income certification is not required after the initial certification. Income determinations of PHAs and other means-tested programs that are no older than 12 months are acceptable.	RIHousing conducts an annual audit to confirm that there are no significant issues. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	There is a site inspection annually and units are inspected every 3 years, mirroring the LIHTC.

Transit Oriented Development [TOD]

Program Description | The purpose of the TOD Program is to provide funding for the development of affordable housing in Transit Oriented Districts (TODs). For purposes of this program, a TOD District is a zoning district designated by the municipal zoning code as a “Transit Oriented Development District” due to its relationship to public transit. The funding source for the TOD Program is State and Local Fiscal Recovery Funds [SLFRF] funded through the American Rescue Plan Act of 2021 [ARP].

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
80% AMI	30 years	No	Yes	Yes, for assets when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other specific means-tested programs that are no older than 12 months are acceptable.	RIHousing conducts an annual audit to confirm that there are no significant issues. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	There is a site inspection annually and units are inspected every 3 years, mirroring the LIHTC.

Work Force Housing [WFH]

Program Description | In response to the need for a range of housing opportunities, RIHousing has developed the Workforce Housing Innovation Challenge (WHICH, or more commonly WFH), a loan program to finance a limited number of innovative proposals to develop housing that is affordable to families earning from 80% up to 120% AMI. The WFH financing addresses the affordable housing needs of the state’s workforce, who are increasingly caught in the gap between rising market rents and intelligibility for other affordably assisted housing.

Income level served [AMI/MTSP]	Required period in the program	Payments are issued to tenants	Program mirrors LIHTC/HOME if there is no specific rule	Program allows income/asset self-certification	RIHousing review financials	RIHousing conducts desk reviews	File review sampling and cycle	Site and unit inspection sampling and cycle
120% AMI	30 years	No	No	Yes, after initial certification when total net assets do not exceed the annual asset threshold. Income determinations of PHAs and other means-tested programs that are no older than 12 months are acceptable.	RIHousing conducts an annual audit. *	Yes	Lower of LIHTC chart or 20% of units, conducted every 3 years.	Inspected by the mortgagee annually unless covered by another inspection. Units not specifically inspected.

Chapter 2 | Key Player Roles

The Owner

The owner chooses to utilize the LIHTC program (typically layered with other funding sources) to take advantage of the tax credit and other benefits provided. In exchange for these benefits, the owner must adhere to certain requirements and accept responsibilities.

These responsibilities include, but are not limited to the following:

A. Commitment and Allocation Requirements

During the program application processes, the owner provides evidence of the economic feasibility of the project. For the LIHTC program, before the IRS Forms 8609 are issued the owner's CPA certifies to the total costs for each building and that all program requirements have been met. An *Owner's Certification of Continuing Program Compliance* will also be submitted annually. Any violation of the program requirements or misinformation represented in the application or annual *Owner's Certification* could result in the loss of tax credits or HOME/NHTF funding. See Chapter 9 for more information on the *Owner's Certification*.

B. Project Knowledge

At a minimum, the project owner and managing agent should be knowledgeable of the following (as applicable):

1. The date of LIHTC allocation and/or HOME/NHTF commitment [see Chapter 8].
2. The placed-in-service date for each building [Chapter 8].
3. For an LIHTC acquisition/rehabilitation project [Chapter 11]:
 - a) Whether the project has had tax credits allocated in the past, and if an extended use agreement is still in place.
 - b) Date of acquisition.
 - c) Whether any in-place residents were required to move out (temporarily or permanently) and if the building was occupied during the rehabilitation.
 - d) Whether in-place residents are LIHTC qualified and when each was initially qualified.
 - e) If residents were relocated during the rehabilitation process, detailed records of transfers sufficient to support the accuracy of credits claimed.
4. The LIHTC Building Identification Number (BIN) for each building [Chapter 7].
5. If an LIHTC development includes more than one building, the number and address of each of the buildings comprising each LIHTC "project" within the development [Chapter 7].
6. The LIHTC minimum set-aside and other set-asides elected: 20-50, 40-60 or Average Income [Chapter 7].
7. The number of LIHTC and HOME/NHTF units. If HOME, which of the HOME units are designated as Low and High HOME [Chapter 7].
8. If the HOME/NHTF units are fixed or floating [Chapter 7].

9. The LIHTC Applicable Fraction: For each building, the percentage of the residential units and the percentage of residential floor space occupied by qualified residents [Chapter 7].
10. The year that the tax credit was first claimed for each building and/or the first year of the HOME/NHTF period of affordability [Chapter 8].
11. The start and end years of the LIHTC credit, compliance, and extended use periods and/or the HOME/NHTF period of affordability [Chapter 8].
12. The terms under which the tax credit reservation and/or HOME/NHTF commitment were made [Chapter 8].
13. The terms and conditions stated in the *Declaration of Land Use Restrictive Agreement for Low-Income Housing Tax Credits (LURA)* and/or the *HOME Investment Partnerships/Housing Trust Fund Agreement* [Chapter 8].
14. The terms and conditions applicable to regulatory agreements for other programs monitored by RIHousing.

C. Proper Administration and Record Keeping

The owner is responsible for the proper administration of the project. Resident income and rent records must be generated and retained for each building in the project for the duration of the LIHTC compliance and extended use periods as well as any HOME/NHTF or ancillary periods of affordability.

Owners must maintain records necessary for RIHousing to conduct compliance monitoring reviews and for the IRS and/or HUD to conduct any necessary audits. Records for the first year of the LIHTC credit period must be retained for a minimum period established by tax code [Chapter 9].

The records must include the following:

1. The total number of all residential rental units (both program and non-program) in the building, including the number of bedrooms and the size in square feet of each residential rental unit.
2. The percentage of residential rental units in the buildings that are affordable program units.
3. Designations used for each unit to determine the LIHTC Average Income Test for applicable properties.
4. The Low or High HOME and NHTF designation for all HOME/NHTF units.
5. The rent charged for each residential rental unit in the building and any fees charged.
6. The applicable utility allowance and supporting documentation for each program unit.
7. The number of occupants in each affordable program unit.
8. The unit vacancies in each building.
9. Documentation of when and to whom the next available units were rented (this information must include the unit number, resident name, move-in dates and move-out dates for all program and non-program residents).
10. The annual income certification of each eligible resident (as applicable).
11. Documentation to support each eligible resident's income certification.
12. The LIHTC eligible basis and qualified basis of the building at the end of the first year of the credit period.
13. The nature of the nonresidential portion of any LIHTC building included in the project's eligible basis under Section 42(d) of the code (resident facilities that are available on a comparable

basis to all residents and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).

D. Maintain a Project File

Owners must maintain a project file that contains all pertinent documents for the project.

RIHousing retains the right to inspect the documentation in the project files at any time, with proper notice to the owner/agent. The project file must contain:

1. A copy of the recorded LIHTC LURA and other program regulatory agreements.
2. A copy of the Management Plan.
3. A copy of the Tenant Selection Plan.
4. A copy of the Management Agreement.
5. LIHTC Forms IRS 8609, 8609 - Schedule A and 8586 for each building for each year tax credits are claimed.
6. Form 8703, as applicable to tax-exempt bond-financed projects.
7. HOME/NHTF affirmative fair housing marketing plan and records supporting the plan [Chapter 4].
8. VAWA policies and forms, including the Notice of Rights, Victim Cert, Emergency Transfer Plan, and Transfer Request. Records demonstrating VAWA compliance [Chapter 4].
9. For HOME/NHTF properties, record of compliance with RIHousing HOME/NHTF VAWA emergency transfer plan and related communication with RIHousing [Chapter 4].
10. All applicable regulatory documents relating to any other programs used to finance the property, such as HUD Section 8, Section 811, etc.
11. Documentation for each utility allowance review, which must occur at least once per calendar year [Chapter 3].

E. Maintain a Resident File for Each Unit in the Project

The resident file requirements are outlined in Part 2 of this manual. Files may be paper or electronic, as discussed in Chapter 9.

F. Reporting and Certification Requirements

1. Owners must submit a copy of fully executed LIHTC Form(s) IRS 8609 to RIHousing, once Part II is signed and dated.
2. Owners must submit and retain copies of the *Owner's Annual Certification of Continuing Program Compliance*, and related documents for each year of the LIHTC compliance period and HOME/NHTF period of affordability. The Owner's Certification must be submitted by the deadline published annually in RIHousing Notices.

G. Train On-Site Personnel

It is the owner's responsibility to ensure that the on-site management staff is sufficiently educated and compliant with all LIHTC, HOME, and/or NHTF provisions applicable to the project as well as any additional ancillary program layering. For LIHTC properties, at least one member of on-site management staff must attend training for LIHTC compliance annually. Proof of training must be submitted to RIHousing by

January 31 every year in accordance with RIHousing requirements. RIHousing reserves the right to apply a higher level of scrutiny and require additional training of the management agent if the Average Income Test is elected as the LIHTC project's minimum set-aside [Chapter 7].

H. Ensure Proper Maintenance

The owner is responsible for maintaining the property in a decent, safe, and sanitary condition, suitable for occupancy, and in good repair based on the HUD National Standards for the Inspection of Real Estate (NSPIRE) or successor protocols as applicable to specific housing programs. Failure to do so may result in reportable noncompliance [see Chapter 10].

I. Administration and Notification

The owner must notify RIHousing immediately in writing of any anticipated changes in the ownership composition including the general partner or managing member, or in the management agent. Changes in names, addresses, telephone numbers, and federal identification numbers must also be reported.

Upon receipt of notification of such a change from the owner, RIHousing will provide further instructions and forms or a list of documents that need to be completed and returned for approval prior to closing.

The owner is responsible for informing RIHousing of any event that might affect the project's credit throughout all phases of development, rent-up, and the LIHTC extended use period and/or HOME/NHTF period of affordability. This includes but is not limited to the initial phases of construction, placed-in-service dates, and the completion of buildings.

J. Declaration of Land Use Restrictive Agreement (LURA) and HOME/NHTF Agreements

Prior to claiming tax credits, an approved RIHousing Declaration of Land Use Restrictive Agreement (LURA) must be recorded and in effect as of the end of the taxable year in which credits are claimed. HOME and NHTF Agreements must also be registered timely with the applicable deed authority.

The Property Manager

A. General

The management company and all on-site personnel are responsible to the owner for implementing the program requirements properly. Anyone who is authorized to lease program units should be thoroughly familiar with federal and state laws, rules, and regulations governing affordable housing program certification and leasing procedures. It is also important that the management company provide

information to RIHousing, as requested, and submit all required reports and documentation in a timely manner.

B. Noncompliance

If the management company determines that the project is not in compliance with program requirements, the management company should correct the noncompliance upon discovery whenever possible.

Correction of LIHTC noncompliance matters prior to receiving notification from RIHousing of a pending scheduled file and or physical review demonstrates proper due diligence and the noncompliance will not be reported to the IRS by RIHousing on form 8823.

C. Compliance Training

Management staff must remain up to date on all IRS and HUD regulations and RIHousing policy changes that are published. This may be accomplished through the IRS and HUD web sites, several nationally known affordable housing training/consultation providers and RIHousing's web site. Owners/agents should also sign up for E-News updates and review past E-News and other notices on the Agency website.

New Management Entities

RIHousing will evaluate the acceptability of new management agents for properties it monitors. A Management Entity Profile must be submitted by the new entity. The Profile must include the following information:

1. Managing agent's corporate resume/profile. This document must include a complete, current list of properties managed by the proposed managing agent, type of property, number of units, location, type of subsidies (Section 8, Section 202, Section 236, LIHTC, Housing Trust Fund, etc.) and any relationships with any government entities.
2. For proposed projects that are, or will be, assisted by HUD/FHA (Section 8, Section 202, Section 236, etc.), evidence of HUD approved Previous Participation Certification (HUD Form 2530) must be submitted.
3. A resume of the site manager and regional manager assigned to the project, including their relevant training/experience/certifications applicable to managing LIHTC and/or HUD projects, as applicable.
4. An organizational chart of the proposed management company, clearly identifying the personnel assigned to the project and their supervisors, together with reporting lines to the principals of the management company.
5. The most recent audited financial statements for the management entity.
6. A list of both owner and government agency references.
7. Proposed Management Plan.
8. Proposed Tenant Selection Plan.
9. Proposed Management Agreement.
10. If owner of LIHTC property intends to use the Average Income Test minimum set aside, management company must complete and submit AIT Worksheet and receive authorization from RIHousing prior to closing.
11. Evidence of insurance coverages in accordance with RIHousing guidelines.

RIHousing

RIHousing allocates and monitors compliance with the LIHTC program for Rhode Island. It also commits and monitors HOME funds and the NHTF. The primary compliance-related responsibilities of RIHousing are as follows:

A. Prepare Regulatory Agreements

For LIHTC projects, RIHousing will prepare a Declaration of Land Use Restrictive Covenants (LURA) prior to the issuance of the IRS Form 8609. The LURA is an encumbrance on the property. This document must be recorded before the end of the calendar year in which credits are first claimed. It is typically recorded in conjunction with the closing of the project. HOME and NHTF Agreements will also be issued by RIHousing timely.

B. Issue LIHTC IRS Form 8609 (Low-Income Housing Certification) Part I

Upon receiving a CPA-prepared cost certification for each LIHTC building, RIHousing will complete and execute Part I of an IRS Form 8609 and send it to the owner.

If rehabilitation and acquisition credits are claimed on the same building, the rehabilitation and acquisition credits are each calculated separately. Therefore, the acquisition and rehabilitation will receive separate Forms 8609 [see Chapter 11].

The owner completes and executes Part II of the 8609 and submits it to the IRS when the owner's personal, partnership or corporate tax returns are filed for the first year. Refer to the most current 8609 instructions to determine when and how a copy of the 8609 must be submitted. A copy of each fully executed 8609(s) must be forwarded to RIHousing for their records.

Owners should consult with their legal and/or tax advisors for advice on completing and filing the IRS tax forms. RIHousing cannot provide legal or tax advice on the filing or completion of tax forms.

C. Review Annual Owner Certification of Continuing Program Compliance and other required reporting

RIHousing provides the annual owner's compliance form along with an invoice for compliance monitoring fees to the owner/managing agent. The completed compliance form is analyzed, and the owner is contacted if questions arise. Payments of compliance fees are required annually and are monitored by RIHousing staff.

D. Conduct On-site Monitoring

RIHousing is required by the IRS, HUD, and federal regulations for ancillary programs to conduct in-depth, on-site inspections of all buildings and to review a percentage of family/unit files in each project [Chapter 10].

E. Notify the IRS of LIHTC Noncompliance

RIHousing will provide written notification to the owner for items of program noncompliance and assign an allowed correction period. The correction period cannot exceed 90 days from the date of the notice of noncompliance but often will be less (typically 30 days), depending on the nature of the noncompliance. RIHousing may extend the correction period for up to six months, but only if RIHousing determines there are extenuating circumstances creating good cause for granting the extension. The owner/agent must supply documentation that verifies that the building is back in compliance before the end of the correction period. Note: Communication about noncompliance with the HOME, NHTF, PBRA and Section 811 discovered by RIHousing is handled directly between RIHousing and the owner/agent and is only reported to HUD in the most severe cases.

F. Use of Subcontractors

Regulations allow RIHousing to delegate compliance monitoring responsibilities. RIHousing may decide to retain an agent or private contractor to perform any of the responsibilities listed above. However, RIHousing must always retain responsibility for notifying the IRS of any LIHTC noncompliance of which it becomes aware.

G. Administration and Notification

Information regarding compliance is posted on the RIHousing website and updated regularly and includes annual compliance reporting requirements and documentation, required and sample forms, and Policy Notices.

Key LIHTC Form | 8609

The Form IRS-8609 signifies the official allocation of tax credits for a building. Part I is completed and executed by RIHousing; Part II is completed and executed by the owner. Below are pieces of crucial information found on the form, along with line numbers current to the 2025 Form. Note: these line numbers generally do not change but check the current form in case of changes.

Information	Form Line#	Why we need to know	See also Chapter
Address	A	Compare to BIN (line E) to ensure that rules are accurately applied to the correct building	7
Building ID# (BIN)	E	Identifies individual buildings	7
Deferral election	10(a)	Combined with the placed in-service date (line 5) establishes 1 st credit year	8
Eligible basis	7	Used with line 8(a) to calculate the applicable fraction	7
Minimum set-aside	10(c)	- Federal income and rent limits	3
		- If the Average Income Test applies	7
Multi-building election	8(b)	- Determining the start of income limits	3
		- To calculate minimum set-aside commitment	7
		- Determine if between-building unit transfers are allowed	6
Placed in service date	5	- Start of family qualification	4 & 11
		- Start of income limits	3
		- Start of 1 st credit year - along with deferral election (line 10(a))	8
Qualified basis	8(a)	Used with line 8(a) to calculate the applicable fraction	7
Type of credit	6	- Is the building new construction, acquisition, or rehab?	11
		- Is the building bond-financed?	7 & 12

8609 Low-Income Housing Credit Allocation and Certification

Form 8609 (Rev. May 2014)
Department of the Treasury
Internal Revenue Service

Go to www.irs.gov/Form8609 for instructions and the latest information.

Part I Allocation of Credit

Check Addition to Qualified Basis Amended Form

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

B Name and address of housing credit agency

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

D Employer identification number of agency

E Building identification number (BIN)

TIN

1a Date of allocation

b Maximum housing credit dollar amount allowable

2 Maximum applicable credit percentage allowable (see instructions)

3a Maximum qualified basis

b Check here if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(B). Enter the percentage to which the eligible basis was increased (see instructions)

4 Percentage of the aggregate basis financed by tax-exempt bonds. If zero, enter -0-

5 Date building placed in service

6 Check the boxes that describe the allocation for the building (check those that apply):
 Newly constructed and federally subsidized
 Newly constructed and not federally subsidized
 Existing building
 Sec. 42(e) rehabilitation expenditures federally subsidized
 Sec. 42(e) rehabilitation expenditures not federally subsidized
 Allocation subject to nonprofit set-aside under sec. 42(h)(5)

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

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

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

7 Eligible basis of building (see instructions)

8a Original qualified basis of the building at close of first year of credit period

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?

9a If box (a) or box (b) is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?

b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(i)(3)(B)?

10 Check the appropriate box for each election.
Caution: Once made, the following elections are irrevocable.
a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1))

b Elect not to treat large partnership as taxpayer (section 42(g)(5))

c Elect minimum set-aside requirement (section 42(j)) (see instructions):
 20-50 40-60 Average income 25-60 (N.Y.C. only)

d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

PART 2 | QUALIFIED FAMILIES

Chapter 3 | Income Limits and Rents

Selecting the Correct Income Limits

An important aspect of determining whether families are eligible for affordable housing is ensuring that their family income is at or below specific income limits; these limits differ by program (LIHTC, HOME, Section 8, etc.).

Annually, HUD publishes median income information for each county or Metropolitan Statistical Area (MSA) in each state. HUD MSAs are larger metropolitan areas that may include multiple counties in one “area.”

The LIHTC minimum set-aside for a project, which is also abbreviated *MSA* at times by the IRS, should be distinguished from the other MSA based on context (see Chapter 7 for a discussion of minimum set-asides). To avoid confusion, this chapter will spell out *minimum set-aside* in all cases.

HOME, the NHTF, and other HUD programs use income limits referred to as *Area Median Income* (AMI) limits.

The LIHTC and tax-exempt bond programs’ income limits are labeled by HUD as *Multifamily Tax Subsidy Program* (MTSP) limits.

The MTSP income limits can be found on the HUD website. As a service to its partners, RIHousing provides notices each year that list online resources to assist in determining income limits.

HUD datasets contain income limits separated into several categories for each MSA or county:

1. **50%** (very-low) income limits or **60%** income limits
 - Select the 50% or 60% limits based on the property’s minimum set-aside (20-50 properties use the **50%** limits and 40-60 use the **60%**).
2. **Average Income Test** designations
 - Use the **50** and **60%** limits above
 - Also uses **20%, 30%, 40%, 70%,** and **80%** income limits. HUD calculates these by multiplying the 50% (very-low) limit by .4, .6, .8, 1.4 and 1.6, respectively.
3. **HERA special** income limits – 50% and 60% (as applicable) to the area and minimum set-aside.
 - These limits can only be applied to projects for which at least one building in the project was placed in service prior to January 01, 2009.
 - Not all MSA’s or counties in Rhode Island have projects that are eligible to use the HERA special limits. If the HERA limits are not listed in the datasets for the project’s MSA or county income limits, the project is not eligible. Also, counties with HERA special limits change from year to year so it is best not to assume that if you had HERA special limits one year that you will automatically have them the next (or vice versa).

Holding Harmless. LIHTC income limits are said to be “*held harmless.*” This means that once a building places in service, it never has to decrease the income limits it uses from one year to the next. Being “held harmless” is beneficial to projects where income limits might fluctuate from year to year and helps the project to better achieve economic stability. For purposes of this rule, a project “places in service” when the first building in the project places in service. “Project” is defined by the 8609 8(b) multi-building election (see Chapter 7, *Minimum Set-Aside* for further information on the 8(b) election).

Question to determine if holding harmless at a prior year’s limits is appropriate:

- Has any year’s income limit since the later of 2008 or the property place in service date been higher than current limits?

If “yes,” the property holds harmless at the prior higher limits.

Questions to determine if HERA special limits are applicable:

- Was any building in the project placed in service prior to January 1, 2009?
- Does HUD list the *HERA Special* option for the area?

If “yes” to both questions above, the property may use the HERA special limit.

EXAMPLE Held Harmless Limits

2018 Income limits are published

Property 1 places in service and uses the income limits published for 2018.

2019 Published limits for the area decrease

Property 1 continues to use the 2018 limits.
Property 2 in the same area places in service in 2019. It uses the 2019 limits, which are lower than the limits allowable to older **Property 1**.

2020 Published limits decrease again

Property 1 holds harmless at 2018 limits.
Property 2 remains at the 2019 limits.

2021 Income limits go up and exceed the 2018 limits.

Both projects will now use the 2021 limits and hold harmless to those limits, if necessary, in the future.



LIHTC Rent Limits

LIHTC rent limits are based on bedroom size; they are 30% of the income limit calculated assuming 1.5 people per bedroom. As a service to its partners, RIHousing provides notifications each year that list online resources to assist in determining rent limits. Annual increases in rent are limited to a percentage by RIHousing policy. Check the Agency website for the current increase limit.

Tenant rent includes amounts a family is required to pay out of pocket (rent and other required charges) plus a utility allowance (if applicable). This amount cannot exceed the applicable rent limit for the appropriate unit size.

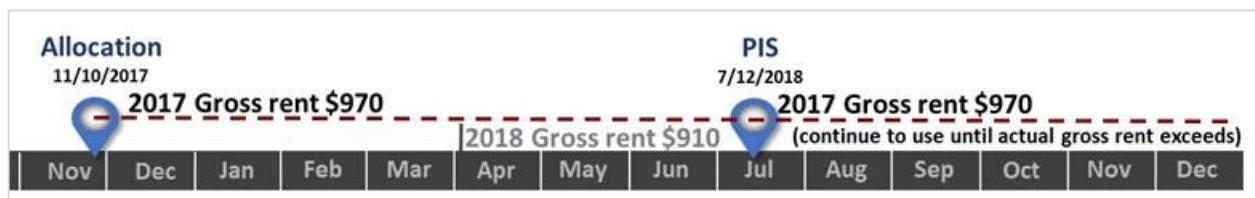
Subsidy received from Section 8, HCVP, Rural Development or other similar sources is not included in tenant rent. At times, the gross rent (tenant + utility allowance + rental subsidy) will be more than the LIHTC rent limit. Tenants receiving Section 8 project-based or tenant-based rental assistance pay 30% of the family’s adjusted income; the tenant portion of the rent may exceed the LIHTC rent limit if there is a rental subsidy. If at any point the family no longer receives the rental subsidy, the LIHTC rent limit applies.

LIHTC Gross Rent Floor

The gross rent “floor” establishes a minimum rent for a property based on the owner’s election of the gross rent amount on the date of either credit allocation or the placed in-service date. The election must be made no later than the placed in-service date. Income limits start to apply to a project when it places in service. If the limits have gone down between allocation and the time the property places in service, the owner/agent will not have to charge rents based on the lower income limits but will use the gross rent floor until rents based on the future income limits exceed the floor rents.

Note that income limits become effective once the first building places in service, so the gross rent floor could be higher than the gross rents based on the income limits in place on the placed in-service date. Because income limits hold harmless, there is no benefit to choosing the floor based on the placed in-service date; however, selecting to use the allocation date to determine the gross rent floor may provide benefit to the owner in case of income/rent limit decreases after the allocation, but before the project places in service. The default if the owner takes no action is for the gross rent floor to attach to the allocation date. Generally, owners will take no action, and the floor will apply at allocation.

EXAMPLE Gross Rent Floor



EXAMPLES Calculating Income and Rent Limits

STATE:RHODE ISLAND		-----I N C O M E L I M I T S-----							
PROGRAM		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Newport-Middleton-Portsmouth, RI HMFA									
FY 2018 MFI: 94100	VERY LOW INCOME	32950	37650	42350	47050	50850	54600	58350	62150
	60% INCOME LIMIT	39540	45180	50820	56460	61020	65520	70020	74580
	HERA Special 50%*	33100	37800	42550	47250	51050	54850	58600	62400
	HERA Special 60%*	39720	45360	51060	56700	61260	65820	70320	74880

Sample income limits used for the below examples

1. Calculating 20% - 80% Income Limits for 1-person family

Set-Aside	50% limit x adjusting factor	= Set-aside Limit
20%	x 0.4	= \$ 13,180
30%	x 0.6	= \$ 19,770
40%	x 0.8	= \$ 26,360
50%	\$ 32,950 x 1.0	= \$ 32,950
60%	x 1.2	= \$ 39,540
70%	x 1.4	= \$ 46,130
80%	x 1.6	= \$ 52,720

2. Calculating Rent Limits

Annual Rent Limits for 60% Units with an...

...Odd Number of Bedrooms

1 bedroom

1.5-person income limit (1.5 x 1BR) X 30%

Note: Since $1 + 2 \div 2 = 1.5$:
The 1-person limit + the 2-person limit $\div 2 =$
the 1.5-person limit

$\$39,540 + \$45,180 \div 2 = \$42,360$

$\$42,360 \times 30\% = \$12,708$

...Even Number of Bedrooms

2 bedrooms

3-person income limit (1.5 x 2BR) X 30%

$\$50,820 \times 30\% = \$15,246$

Annual rent limits are finally converted to monthly amounts by dividing by 12 (if cents are rounded, round DOWN rather than up).

$\$12,708 \div 12 = \$1,059 - 1 \text{ BR gross rent}$

$\$15,246 \div 12 = \$1,270.50 - 2 \text{ BR gross rent}$
OR $\$1,270.00$

HOME Income and Rent Limits

HOME units are identified as Low or High HOME. This determines the income and rent limits used for the unit. HUD CPD publishes the HOME limits on their web site. RIHousing also publishes a Program Bulletin with new HOME & HTF limits and posts on our website.

- **Low HOME** units house families below the HUD very low-income limit (50% AMI) and use the Low HOME rent limit. *If a HOME property has 5 or more HOME units, at least 20% of the HOME units (rounded up to the next whole unit) must be Low HOME. For example, a project with 5 HOME units must have at least 1 Low HOME unit. If the project has 6-10 HOME units, at least two units must be Low HOME. At 11 HOME units, three Low HOME units are required.*

Starting with the 2025 HOME Final Rule

- Families in Low HOME units with rental assistance pay the rent required by the assistance program.
- If the property is also LIHTC, then the LIHTC rent, based on the LIHTC minimum set-aside, applies to Low HOME units.
- **High HOME** units house families at or below the HUD low-income limit (80% AMI) and use the High HOME rent limit.

Starting with the 2025 HOME Final Rule

- Families in High HOME units with rental assistance pay the rent required by the assistance program.

Tenant rent includes amounts a family is required to pay out of pocket (rent and other required charges) plus a utility allowance (if applicable). This amount cannot exceed the applicable rent limit for the appropriate unit size. Within the published HOME limits, ***the actual HOME rents used by a HOME-assisted development must be approved each year by RIHousing.***

HOME rents are never required to go below the original approved HOME rents for the project. Other than that original HOME rent floor, HOME limits do not hold harmless from one year to the next as the LIHTC limits do. Rents must be reduced for all HOME units by the effective date if the published limits for a year decrease to below the PJ-approved rent.

Starting with the 2025 HOME Final Rule, rental subsidy received from federal ***tenant-based***, or state or federal ***project-based sources*** such as Section 8, Housing Choice Vouchers, Rural Development, or other similar programs is not included in tenant rent when determining HOME compliance. For these programs, rent is calculated based on 30% of adjusted or 10% of gross family income. Often, gross rent (tenant + utility allowance + rental subsidy) will be more than the HOME rent limit. The subsidy is not counted as part of the HOME rent, so there is no limit on the amount of subsidy the owner can collect if the other program is allowed to pay it. The tenant portion of the rent may also exceed the HOME rent limit if there is a rental subsidy. If at any point the family no longer receives the rental subsidy, the usual HOME rent limit applies. In these ways the HOME rent rules for rent-assisted families match the LIHTC and NHTF programs.

NHTF Income and Rent Limits

HUD CPD publishes the NHTF limits on their web site. NHTF income limits are called extremely low-income (ELI) limits. ELI for the NHTF is the higher of 30% AMI or the poverty level for an area. These are not capped

at the 50% limits and so are different from ELI limits for Section 8 and other HUD programs. It is important for an owner/agent to use the correct ELI limit for NHTF purposes and not the Section 8 ELI. Tenant rent includes amounts a family is required to pay out of pocket (rent and other required charges) plus a utility allowance (if applicable). This amount cannot exceed the applicable rent limit for the appropriate unit size. The NHTF also has maximum rent limits published by HUD CPD. Within these limits, **RIHousing must approve the actual rents used for NHTF units each year.**

Similar to HOME, NHTF limits do not hold harmless from one year to the next as the LIHTC limits do. Rents must be reduced for all NHTF units by the effective date if the published limits for a year decrease to below the PJ-approved rent.

Rental subsidy received from federal or state **project-based sources** such as Section 8, Rural Development or other similar programs is not included in tenant rent when determining NHTF compliance. For these programs, rent is calculated based on 30% of adjusted family income. Often, gross rent (tenant + utility allowance + rental subsidy) will be more than the NHTF rent limit. The subsidy is not counted as part of the NHTF rent, so there is no limit on the amount of subsidy the owner can collect if the other program is allowed to pay it. The tenant portion of the rent may also exceed the NHTF rent limit if there is a rental subsidy. If at any point the family no longer receives the project-based rental subsidy, the usual NHTF rent limit applies. In these ways the NHTF rent rules for project-based rent-assisted families match the LIHTC and HOME programs.

Other Program Income Limits

Each program RIHousing monitors has specific income limits, and many have rent limits. Alternatively, they may provide rent that is calculated based on income combined with subsidy. See the programs listed in Chapter 1 for the income limits applicable to each ancillary program.

Utility Allowances

What families pay for rent and utilities must be kept at or below the maximum rent limits. However, in actual practice, it is impossible to know what utility usage will be for any specific month. To deal with this, affordable housing units in which residents pay utilities out of their pockets must have utility cost estimates calculated per unit size. These are *utility allowances* (UAs). Resident-paid utilities commonly include electricity, water, sewer, oil, gas, and/or trash. Costs which are not required as part of tenancy such as telephone, cable TV and internet service are considered optional and are not included in the UA. The rent that a tenant pays plus the UA and other required charges must not exceed the program rent limits (see exceptions above for units with a rental subsidy).

When all utilities are included in the family's rent, there is no UA.

EXAMPLE UAs and Rent

If the maximum program rent on a unit is \$789 and the tenant pays utilities with a UA of \$68 per month, the maximum rent chargeable to the family is \$721.

\$721 (\$789 - \$68)

UA Calculation Methodologies

When utilities are not included in the family rent, the IRS, HUD, and RIHousing allow the UA to be calculated using the following methods:

Note: effective with the 2025 HOME Final Rule, all the below options are available for HOME, and the same UA is applicable for HOME, LIHTC, and NHTF purposes.

1. UAs calculated for other program purposes.

a. RD-regulated buildings

Rural Development (RD) is part of Rural Housing Services (RHS), a division of USDA that provides housing and other services to rural areas. If a building or any unit in a building receives assistance from Rural Development (RD), the UA that is calculated as part of the RD annual budget for the building will be used for LIHTC, HOME, and/or NHTF purposes for all affordable units. The RD allowance will be used even for units that have HUD project-based or Housing Choice Voucher assistance.

b. HUD-regulated buildings

If a building or any unit in it does not have RD funding (see above) and is regulated by HUD (such as section 8 or HOME), the HUD-regulated project-based UA will apply. The HUD-regulated UA will be used even for any families with Housing Choice Vouchers.

c. PHA estimate

Residents who have a Housing Choice Voucher have a UA that is calculated by a Public Housing Authority (PHA) as part of the Voucher rent calculation. This UA must be used for Voucher holders at buildings that are not otherwise regulated by RD or HUD programs. Owners/agents must contact the PHA to determine if the UA has changed at least every 60 days and notify RIHousing when there is a change. Additionally, the UA estimates from any local PHA that provides Vouchers to the property can be used for all units in a building that are not regulated by RD or HUD. If used, these estimates must be updated within 90 days of their effective date.

2. If a project is not RD- or HUD-regulated, and the owner does not use a PHA estimate, then the following options are available in Rhode Island.

a. **LIHTC allocating agency estimate.** An owner/agent may obtain a utility estimate for each unit type in the building from RIHousing. The estimate is obtained when the building owner receives, in writing, information from RIHousing providing the estimated per-unit cost of tenant-paid utilities for units of similar size and construction for the geographic area in which the building is located.

b. **Utility company estimate.** Any interested party (including a tenant, a building owner or RIHousing) may obtain a UA estimate from a local utility company. The utility company must offer utility services to the building for that utility company's rates to be used in calculating a UA. If there are multiple utility companies that offer services to a building, an interested party may select any one of them.

- c. **HUD Utility Schedule Model (HUSM).** The owner/agent can calculate the UA using a spreadsheet and web page developed by HUD for LIHTC and HOME use, even if the project does not have HUD assistance. HUSM enables users to calculate utility schedules by housing type after entering utility rate information. This model is based on climate and survey information from the Department of Energy and incorporates energy efficiency and Energy Star data, if applicable to a property. The HUSM and user instructions can be accessed on the HUD website below.

www.huduser.gov keyword search "Utility Schedule Model"

Energy Consumption Model (ECM). RIHousing will approve a UA based on an energy and water and sewage consumption and analysis model prepared by a properly licensed engineer or an otherwise qualified professional; such engineers or professionals must be independent from the project owner. IRS regulations specify building factors that must be included in the energy consumption model. Should the owner/agent choose to employ the services of an otherwise qualified professional without proper engineering licensing, the owner must obtain prior approval from RIHousing. RIHousing reserves the right to approve or disapprove an energy consumption model or require additional information prior to permitting its use.

Sub-metered and renewable energy utilities. Utility charges that are sub-metered are based on a family's actual energy consumption; these are treated as being paid by the tenant to the utility company even if the owner collects the sub-metered utility payments because the owner ultimately pays the utility company for the utilities. Owners can, therefore, calculate a UA estimate for utilities that are sub-metered. Owners may also charge a very small fee (such as \$5), under a limit published by IRS Notice, for the work of submetering. IRS Notices should be monitored for the current allowable fee by owner/agents who submeter.

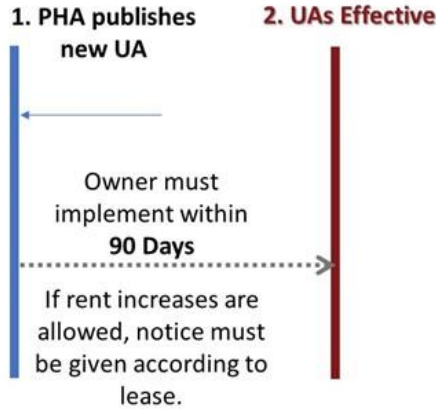
The regulation extends the principle of the sub-metering rule to property owners that provide families with energy directly acquired from a renewable source and that is not delivered by a local utility provider. UA's can be calculated for these renewable energy utilities if the rates charged for renewable energy are not greater than other options available through local utility providers.

Updates. UAs must be updated once every calendar year. For example, a review in March of 2025 followed by one in November of 2026 would meet the calendar year requirement. Copies of UA documentation must be retained on site in the project file. The building owner must retain supporting documentation used to calculate allowances as part of their records.

Tenant notification "the 90-day period." Two types of UA's, those that are RD- and HUD-regulated, must be posted for tenant review according to the applicable RD or HUD rules. For other UA calculation methods, if the applicable UA changes, the owner must begin preparing for the change 90 days prior to the effective date. Owner/agents are required to implement and document the following: (1) families and RIHousing must be timely notified 90 days prior to new UA's being effective, and (2) the new UA must be used to compute gross rents effective the first day immediately following the 90-day period. Any rates and other data used must be current within 60 days of the start of the 90-day period. Failure to implement any changes to the UA may affect the LIHTC, HOME, and/or NHTF gross rents, which could cause the gross rents to exceed the applicable rent limit and create rent noncompliance. For most UA estimate methods, the owner/agent initiates the UA calculation. However, for estimates completed by the local Public

Housing Authority (PHA), the PHA calculates and publishes these UAs on their own schedule; for this UA option, the 90-day period begins when the PHA estimates are effective. Rents may need to decrease by the end of the 90-day period in cases where the PHA-published UAs increase. Copies of the notification of UA changes must be retained in tenant files. ***It is not required to adjust the TIC between annual certifications.***

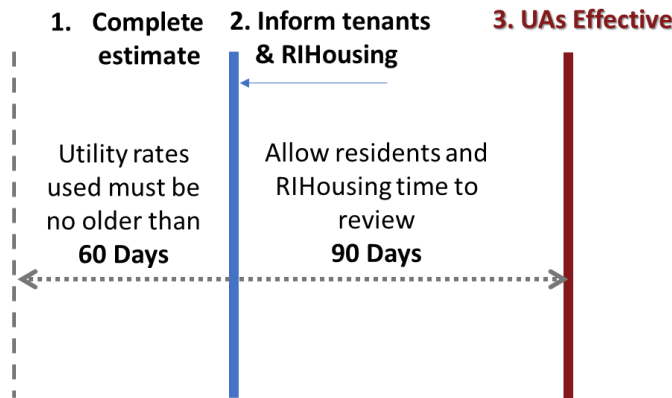
Utility Allowance Timeline (PHA UAs)



EXAMPLE Utility Allowance Timeline

1. **June 3** The PHA makes available a new UA.
2. **Sept 1** UAs take effect and must be used for September rents.

Utility Allowance Timeline (non PHA UAs)



EXAMPLE Utility Allowance Timeline

1. **Oct 1** An estimate is conducted and completed or provided by RIHousing.
(Utility rates used must be in effect no earlier than on August 2).
2. **Oct 3** Residents are informed of new proposed UAs.
(Estimate not provided by RIHousing must be submitted to RIHousing, who will review and comment, if necessary)
3. **Jan 1** UAs take effect and must be used for January rents.

Lease-ups. RIHousing requires that a UA must be established no more than 120 days before the start of a lease up. No review and change to these initial UA's are required until a building has achieved 90 percent

occupancy for a period of 90 consecutive days, or by the end of the first year of the credit period, whichever is earlier.

If a UA review is to be completed at the end of the year **using any methods other than the PHA estimate**, the consumption rates as of December 31 of the first year of the credit period apply and can be used to calculate a UA for up to 60 days. Consequently, the 90-day period will begin no later than March 1 of the year after the first year of the credit period and the new UA must be effective for rents in June after the 90 days expire.

If a UA review is completed at the end of the year **using the PHA estimate**, the 90-day period will begin January 1 and end March 31 of the year after the first year of the credit period. The new UA must be effective for rents in April.

RUBS utilities. The IRS has offered several alternatives for calculating UA's for LIHTC buildings that RIHousing also allows for HOME and NHTF purposes. However, the IRS and RIHousing does not recognize Ratio Utility Billing System ("RUBS") as an acceptable method for determining UAs. Utilities in a RUB System are simply split among units evenly per a ratio based on the number of total units, square footage, or other methods – not based on what a specific unit is likely to consume for utilities. Utilities paid through a RUBS cannot be used when determining UAs for a building. Rather, the RUBS billing would have to be added to the rent for each unit to determine rent compliance each month. An owner would have to cap the RUBS billings so that rents and RUBS charges never exceed LIHTC, HOME, and/or NHTF max rent any specific month. This method creates uncertainty and risk to the tax credit and other funding and is highly discouraged in Rhode Island.

Helpful Utility Allowance Reminders

Summary of Important UA Rules

- RIHousing applies the LIHTC UA rules to HOME and the NHTF.
- RIHousing publishes the allocating agency estimate UA annually.
- The Owner determines the unit types in each building.
- The Owner decides which UA calculation method to use and uses it consistently throughout the building each year.
- The Owner may change methods from one year to the next
- RIHousing approval is not required for LIHTC purposes unless the ECM method is chosen.
- RIHousing approval is required each year for HOME and NHTF buildings and will be used for all LIHTC units as these are HUD-regulated buildings.
- The owner must give tenants a 90-day notice of a UA change for all UAs other than the PHA estimate.
- New UAs go into effect 90 days after notice for all but the PHA estimate. PHA estimate changes must give enough notice of any resulting rent increases per the lease.
- If using the PHA method, the owner must ask the PHA every 60 days if the UAs have changed and implement any changes within 90 days of the change.
- RIHousing must be notified via email of any change in UAs other than the PHA estimate at least 90 days before implementation. RIHousing must be informed of PHA estimate changes at the same time residents are informed.



Understand and implement the 90-day rule!

For PHA estimates: Make sure to ask the PHA every 60 days if the UA has changed. If the UA has increased, and the new UA plus the rent plus other required charges are over the LIHTC, HOME, or NHTF rent limit, the rent needs to be lowered no later than 90 days after the date of the UA change. *Keep documentation of the PHA's responses to inquiries in the project file.*

All other estimates: RIHousing and tenants must be notified of the new UA 90 days before any change in rent is implemented. These must be approved by RIHousing for HOME and NHTF purposes. *Keep copies of the notifications in tenant files.*

1. HOME and/or the NHTF.

As HOME and the NHTF are HUD-regulated programs, HOME UA's must be used for all tax credit units in buildings with HOME or NHTFs funds that are not RD-regulated.

2. Voucher holders

Unless a building is RD- or HUD-regulated (including HOME funds and NHTFs), the PHA UA that comes with a Housing Choice Voucher must be used for units that Voucher holders live in. As mentioned in a previous section, the PHA estimate may also be used for all units within the building, even if the remainder of the units receive no rental subsidy.

Chapter 4 | INITIALLY QUALIFYING FAMILIES

There are certain measures that can be taken to ensure that a family qualifies for an affordable housing program unit. Owners/agents must take the steps listed below to complete the certification process.

Compliance Steps to Qualify a Family

1. Accept a completed application including an income and asset questionnaire.
2. Verify eligibility factors.
3. Clarify and verify student status, as necessary.
4. Determine number of family and household members.
5. Calculate family income.
6. Compare family income to the applicable income limit.
7. Complete a Tenant Income Certification (TIC).
8. Execute a lease and other paperwork, per property policy.

This Chapter will discuss steps 1-3 as well as details about leasing, per step 8. Chapter 5 will discuss steps 4-7. Please note, Chapter 3 discussed the income limits referred to in step 6.

Questionnaire/Applications

Upon beginning the certification process, an interview (or interviews) should be conducted with all adult family members.

Compliance Steps to Qualify a Family

- 1. Accept a completed application including an income and asset questionnaire.**
2. Verify eligibility factors.
3. Clarify and verify student status, as necessary.
4. Determine number of family and household members.
5. Calculate family income.
6. Compare family income to the applicable income limit.
7. Complete a Tenant Income Certification (TIC).
8. Execute a lease and other paperwork, per property policy.

The basics of the housing program(s) at the property should be explained. Some suggested topics are:

- Income limits.
- Student eligibility rules.
- The anticipated income of all family members occupying the unit must be verified, so this basic information must be included on the application and/or questionnaire with all questions thoroughly answered.
- Eligibility will continue to be reviewed on an annual basis with some level of annual certification. This may include income certification and *always* includes student status.
- Specific to your property and residents: Over time, agents develop a list of issues that commonly come up at their property. If a property is near a school, for instance, extra time may need to be spent explaining student status and student financial assistance rules. Another example may be that some agents find that many people have a hard time understanding the complex asset rules. Preparing extra guidance on such topics may ensure that the family is enabled to provide complete and accurate information for the purpose of a thorough certification.

It is important to ask only questions related to the eligibility of the family and written screening criteria policies. Only fair-housing compliant screening criteria are allowed, including income minimums, credit checks, and criminal background checks. As a reminder the State of Rhode Island prohibits landlords from charging a rental application fee. Landlords are still permitted to charge applicants for the actual cost of conducting (1) a credit check, or (2) a criminal background check unless the applicant has provided a credit report and/or criminal background check dated no more than 90 days prior to the date of application.

Anyone who wishes to be admitted to an assisted property or placed on a property's waiting list must complete an application which identifies the specific property name where they are applying. Owners may choose to use a "full" application form, requiring all the detailed information needed to make a determination of eligibility, or a shorter preapplication form. If only a preliminary application has been completed, a full application should be completed at the time a unit is available.

A well-designed application/questionnaire will address student status and income and asset eligibility detailed in this chapter, Chapter 5, and HUD guidance. The application must be completed by the family, and the file must be sufficiently documented to support family eligibility for purposes of meeting program requirements. Industry best practice is for the application questions to be in the form of a "yes" or "no" checklist with additional space for further information for answers marked "yes;" this format best establishes a definite answer to each question. RIHousing does not require a specific application packet, recognizing that owners/agents are in the best position to design application forms that meet the needs of their properties and programs.

The application /questionnaire must be signed by all adult family members; no question should be left blank. Questions relating to minor dependents in the family must be answered by the adult responsible for the child.

To ensure that applicants are appropriately and fairly selected for the next available unit, it is essential for owners to maintain waiting lists with appropriate information taken from the application for tenancy. To ensure that all applicants are treated fairly, the tenant selection plan must describe how the waiting list is maintained. Keeping the waiting list as up to date as possible will help reduce errors and minimize the administrative resources expended on processing information regarding applicants who are ineligible or no longer interested in residing in the property. Owners may require applicants to contact the property every six months to stay on the waiting lists.

Owners should monitor the vacancies in their properties and their waiting lists regularly to ensure that there are enough applicants to fill the vacancies. Furthermore, owners should monitor their waiting list to make sure that they do not become so long that the wait for a unit becomes excessive. The waiting list may be closed for one or more unit sizes when the average wait is excessive (one year or more). When the owner closes the list, the owner must advise potential applicants that the waiting list is closed and refuse to take additional applications. When the owner agrees to accept applications again, the notice of this action must be announced in a publication likely to be read by potential applicants in the same manner as the notification that the waiting list was closed.

Occupancy Standards and Other Owner Criteria

An owner must adhere to occupancy standards that establish how many people can occupy a unit in accordance with local and state law. For example two people per bedroom plus one additional person per unit is common; however, an owner must take into consideration several factors specific to the property

such as the size of the rooms and total square footage. Occupancy standards must meet Fair Housing guidelines and be consistently applied. RIHousing will not formally approve occupancy standards for an owner but will review them to ensure that they are in place and may question a policy that appears to underutilize units. Occupancy Standards must be indicated in the Tenant Selection Plan.

Tenant Selection Plans

To ensure that each applicant is treated fairly and that program requirements are met, owners/agents must adopt and make public a Tenant Selection Plan (TSP). The TSP must detail policies and procedures used to select, screen, and admit applicants. Refer to HUD Notice 2023-10 *HOTMA Implementation* (as amended Feb. 2024) and Handbook 4350.3 Rev 1 Chapter 4 for further guidance. The TSP should include a section for each housing program with details on how applicants for these may be treated differently. For example, Section 811 units have a unique referral process where applicants are referred to sites through a waitlist that RI Housing and BHDDH maintain. The Agency also may provide guidance, such as helpful checklists, on its website. The TSP must also include policies for applying the Violence Against Women Act (VAWA) protections. They must be current and readily available. Note: on April 4, 2016, HUD FHEO issued guidance on “Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions”. This guidance prohibits the use of arrest records and the blanket denial of persons with felonies – without regard for specific crime types and time since the crime was committed – as screening criteria in a TSP. Owners are encouraged to implement this or other applicable fair housing guidance when developing a TSP for a property.

RIHousing must review a TSP prior to real estate closing; however, to ensure compliance with Fair Housing and RI General Landlord/Tenant Laws, the owner should seek advice from legal counsel. RIHousing will make recommendations to the owner after completing its review. After that, owners/agents must review the TSP every 5 years and update it if any changes are needed.

Property/Management Rules (House Rules)

Beyond the affordable housing program requirements, an owner/agent will have clear written expectations for property residents, often called *House Rules*, *Property Rules & Regulations*, or similar. Each family is provided these rules and acknowledges receipt prior to occupancy. In many cases, the House Rules are an attachment to the lease agreement.

Any changes to the House Rules should be communicated to residents prior to the changes being implemented. Family receipt of proposed changes should also be documented in the tenant file. Although there may be as many rules as an owner/agent sees fit to implement, none of them may conflict with any compliance provisions of federal affordable housing regulations or the Fair Housing Act.

Availability to the General Public

The Tax code is clear, in that LIHTC units must be “available to the general public,” which has two implications: (1) there is a substantial limit on occupancy preferences or restrictions; and (2) the property must meet Fair Housing standards. These principles also apply to HOME and other affordable housing programs.

RIHousing requires that all program developments advertise on <http://www.housingsearchri.org/>, regardless of whether there are vacant units.

Occupancy Preferences or Restrictions

Fair housing does not prohibit restrictions or preferences being applied to applicants that do not relate to federally protected classes. The LIHTC General Public Use provisions, however, are more restrictive than Fair Housing. Housing for certain trade groups, for instance, is prohibited for LIHTC properties, but allowable under Fair Housing. For example, restricting or giving occupancy preference to police or teachers would not be acceptable for LIHTC units, unless these groups are included in one of three exceptions. Occupancy restrictions or preferences are only allowed for LIHTC units for persons (1) with special needs, (2) who are members of a specified group under a federal or state program or policy that supports housing for such a specified group, or (3) who are involved in artistic or literary activities. Before an owner/agent implements any occupancy preference or restriction at an LIHTC property, they should ensure that it meets one of these types.

Fair Housing

Violation of the Fair Housing Act can result in the loss of tax credits or other federal funding when there is a final adverse *determination of actual discrimination* by an agency, including HUD, a state or local Fair Housing agency substantially equivalent to HUD, or a federal court. A violation has not occurred when there is an *accusation* of discrimination or when there is a conciliation agreement between an owner, a complainant applicant/resident and HUD.

The Violence Against Women Act

The Violence Against Women Act (VAWA) is a federal law that provides funding and management requirements designed to protect victims of certain violent crimes. The name of the Act reflects the statistical reality that women are far more often the victims of reported violence, but the provisions of the law apply equally to all victims regardless of gender. VAWA covers victims of domestic or dating violence, sexual assault, or stalking.

VAWA reauthorizations in 2005, 2013, and 2022 progressively added housing provisions. The 2005 version affected Section 8 programs and public housing. The 2013 reauthorization greatly expanded the housing programs covered by the Act to include most of HUD multi-family housing programs, including HOME. It also added LIHTC and Rural Development-funded housing. The 2022 VAWA bill expanded VAWA coverage to all current and future federal affordable housing programs that involve income and rent restrictions. It also imposed the same penalties for violation of VAWA as apply to Fair Housing. The most recent final VAWA regulation and forms were released by HUD in 2016 and 2025, respectively. Follow-up guidance to the 2016 regulation was published in June of 2017 (Federal Register Vol. 81, No. 221, and HUD Notice H-2017-05). The regulation is directly applicable to HUD programs, including HOME and the National Housing Trust Fund. Rural Development also adopted the HUD guidance. For technical reasons, the IRS is unlikely to provide any guidance, and the tax credits are not directly at risk if an owner does not apply VAWA rules. However, VAWA law still applies to LIHTC properties and noncompliance with VAWA creates legal exposure. RIHousing encourages owners/agents to become familiar with the HUD regulations and forms used at application and other times and apply these to their LIHTC properties. Although lack of compliance with VAWA is not grounds for LIHTC noncompliance and loss of tax credits, there have been violations of VAWA that HUD determined were disparate impact discrimination under the Fair Housing Act based on a protected class such as sex, race, or national origin. If HUD finds a VAWA violation to also violate Fair Housing, then credits are at risk (see section on “Fair Housing” above). This should make an

owner realize the importance of applying VAWA guidance and forms as spelled out by HUD even if the IRS is unlikely to address the matter.

Verification [note: this section reflects important HOTMA changes]

Crucial eligibility factors must generally be verified using documents prepared by knowledgeable third parties, such as an employer for earned income, or a financial institution to identify types of accounts, their applicable net

Compliance Steps to Qualify a Family

1. Accept a completed application including an income and asset questionnaire.
- 2. Verify eligibility factors.**
3. Clarify and verify student status, as necessary.
4. Determine number of family and household members.
5. Calculate family income.
6. Compare family income to the applicable income limit.
7. Complete a Tenant Income Certification (TIC).
8. Execute a lease and other paperwork, per property policy.

(cash) value, balance, and interest rate. The verification must be an **unaltered** document prepared by the third party. For employment, for instance, this is usually pay stubs. For a new job where pay stubs do not exist or are otherwise unavailable, then a form completed by the employer may be needed. Note that simple paychecks or copies of paychecks are not sufficient, as these reflect net rather than gross income. The accompanying pay stubs with gross income and all deductions listed are required. The owner/agent must review the document for signs of authenticity, as applicable, such as original signatures on signed documents and authentic contact information. To establish authenticity, printouts from websites must clearly identify the website URL, usually with the company name in it; this is found in the header or footer of the printout from the internet. In all cases, the verifications used must establish enough information to accurately calculate income and determine other eligibility factors.

EXAMPLE Authentic Verifications

1. An owner/agent uses printouts of an applicant's bank statements to verify information about the family's balance and income. The printout contains the URL, which is *https://: name of the bank.com* in the footer.
2. An owner receives a scanned completed verification of employment for a new job via email from an employer. The email address that the verification comes from contains the name of verifier followed by *@name of the employing company.com*.

These are signs that support the authenticity of verifications used.

RIHousing looks for the following methods of verification:

1. For **earned income**, two months of recent consecutive pay stubs. The most recent pay stub must be no more than 120 days old on the effective date of a certification. Also allowed is Information obtained from Equifax's *Work Number for Everyone* service or a printout from another private or government database. Finally, a letter of employment offer is acceptable if it provides the needed income information. HUD's EIV (*Enterprise Income Verification*) is not an acceptable source to verify income for the LIHTC or HOME programs.
For **self-employment** and other business activity, the most recent tax return may be used. If a return was not filed, documentation establishing net income must be gathered. When tax returns are used, the return with corresponding official tax forms and schedules attached and including

third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are acceptable.

2. For **unearned income** such as pensions, social security, unemployment, child support/alimony, temporary disability benefit, the Social Security benefit award letter covering the year being verified (dated or un-dated); unemployment benefit letter, temporary disability letter, child support printouts, bank statements, or similar documentation.
3. For **assets**: bank statements, investment statements, real estate listings from online sources, mortgage deed, or similar documentation.
4. For **student status**, a copy of the report card, quarterly grades, diploma, registrar information, or other official documentation from the educational institution.
5. **Alternate documents. If the above is not available (such as for a new job where pay stubs do not exist, yet), a form completed by a third party.** The owner/agent must obtain the applicant/tenant's consent for the release of information before contacting third parties, or have the family provide the form to the third party and then return the completed form back to the owner/agent.
 1. For **earned income**, a verification form completed by the employer.
 2. For **unearned income** such as a pension, social security, unemployment, child support/alimony, temporary disability benefit, etc. a verification form completed by the source.
 3. For **Assets**, a verification form completed by the financial institution.
For **student status**, a verification form completed by the educational institution.
6. **Self-Certification.** The preferred verification method is documents prepared by a third party from the applicant/tenant or with written consent from the applicant/tenant. If third-party documentation of income or assets has been delayed or attempted to no avail, or is not possible, self-certifications made under penalties of perjury will be allowed. Self-certification or self-affidavit forms must be preapproved by RIHousing. Self-certifications of student status is not allowed for a student who attends school part-time and is the only person in a family who is not a full-time student. It is also not allowed when determining if an adult dependent is a full-time student and thus eligible for limiting earned income to annual dependent deduction. Student status must be verified with the school attended in these cases.

Notes:

- If an applicant does not yet have two months of consecutive pay stubs because they have recently started a job, the agent must thoroughly document the file explaining the situation and secure a new hire letter or verification of employment completed by the employer.
- If a verification documentation is incomplete and missing key information needed to establish eligibility, an owner/agent may document a clarifying phone or email conversation with the verifier. If documenting a phone conversation, the clarification record must include the date and time of the conversation and the name and title of the verifier as well as the clarified information.
- The tenant file must be documented to explain failed attempts to obtain third-party documentation.

HELPFUL HINT

Minimum Number of Paystubs Needed to cover 2 months

How often paid	Minimum Number of paystubs
Weekly	9
Bi-weekly	5
Semi-monthly	4
Monthly	2

Guidance in HUD Notice 2023-10 *Table J2 Verification Hierarchy* can be used as best practice for affordable housing program owners/agents relating to what forms of verification are allowed. When reviewing Table J2, it is important to note that HUD has an internet-based income verification system, *Enterprise Income Verification (EIV)*. EIV is used to verify income information *at recertification*. EIV is available to HUD rental assisted property staff (but not for HOME or the NHTF purposes); its use is *for HUD PBRA program purposes only* and the income reports that EIV generates cannot be used as a basis for LIHTC, HOME, NHTF, or other program income calculations. Additionally, EIV reports must not be shown to RIHousing compliance staff who are not conducting a HUD Management Occupancy Review (MOR) or other independent auditors hired by owners/investors. Any reference to EIV in HUD guidance does not apply to the other affordable housing program and these forms should only be used by other program owners/agents if the property is also HUD-funded, and only for HUD programs, not for purposes of the other programs.

Table J2: Verification Hierarchy

Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	Highest PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination, unless using Safe Harbor documentation to verify the family's income
		EIV may be used as the sole verification of Social Security income. EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	Written, third-party verification from the source, also known as "tenant-provided verification" OR EIV + Self-Certification PHAs/MFH Owners can choose either option when both are available to verify income. PHAs/MFH Owners must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High <ul style="list-style-type: none"> Written, third-party verification is used when tenant disputes EIV-reported employment and income information. The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	Medium <ul style="list-style-type: none"> Use if Level 5 or Level 4 verification is not available or is rejected by the PHA/MFH Owner and when the applicant or tenant is unable to provide acceptable documentation. May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	Low <ul style="list-style-type: none"> Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000. May be used as highest form of verification when the family reports zero income.

Verification must be received no more than 120 days prior to the effective date of the certification that the verification relates to. If verifications are not date stamped, the signature or another identifying date on the form will be used to determine compliance with the 120-day timeline; otherwise, a verification's useful life may be limited. It is important to ensure that fax machines have accurate date settings, as tracking information at the top or bottom of a fax can be used to establish when it was received; date stamps are preferable even on faxes. Award letters for annual social security and other fixed income sources (which change only with an annual cost of living adjustment, if ever) are acceptable for certifications effective throughout the year the award letter covers, even if they are older than 120 days. This does not apply to SSI or other benefits which may change more often than once a year.

Voucher-Holders and PHA Determinations of Income

A Housing Choice Voucher is a form of tenant-based section 8 rental assistance (TBRA) provided by a local Public Housing Authority (PHA) to individual families. If documentation is received by an owner/agent from the PHA stating the PHA's determination of the family's income and composition (that is the number and names of family members), the documentation is considered third-party verification. The HUD 50058 certification form may be used as verification of the PHA's determination of income for LIHTC and HOME income certification, at the owner's discretion. However, this determination **must be used for families receiving TBRA in NHTF units**. This is also true for NHTF units with project-based rental assistance (PBRA). The PBRA certification form (such as the HUD 50059) **must be used for families receiving PBRA in NHTF units**. If it is not possible to obtain the 50058 (or 50059) from the family or PHA, a signed statement from the PHA indicating all family members and the family's gross annual income may also be used to verify income. The determination of income must have been completed within the last 12 months, as indicated by the effective date of the 50058 or 50059.

Note: the 50058 only verifies income. Other paperwork such as an application, student status paperwork and a TIC must also be included in the file. Student financial assistance *income* is covered in the PHA verification of income. However, such verification does not address LIHTC or HOME student *eligibility* status. Separate student eligibility verification must still be obtained (see Chapter 5 for further information on student financial assistance as income).

Other Means-Tested Program Determinations of Income

The IRS has allowed the use of PHA determinations of income for the LIHTC program for decades. With HOTMA, Congress added this approach to HUD programs and built on the concept by creating a "safe harbor" allowing the use of other means-tested program determinations of income that have been completed within the prior 12 months. RIHousing allows this for LIHTC and HOME purposes for all certifications and for the NHTF (except at move-in when full source document verification or a PHA determination is required). The means-tested safe harbor allows the use of income determinations of other programs that are federally regulated and monitored that have structured rules requiring qualification for the program based on a determination of family income (the program is "means-tested"). The rules that the other program uses do not have to be HUD's rules, nor does the owner/agent need to examine any of the underlying data used by the other program. The housing program income limits are still used, not the limits applicable to the other means-tested program. For instance, if a TANF determination of income is used for an LIHTC family, the TANF income determination may be used, based on TANF rules, but the LIHTC owner/agent will compare the TANF-determined income to the LIHTC income limit applicable to the unit. Means-tested programs allowed by HUD and RIHousing include:

- The Temporary Assistance for Needy Families block grant (TANF)
- Medicaid
- The Supplemental Nutrition Assistance Program (SNAP or "food stamps")
- The Earned Income Tax Credit (EITC)
- The Low-Income Housing Tax Credit (LIHTC)
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC)
- Supplemental Security Income (SSI)
- Other programs administered by HUD (HCV, HOME, Section 8 PBRA, Section 811, HOPWA, etc.)

Note: for vouchers administered by the PHA side of RIHousing, the 50058 form that documents

the PHA determination of income can be requested from the Agency if the family does not have the form in their possession.

- Other means-tested forms of Federal public assistance for which HUD may establish a memorandum of understanding.
- Other Federal benefit determinations made in other forms of means-tested Federal public assistance that HUD may determine has comparable reliability and announces through the Federal Register.

Documentation of another means-tested program determination of income may include a benefit letter or other evidence of the determination of income that includes the family composition (number of people in the family) and the amount of income determined. If the determination breaks down income into parts, the entire determination of family income must be used, not individual parts of the determination. For instance, the owner may not use the asset income part of a PHA determination and otherwise verify the other income. Evidence that the determination was made in the prior 12 months may be the effective date of the determination, the signature date of the family or administrator of the program, or other dated evidence.

When Family Assets Do Not Exceed the Asset Threshold

When the total net value of a family’s assets does not exceed the asset threshold for a year, third-party documentation of assets is not required, and self-certification is allowed. The asset threshold was \$50,000 when HOTMA became effective in 2024, but it is adjusted each year for inflation. Sometimes HUD refers to the threshold as “\$50,000, as adjusted” (see the next chapter for more information on assets). The family is required to complete an *Asset Self-Certification* form indicating that family assets do not exceed the current annual asset threshold. RIHousing’s form or a pre-approved form supplied by the owner/agent will be acceptable. The family uses the *Asset Self-Certification* form to disclose all asset information and/or whether assets were disposed of for less than fair market value. The *Asset Self-Certification* form must be completed and signed by the family, not the owner/agent or their software. It asks for information that the family is aware of such as the values and income for each asset. It does not require the family to do detailed math or totaling of assets, as the rules may not count assets in a way a family would know. To provide analysis of the data provided by the family and correctly determine values and income from the assets, the *Asset Self-Certification* has a companion form, the *Asset Self-Certification Worksheet*. Completing this form involves

ASSET SELF-CERTIFICATION
For households whose combined net assets do not exceed the applicable Imputed Income Limitation.
(Complete only one form per household; include assets of children.)

For the following asset types, include the current Cash Value of each asset held by any family member and the actual income that the asset earns. *Cash value is current market value minus cost to convert an asset to cash, such as broker’s fees, settlement costs, outstanding loans, penalties for early withdrawal, etc.*

Household Name:				Unit#:	
PART I: ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE (FMV)					
<input type="checkbox"/> Yes <input type="checkbox"/> No	Within the past two (2) years, I/we have sold or given away assets below their fair market value (FMV).				
Asset #1:	Date of Disposal:	FMV - amt received:			
Asset #2:	Date of Disposal:	FMV - amt received:			
PART II: FEDERAL TAX RETURN OR REFUNDABLE FEDERAL TAX CREDIT					
Have you received a federal tax return or refundable federal tax credit in the last 12 months? <input type="checkbox"/> Yes <input type="checkbox"/> No					
Amount of return/credit: \$					
PART III: NON-NECESSARY PERSONAL PROPERTY (NNPP)					
<input type="checkbox"/> Yes <input type="checkbox"/> No	I/we do not have any non-necessary personal property				

ASSET SELF-CERTIFICATION WORKSHEET

This worksheet accompanies the Asset Self-Certification. Complete **either** Part I or Part II depending on the nature of the types of assets disclosed by the family on the Asset Self-Certification. When the total net family assets are less than or equal to the applicable Imputed Income Limitation, then only the actual income as disclosed on the Asset Self-Certification is included on the Tenant Income Certification (TIC).

PART I: COMPLETE THIS SECTION IF THE FAMILY ONLY HAS NNPP AND NO REAL PROPERTY		(B) Annual Income
Determination of Total Net Family Assets		\$
(1)	Enter the total of all NNPP by adding the values in (A) \$	\$
(2)	Enter the value of any NNPP disposed of for less than FMV \$	\$
(3)	ADD lines (1) and (2) \$	\$
(4)	Enter the amount of a federal tax return or refundable federal tax credit in the last 12 months \$	\$
(5)	SUBTRACT line (4) from line (3) \$	\$
(6)	Is the value in line (5) less than or equal to \$ <input type="checkbox"/> Yes <input type="checkbox"/> No	\$
If NO , the Asset Self-Certification cannot be used, and each asset must be separately verified.		(D) Income
Determination of Income from Assets: Enter this amount on Part IVa, Line (F) of the TIC		\$
(7)	Enter the total by adding the values in (B) \$	\$
PART II: COMPLETE THIS SECTION IF THE FAMILY HAS BOTH NNPP AND REAL PROPERTY		Date
Determination of Total Net Family Assets		
(1)	Enter the total of all NNPP by adding the values in (A) \$	
(2)	Enter the value of any NNPP disposed of for less than FMV \$	
(3)	ADD lines (1) and (2) \$	
(4)	Is this value less than or equal to \$ <input type="checkbox"/> Yes <input type="checkbox"/> No	
If NO , the Asset Self-Certification cannot be used, and each asset must be separately verified.		
(5)	Enter the total of all Real Property by adding the values in (C) \$	
(6)	Enter the value of any Real Property disposed of for less than FMV \$	
(7)	ADD lines (5) thru (6) \$	
(8)	Enter the amount of a federal tax return or refundable federal tax credit in the last 12 months \$	
(9)	SUBTRACT line (8) from line (7) \$	
(10)	Is the value in line (9) less than or equal to \$ <input type="checkbox"/> Yes <input type="checkbox"/> No	
If NO , the Asset Self-Certification cannot be used, and each asset must be separately verified.		
Determination of Income from Assets: Enter this amount from line (13) on Part IVa, Line (F) of the TIC		
(11)	Enter the total by adding the values in (B) \$	
(12)	Enter the total by adding the values in (D) \$	
(13)	ADD lines (11) and (12) \$	

Imputed Income Limitation
FY 2024: \$50,000
FY 2025: \$51,600
Asset Self-Certification Worksheet (2024)

detailed knowledge of housing program asset rules and is not done by the family. Rather, it is completed by the owner/agent or their software based on the information supplied by the family on the *Asset Self-Certification*.

Income from assets declared on The *Asset Self-Certification* form as analyzed by the *Worksheet* will be included in the calculation of annual income. If the information on the *Asset Self-Certification* form appears to be questionable or unreasonable, or if the owner/agent has reason to believe false information was disclosed, third-party documentation of the assets will be required.

See Chapter 1 for more information on ancillary programs monitored by the Agency and whether self-certification and other verification rules apply to them.

EXAMPLE Questionable Asset Certification

A family declares no assets on The *Asset Self-Certification* form but pays for an application fee and security deposit with a personal check. The *Certification* is incorrect because a checking account is considered an asset.

The owner/agent cannot reasonably rely on the family Asset Self-Certification in this instance.

Student Rule and Documentation

LIHTC

Generally, families made up entirely of full-time students do not qualify for LIHTC units. Tax Code also prohibits tax credits from being used to fund dormitories. When

determining eligibility, the owner/agent must begin by requiring the family, in writing, to answer the question: **“Are ALL family members full-time students?”** If the answer is “no,” the family is LIHTC student-eligible, and no further action is needed. If the answer is “yes,” there are five exceptions, and the family may qualify if they meet one of them.

Full-time student status of an adult dependent will limit his/her earned income to the dependent deduction applicable that year (see Chapter 5 for more on the adult dependent earned income rule). In these cases, the full-time status must be verified with the school attended.

If an otherwise full-time student family qualifies because one-member attests that they are only a part-time student, that status should also be verified with the school.

It is important to note that family members counted for the student rule include all members, regardless of age (including minor children and unborn children). Although unborn children are explicitly counted for

Compliance Steps to Qualify a Family

1. Accept a completed application including an income and asset questionnaire.
2. Verify eligibility factors.
- 3. Clarify and verify student status, as necessary.**
4. Determine number of family and household members.
5. Calculate family income.
6. Compare family income to the applicable income limit.
7. Complete a Tenant Income Certification (TIC).
8. Execute a lease and other paperwork, per property policy.

income limit purposes, the Code is silent regarding the student rule and unborn children. Thus, RIHousing has determined that a single pregnant woman who is a full-time student does meet an exception as a full-time student family; the unborn child counts as a non-student for the *single-parent-dependent-child* exception.

A full-time student is defined as any individual of any age who:

- (1) attends a school with facilities and regular student body, including online based learning.
- (2) attends school all or part of any 5 months of the calendar year, not necessarily consecutively. A person who attended school full-time during any part of five months of a calendar year is a student throughout the remainder of the calendar year, even after they are out of school; this is sometimes referred to as the “5-month look-back.”
- (3) is considered full-time by the educational institution they attend. This will be based on the school’s definition of a full-time workload, not full time as defined by the student, or owner/agent.

EXAMPLE Five-month Student “Look-Back”

In July, a boyfriend and girlfriend applied to live in an LIHTC unit. Although she is no longer in school, she finished on May 3, and his last day was May 15 of that year. They were both full-time students all year until graduation. If they apply to move in October, will this family be considered a full-time student family, and if so, until when?

Yes, they will be until January 1 of the next year.

Verification

Family student status must be determined during the initial qualification process before the family moves in. Owners must have sufficient questions on their application and a separate student status affidavit that determines whether the family is comprised of full-time students; if it is, these questions must also determine which exception may be met. Based on the family’s answers, further verification that the full-time student family meets an exception will be needed. If one member is attending school part-time and everyone else is a full-time student, the part-time status must be verified with the school. Student status must be questioned and verified annually after move in, even if the property is 100% LIHTC and has received approval for an abbreviated annual certification. Student status must be determined yearly no more than 120 days prior to the annual anniversary of move-in.

Exceptions

While the LIHTC student rule generally prohibits full-time student families, there are five exceptions. Full-time student families must meet one of the following exceptions continually to live in an LIHTC unit where all members are full-time students.

- 1. Any adult family member is married and entitled to file a joint tax return.**

Verification needed Copy of a joint tax return or marriage certificate demonstrating that a family member is married and/or files a joint return.

-
2. *An adult member is a single parent with a minor child in the unit, provided that: 1) the adult is not a tax dependent of any third party, and 2) the child(ren) is/are not claimed as a tax dependent(s) by anyone other than one of their parents (even if the other parent is not in the unit).*
-

Verification needed Copy of tax returns (if possible) or a signed affidavit by at least one of the parents of the child(ren) that the adult in the family is not a dependent of anyone outside the family and that, if the child(ren) is claimed on anyone's taxes, it is only by one of their parents.

-
3. *A member receives Rhode Island Works (or TANF) welfare assistance.*
-

Verification needed A current *Rhode Island Works (or TANF)* award letter.

-
4. *A member who formerly received foster care assistance (meaning that they were a foster child or adult placed by the foster welfare system in the past).*
-

Verification needed Written documentation from the placement agency.

Note: as current foster members in a household are not family members and are *currently not formerly* placed by the welfare system, current foster children or adults in a household do not meet this exception, See later in this Chapter for a discussion of the difference between family and household members.

-
5. *A member receives assistance from a program similar to the Job Training Partnership Act (JTPA), including Workforce Investment Acts, which replaced the JTPA starting in 2000.*
-

Verification needed To identify JTPA-like programs that are not *Workforce Investment Act* programs, verification from the administrator of the program must establish that the program 1) gets federal, state or local government funding; and 2) has a mission similar to the one for the JTPA program:

Mission Statement for JTPA as amended by the Job Training Reform Amendments of 1992 and the School-to-Work Opportunities Act of 1994. Sec. 2

"It is the purpose of this Act to establish programs to prepare youths and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependence, thereby improving the quality of the workforce and enhancing the productivity and competitiveness of the Nation."

EXAMPLE Student Status Single Parent-Dependent Child

A tax-independent woman and her dependent child reside in an LIHTC unit with the woman's boyfriend. They are all full-time students.

They qualify for a student status exception because they have a parent-child combination even if others reside in the unit.

EXAMPLE Student Status Married, Entitled to File

A single woman applies to live in a unit. She is a full-time student. She is married, but she reveals that she has irreconcilable differences with her spouse, and they do not intend to live together anymore. Their financial advisors have suggested that they not divorce because of the complexity of their joint finances with a business they share ownership of, and they are generally amicable. They also continue to file a joint tax return.

She qualifies for a student status exemption because she is married and entitled to file a joint tax return, even if her spouse is not in the unit.

Note: These rules are completely different from the student eligibility rules that originate with HUD and are used by Section 8, HOME and other housing programs. A summary of the HUD-type student eligibility rule follows, and further analysis of how these combine is discussed in Chapter 12.

HOME

The HOME program also has rules relating to student status. The program adopted the Section 8 student rules in the 2013 HOME regulation revision. The Section 8 student eligibility rules are quite different from the LIHTC rules. The Section 8 student rules focus on individual students rather than entire families. They are designed to prevent any family containing a person who may be a tax dependent of parents outside the family from getting assisted housing. Understanding this premise will help owners/agents to understand some aspects of the rule. For instance, this is why the age of 24 (the year a student can no longer be a tax dependent in many cases) occurs in the rule. One ineligible student disqualifies a family from qualifying as a HOME unit. Good questions must be asked in the application process to help establish HOME student eligibility. The application must ask the correct questions to determine if the family has any *full- or part-time* students that may trigger the rule, and which exception (if any) they meet. Student status must be examined before move-in and at each recertification during the HOME period of affordability. Eligibility for an exception must be documented for each potentially ineligible student member of a family.

To determine eligibility for HOME occupancy, an individual adult, **full-time or part-time** student at an institute of higher learning must be one of the following:

- A dependent of the family
- 24 years old or older
- Married
- A U.S. military veteran
- Have a dependent child(ren) living with them in the unit
- An orphan or ward of the court
- Disabled and was receiving section 8 assistance on 11/30/2005

If the answer is "yes" to one or more of the above, the student may qualify for occupancy. If the answer is "no" to each of the above, then the student must be independent from their parents to qualify, or their parents must qualify. The student can demonstrate his or her independence from parents, including that they:

- Are of legal contract age under state law AND
- Have established a household separate from parents or guardians for at least one year

OR

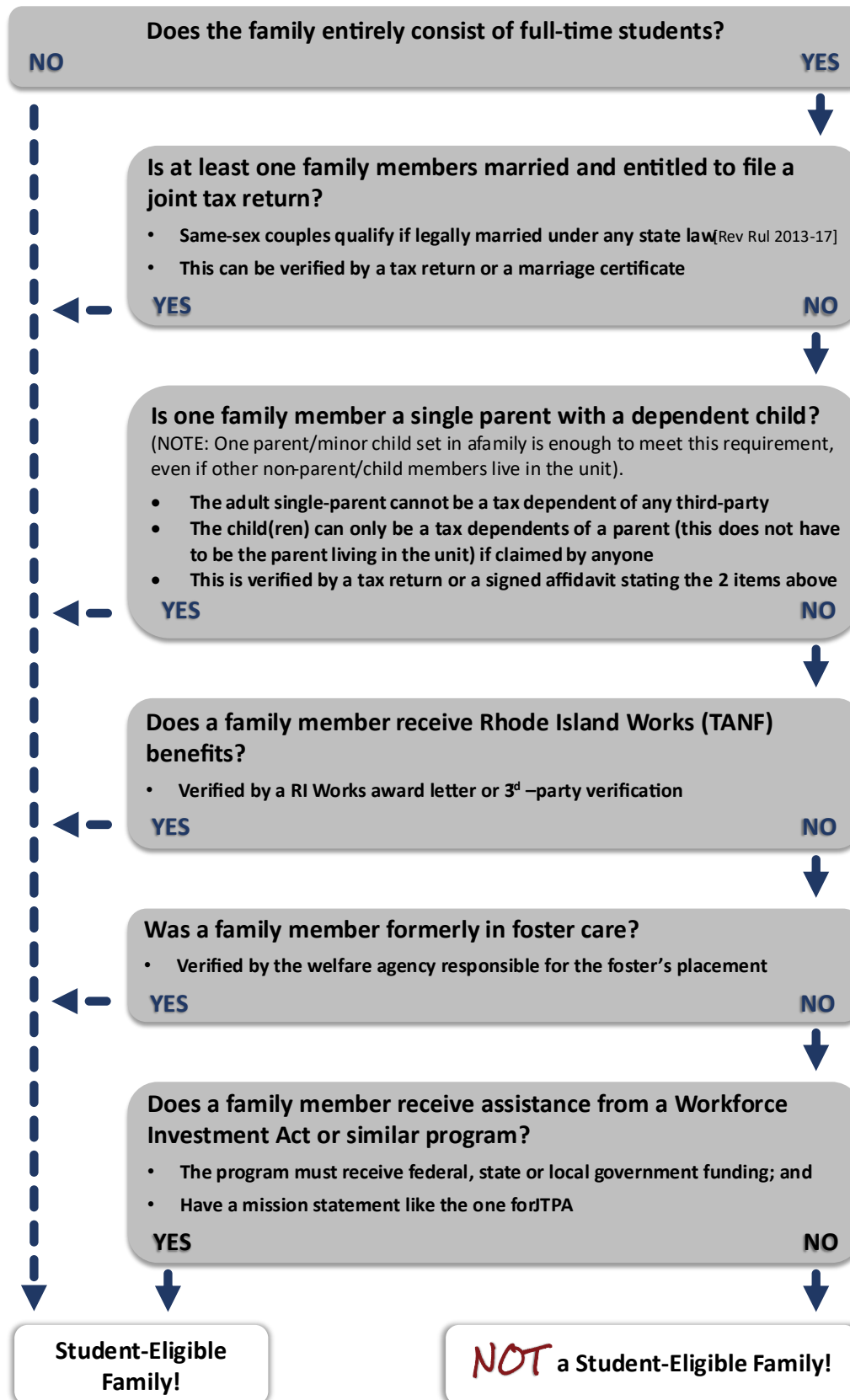
Meet the U.S. Department of Education's definition of an independent student, including being any one of the below:

- At least 24 years old by December 31 of the current year
 - A veteran of the U.S. Armed Forces
 - Have legal dependents other than a spouse (i.e., an elderly dependent parent)
 - A graduate or professional student
 - Married
 - Is an emancipated minor or was one before they became an adult
 - Is or was an orphan or a ward of the State or in foster care at any point since age 13
 - Been established this school year to be an unaccompanied homeless child or youth and self-supporting as defined by:
 - The McKinney-Vento Act,
 - Runaway and Homeless Youth Act or
 - A financial aid administrator.
1. If the student meets the U.S. Dept. of Education definition of Independence, above, the student qualifies.
 2. If not, they must not be claimed as a tax dependent by parents or legal guardians pursuant to IRS regulations, AND the parents must provide signed certification if financial support will be provided.

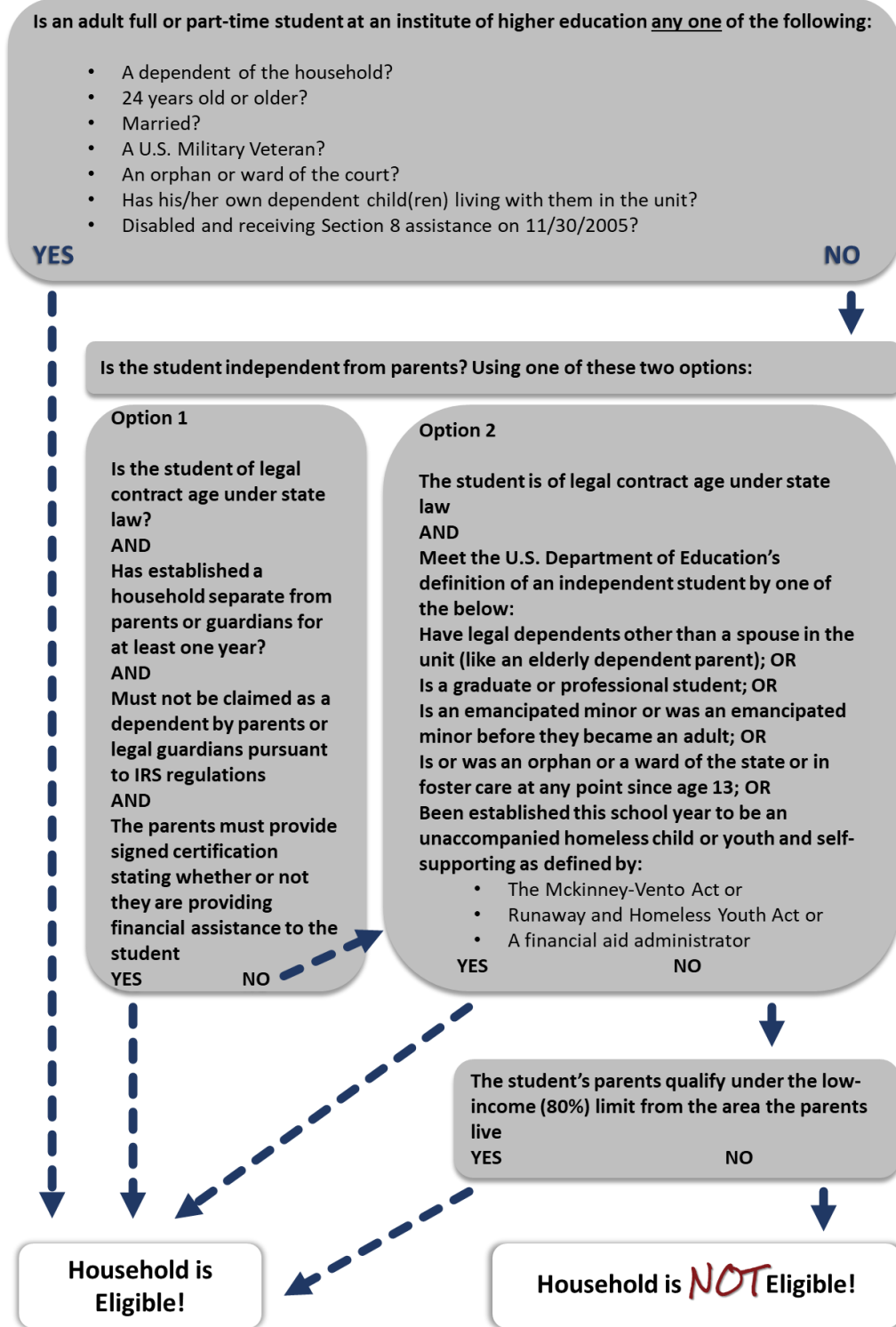
If none of the above applies, the student must demonstrate that they are income-qualified AND that the student's parents or guardian, individually or jointly, are at or below the low-income limits (80% AMI). Documentation, such as tax returns or third-party documentation, must be gathered to establish the parents' income. Owners must establish a policy on how they will consistently address the documentation process in these cases.

Finally, student eligibility status must be examined at each recertification.

Flow Chart: Tax Credit Student Eligibility



Flow Chart: HUD S8/HOME Student Eligibility



Family Members vs. Nonfamily Household Members and Guests

Income limits and student eligibility are based on the members in a family, and family members have their income added to determine

*income eligibility. The **household** includes the family and other legal residents, including live-in aides and foster children and adults. Nonfamily household members do not count when determining income or student eligibility.*

Compliance Steps to Qualify a Family

1. Accept a completed application including an income and asset questionnaire.
2. Verify eligibility factors.
3. Clarify and verify student status, as necessary.
- 4. Determine number of family and household members.**
5. Calculate family income.
6. Compare family income to the applicable income limit.
7. Complete a Tenant Income Certification (TIC).
8. Execute a lease and other paperwork, per property policy.

Family members may include:

- Children subject to a verifiable joint custody agreement who will be **present in the unit at least 50% of the time**.
- Dependent **students away at school**.
- Children **away in foster care** who will be returning to the family to live with their parents.
- Children in the process of **being adopted**.
- Members **temporarily** in a **hospital or nursing home**.
- A temporarily absent **individual on active military duty** who is the head of the household, spouse, or co-head; or whose spouse or dependent resides in the unit.
- A **future spouse or roommate**. Applications must ask if there are any definite plans to add any such members, and their income must be verified.
- **Unborn children**. It is only acceptable to verify the existence of unborn children through self-affidavit from the pregnant woman. *No further verification is allowable*. If adding an unborn child is necessary for income-limit eligibility and the child does not come to term, the family's LIHTC qualification will not be affected as long as the self-affidavit establishing the pregnancy was in the file at the time of move-in.

When determining a family's size for income limit purposes, the following individuals in the household are excluded (even though they reside in the unit):

- **Live-in aides**. The necessity of such an aide must be verified by a professional third party. Note: although not used for income limit purposes, a live-in aide may be counted when determining unit size.
- Children subject to joint custody who will be **present in the unit less than 50% of the time**.
- **Foster children**. These are minors placed by a welfare or tribal agency.
- **Foster adults**. Foster adults are usually people with disabilities unrelated to the family who are unable to live alone and are placed by a foster agency.
- **Temporary visitors and/or guests**. An owner must establish in their lease or House Rules a reasonable period that a guest can visit before needing to be considered a family or household member.

Because of the uncertainty of some informal custody and guardianship arrangements, for a child to be counted as a family member for determining family size and income eligibility, management must prove the child's residency in the unit and establish that the child is not a "guest." Verification of the residency of the child can include documentation from an attorney, court records, Department of Children Youth and Families, doctor's records, child support, school records, school bus passes or similar.

Absent Members

Temporarily absent family members include, for example, dependent students away at school and military members assigned out of town that have a spouse or a dependent child residing in the unit. These individuals must always be counted as family members along with their income as applicable.

When a family member is **permanently absent** because they are confined to a care facility such as a hospital or nursing home, the family has the right to decide whether to count the confined family member or not. This decision will affect both the number of persons for income limit purposes, student eligibility, and whether income from the confined member is counted.

HUD and IRS guidance requires reasonable leniency be applied for those absent on active military duty with a **dependent** child in a unit. For instance, it may be reasonable to determine that a person in the military and their child are not family members when the child is temporarily relocated to an affordable housing program unit. This may be because the grandparent is temporarily caring for the child while the parent is on active duty. Even though the military member's dependent is in the unit, the child is a non-family household member. Additionally, the income of a guardian that is in a unit temporarily to care for the children of a head of household who is on active duty may be excluded as a non-family household member or guest. Note that these exceptions only apply to dependents. If a person residing in a unit has a **spouse** on active duty, HUD requires that the absent spouse, and their income, be included.

EXAMPLE Resident on Active Duty with Spouse in Unit

An adult daughter is living with her father and mother in an LIHTC unit while her husband is absent on active duty.

Both she and her husband, and their income, must be counted.
(in addition to her mother and father's income)

EXAMPLE Resident on Active Duty with Dependents in Unit | 1

The single-parent head of household goes on active duty, and her adult sister moves into her HOME unit to provide care for her three children while she is gone.

The head and children are still counted, but the temporary caregiving sister, and any income she has, should be excluded.

EXAMPLE Resident on Active Duty with Dependents in Unit | 2

A single parent goes on active duty and moves her children into her parent's unit to care for her children while she is gone.

Neither the person on active duty, her children, nor any of their income is counted to the family in the parent's unit.

Documentation must be maintained in tenant files establishing the reason for the exclusion of non-family household members such as live-in aides, those confined permanently to a care facility, foster children/adults, or absent military personnel with their dependents in a unit.

EXAMPLE Family Size

The head of a household lives with her two children who are subject to joint custody and only in her NHTF unit part time. Her son resides in the unit except for half of the major holidays and the summer. Her daughter is in the unit for the summer. For income limit purposes, how many people are in this family?

Two - The head and her son. The daughter is not physically present in the unit at least 50% of the year.

Changes in Family Size

Generally, an owner/agent must follow state law and their own policy with respect to tenant leases when adding or removing family members. This section will cover the compliance-related steps to take (at a minimum) as described by the IRS and RIHousing. RIHousing also applies the following to HOME and the NHTF. Other funding programs, such as Section 8 PBRA, may require additional steps, such as complete recertification of all family members whenever family composition changes. See Chapter 1 for a list of ancillary programs RIHousing monitors and Chapter 12 for a discussion of other program rules when combined with the LIHTC.

When adding members to the family after initial move-in, the IRS requires that the new member's income be verified and added to the rest of the family's income that was verified on the family's most recent income certification. Other paperwork required of new move-ins will also need to be completed for the new member, including background checks and an application with student status and income and asset questions. Once the income is totaled, the owner/agent will apply the Next Available Unit Rule (NAUR) and HOME/NHTF increase of income rules if the new additional income puts the family over the LIHTC 140% or the HOME/NHTF "over-income" limit. The NAUR has little meaning at 100% LIHTC properties (see Chapter 6 regarding the NAUR). However, the move-in income for the new member will possibly be relevant later if all original family members ever vacate the unit, as described below.

When family members leave, wait until the next annual certification date, and simply reflect the smaller family composition on the TIC at that time.

If all original family members vacate a unit, the member(s) left in the unit that was added after the initial family moved in will need to qualify as a new family at that time, unless one of the following applies:

1. The family was entirely recertified and qualified under income limits when any new member moved in or any time thereafter. This essentially created a new qualified "original family" including the new members.
2. The remaining person individually income-qualified at the one-person income limit at move-in, excluding the existing family member's income.

EXAMPLE Adding Family Members

A single resident qualified and moved into her LIHTC unit in 2017. In 2019, her boyfriend passes the usual background checks and moves into the unit. His personal income is verified to be over the 2019 income limit.

First, the Next Available Unit Rule (NAUR) must be tested. Since the project is not 100% LIHTC and subject to full income recertification, the manager adds his move-in income to the existing family income that was verified at the most recent annual certification, five months earlier. The family is determined to be over the 140% limit for a two-person family. The NAUR is in effect and an eligible family must be moved into the next available unit in the building they live in until the applicable fraction is restored.

Second, as he is personally above the income limit for one person when he moves in, he will NOT qualify in the future for continued occupancy if his girlfriend ever moves out because he would not have qualified if he had entered the property by himself in 2019. This will be true unless:

1. At a future recertification (if such is required), they together are below the income limit OR
2. The boyfriend is below the income limit at the time that the girlfriend leaves the unit.



Review applications closely before accepting them! Carefully ensure that all questions are answered by the family, with all fields and checkboxes completed.

A national review of compliance findings determined that almost 30% of compliance issues are with files relating to incomplete applications that were accepted by an owner/agent.

It is much more difficult and very risky to obtain missing information once the family moves in, and especially years later, when an auditor may review the file.

Chapter 5 | FAMILY INCOME

Chapter 4 discussed steps 1-3 of the family certification process (below) and leasing (step 8) is covered in Chapter 7. This Chapter discusses steps 4-7. Chapter 3 also discussed income limits in detail (see step 6).

Calculating Family Income

Compliance Steps to Qualify a Family

1. Accept a completed application including an income and asset questionnaire.
2. Verify eligibility factors.
3. Clarify and verify student status, as necessary.
4. Determine number of family and household members.
- 5. Calculate family income.**
6. Compare family income to the applicable income limit.
7. Complete a Tenant Income Certification (TIC).
8. Execute a lease and other paperwork, per property policy.

Anticipated Income

According to Treasury regulation, income is not calculated for LIHTC housing based on IRS taxable income rules. Rather, it is calculated according to HUD Section 8 family income rules. Similarly, HOME and NHTF, as regulated by RIHousing, use the same HUD regulations as the LIHTC at 24 CFR part 5.609 (“Part 5” income). In 2023 and made effective in following years by individual agencies, the HUD regulations were overhauled in response to the Housing Opportunities Through Modernization Act of 2016 (HOTMA). For this reason, owners/agents **first look to the HOTMA implementation HUD Notice 2023-10, then to the HUD Handbook 4350.3** as the legal authority with respect to income calculation for affordable housing programs. Chapter 5 of the 4350.3 Handbook addresses HUD’s former income calculation rules. Where HOTMA has not specifically altered a rule, as listed in *Notice 2023-10*, the Handbook can still be used for guidance.

HUD **anticipates** all periodic and sporadic income for the 12-month period following the certification date, **based on current circumstances**. Recent history, such as two months of pay stubs for employment, often provides useful data in anticipating income. Future changes that are **known by the family** and that are **verifiable and determinable** (not those that are just *possible*) must be addressed in anticipated income. An owner is not required to “guess” what might change in the future or include income that is possible, but unsecured. To do so is not *anticipating* income per HUD rules. Of course, if a reasonable person would question an income determination (such as if the income calculated is so low as to make covering the rent for a year impossible or improbable), further information may need to be gathered. This could include exploring the possibility of sporadic or periodic gifts or other income.

Conservative Methodologies

According to IRS regulation “tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the U.S. Housing Act of 1937.” [Treas. Reg. §1.42-5(b)(1)(vii)] HOME and NHTF rules are similar as they rely on the same HUD “part 5” income. RIHousing is aware that some housing compliance professionals and program monitoring agencies have developed very restrictive calculation methodologies that are more stringent than the Section 8 program requires. While viewed as more “conservative” or “restrictive,” these methods are not consistent with Section 8 rules. RIHousing

only requires compliance with IRS and HUD regulations and does not add additional rules that could exclude otherwise eligible families. Some of these non-HUD methodologies include using the highest in a range of hours supplied by an employer or basing income determinations on the HIGHER of recent history annualized or a calculation of annual income based on year-to-date information. Generally, HUD would use the average of the hours given and use anticipated information supplied by the employer or recent history on pay stubs. It is understood that the use of non-HUD methodologies is often required by LIHTC investors/owners. While RIHousing does not forbid these methodologies, **it does not feel it is in the best interest of the program to exclude families that qualify based on Section 8 methodologies but do not qualify based on more conservative methods.** RIHousing will not find an owner/agent who uses averages in a range provided by an employer, recent history annualized, or other basic HUD methodology to be out of compliance. If a family is qualified by the owner/agent using HUD methods, this is acceptable even if another method would determine the family to be over-income. Of course, as a matter of Fair Housing, the approach used by an owner/agent must be consistently applied to each family in the development.

EXAMPLE Range of Hours

An applicant's employer anticipates that the applicant will work 36-40 hours a week. What number of hours should be used in calculating annual income?

38: An owner/agent may use the average.

EXAMPLE Year-to-Date

Recent pay stubs gathered through November annualized indicate that an applicant will make \$25,478 a year. The applicant's year-to-date income annualizes to \$27,000 a year. What annual income may be used?

\$25,478: There are many reasons the past income may not reflect what is anticipated in the future. If this is crucial to eligibility (because the income limit is below \$27,000), an owner/agent should determine why there is a discrepancy through further interaction with the employer. However, excluding the family automatically as over-income is not recommended by RIHousing.

Annual Adjustment Factors

After HOTMA, several factors affecting income calculations will change annually. Most of these will be adjusted for inflation based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). This is the same factor used to determine social security COLAs. The one exception is the passbook savings rate, which will be adjusted based on an average of recent FDIC national average passbook savings rates. The factors that will affect LIHTC and HOME income calculations are listed below. This manual will refer to these factors with the amount at the outset of HOTMA, then "as adjusted." For instance, "non-necessary personal property that exceeds \$50,000, as adjusted, is excluded." That means that the amount will be different depending on the year involved.

HUD intends to publish a Notice each year before September 1, to allow for factors to be in place by January 1 of the applicable year the factors will apply. Owner/agents will need to be aware of the changes to ensure that the factors are in place (most likely by updating property management software) in time to conduct accurate income determinations. Auditors reviewing past years will need to maintain an accurate list, by year, of past factors, as adjusted.

Chart | Annual Adjustment Factors

Factor	Pre-HOTMA	At start of HOTMA (2024)
Passbook savings rate	.06%	.4%
Threshold to impute asset income *	\$5,000	\$50,000
Threshold to self-certify asset value and income *	\$5,000	\$50,000
Threshold where non-necessary personal property is excluded. *	N/A	\$50,000
Annual dependent deduction	\$480	\$480
<ul style="list-style-type: none"> • Not used directly for LIHTC/HOME, but it does set these limits: <ul style="list-style-type: none"> ○ Earned income for adult full-time student dependents ○ Adoption assistance payments 		

* Collectively referred to in this manual as “the asset threshold.”

Sporadic vs. Nonrecurring Income

In the past, HUD excluded income from *sporadic and nonrecurring* income. Upon implementation of HOTMA, **only nonrecurring income is now excluded**. Sporadic amounts received are counted based on historical amounts received, unless it can be proved that the amounts cannot recur. For instance, welfare benefits may be received three times sporadically throughout the prior year to help with unanticipated rent shortages. The amount of these three payments must be anticipated to recur the following year unless it is proven that the family has used all lifetime welfare benefits of that type and the payments cannot recur in the future.

The HUD regulation provide several examples of “nonrecurring income.” Below is the list:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
- Direct Federal or State payments intended for economic stimulus or recovery.
- Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
- Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

Also, income that has a discrete end date and will not be repeated beyond the coming year during the family’s upcoming annual certification period will be excluded from a family’s annual income as nonrecurring income. This does not include payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year or that can be extended, such as unemployment benefits. However, Workers’ Compensation is always excluded by HUD regulations, even if it lasts more than a year. If documentation from third parties is unclear, owners/agents may accept a self-certification from the family stating that the income cannot be repeated in the coming year.

EXAMPLE Nonrecurring Income | Workers' Comp

A family is moving into an LIHTC property on 4/01/2025. The head of the household was injured at work shortly before their move-in date and she is anticipated to receive Workers' Compensation for 18 months after she moves in. How much of the benefits should be counted at move-in?

\$0. Workers' Compensation is excluded from income.

EXAMPLE Nonrecurring Income | Employer Out of Business

Julissa lives at an LIHTC property that is less than 100% LIHTC. She worked for five months over the past year for a company that has since gone out of business. During the income recertification interview, the owner/agent asks Julissa whether she expects to work for the company again in the coming year. She provides proof that the company went out of business. How much of this income is counted?

The owner/agent must exclude Julissa's earned income received from the company that went out of business from the family's annual income.

EXAMPLE Nonrecurring Income | Sporadic Contractor

Nicole works as an independent phone installation contractor during various times of the year, when a phone company requires additional contract support. Nicole reasonably believes that she will be contracted again the following year based on discussions with her clients.

The owner/agent must include the income that Nicole earned as an independent contractor in the past year in family's anticipated annual income.

EXAMPLE Nonrecurring Income | Research Stipend

Hope lives at a project that requires income recertification for all residents because it is less than 100% LIHTC. She reports for the annual reexamination to be effective 7/01/2025 that she receives monthly payments for participation in a research project that is expected to last for 18 months and will end on 12/31/2026. How will this income be handled for the 2025 and 2026 recerts?

2025 | The owner/agent includes this as income because the amounts will be received through the next annual recertification on 7/01/2026.

2026 | The income will end on 12/31/2026, so the owner/agent will exclude the income received after the 7/01/2026 recertification.

Dependent Income

Generally, income belonging to most family members is counted when determining family income. However, **earned** income is counted differently for some family members. Specifically, this is true for children under age 18 and adult dependent full-time students. See the *Income Counted by Household Member* chart for more details. Note: minors verified to live in a unit are always counted as dependents unless they are BOTH emancipated and the head or spouse of the head.

Income Counted by Household Member

"Family" Members *	Earned Income Counted?	Unearned & Asset Income Counted?
Head, Spouse, and/or Co-head	Yes	Yes
Other Adult Household Member	Yes	Yes
"Family" Dependents *		
Child Under 18	No	Yes
FT Student over 18 (not the head, co-head, or spouse)	Yes Up to the current dependent deduction ***	Yes
Temporarily Absent Household Member	Yes	Yes
Person permanently living in a care facility	This is a Household decision	
Non-Family "Household" Members *		
Live-In Attendant	No	No
Foster Adults and Children	No **	No **
Guests	No	No

* According to HUD guidance, "family" members are counted for income limit purposes. "Household" members are all authorized occupants of a unit. Post HOTMA, live-in aides and foster children and adults are part of the household, but not the family.

** Changed by HOTMA from "yes"

*** Changed by HOTMA from \$480

EXAMPLE Minor Dependent Income

Craig is a 16-year-old living with his mother in an LIHTC unit. He works at a local surf shop and makes \$12,300 a year. He also gets survivor's Social Security benefits totaling \$10,080 a year from his father, who is deceased. How much income is counted for Craig?

All employment income is disregarded as earned income from a minor.

All the unearned Social Security income is counted.

EXAMPLE Adult Dependent Income

Mike is the head of a household. His spouse, Rachael, is a full-time student. Both work full-time jobs and make \$30,000 each. The agent limits the adult full-time student Rachael's income to \$500 a year, the dependent deduction that year. Was this accurate?

No: Though she is an adult full-time student, Rachael is a spouse and not eligible to be a dependent and her earned income limited to the dependent deduction for that year.

Family income was understated by over \$29,000!

Income Exclusions

In past years, based on various laws and regulations, HUD produced an extensive list of income sources that are included and excluded for housing purposes. During this period, it became clear that income inclusions on a list could never be complete, and an income type that is different or new that should be included could be missed. In response, HOTMA dictated that HUD must generate an extensive list of exclusions. If it is not on the list of exclusions based on HUD regulation or other federal law, then an income source must be included. The list of HOTMA exclusions is found at 24 CFR 5.609(b), with additional details explained in *HOTMA Implementation HUD Notice 2023-10* and the *HUD Handbook 4350.3, Chapter 5*. The end of this chapter includes this list as a supplement. If an item is not specifically excluded on HUD's list, it must be counted.

Earned Income

Among common income sources are three types of *earned* income. These include employment, self-employment, and military income. To the extent that these may apply to a minor, they are excluded when calculating family income. If they apply to an adult dependent full-time student, they are limited to the dependent deduction applicable to a year. For years, the dependent deduction was \$480, but after HOTMA it is indexed annually for inflation and may change each year. In 2026, for instance, it was raised to \$500. Any wage raises or other change known by the family and verified with the employer must be used in the calculations.

Some sources of income are more difficult to determine than others, such as those that are sporadic, seasonal, or that vary greatly from one pay period to another. An owner/agent is expected to exercise good judgment to make a reasonable determination of income based on the facts of a person's situation. Looking back and including income from the past year for sporadic or seasonal work, for instance, may be reasonable if circumstances are anticipated to be similar in the coming year. However, if circumstances are clearly different, this would not be appropriate.

Employment

HUD's Description | 24 CFR 5.609 (a), Exhibit 5-1 Inclusions (1) & 4350.3 5-5 C

"The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services...Some circumstances present more than the usual challenges to estimating anticipated income. Examples of challenging situations include a family that has sporadic or seasonal income or a tenant who is self-employed. In all instances, owners are expected to make a reasonable judgement as to the most reliable approach to estimating what the tenant will receive during the year."

Annualizing Income

Once it is determined how much someone is paid per pay period, the amount must be multiplied by the appropriate number of pay periods in a year, per HUD direction. The correct multipliers can be found on the *How to Annualize Wages* chart. Periodic non-employment income is also annualized using the same multipliers.

Anticipated Changes of Income

Changes of income of which a family is aware must be verified and added to anticipated income. This could be the case when a raise has been negotiated by a union, or an employer has a set raise amount structure for all employees at specific times. To ensure that any known income is included, the owner/agent must ask the family if they are aware of any upcoming changes. If they are aware of a change, then the employer must verify the amount. If they answer that they are not aware of an upcoming change, no further steps need to be taken, and income can be anticipated based on recent pay stubs or other available information.

How to Annualize Wages
4350.3 5-5 B

For full-time employment, multiply by the following:

• 40 hours a week	2,080
• Weekly wages	52
• Bi-weekly wages	26
• Semi-monthly wages	24
• Monthly wages	12
• Annual salary	1

EXAMPLE Employment

Recent pay stubs show that Kristi works 38-40 hours a week. She makes \$10 an hour, and she is not aware of any change in income anticipated in the next year. What income should be counted?

\$20,280: 39 x \$10 x 52.

EXAMPLE Employment with Raise and Overtime

Brittany works 40 hours a week at \$10 an hour. She also averages 2 hours weekly overtime at time-and-a-half. At move-in, it is verified that she is aware of an anticipated raise and this is verified to be a 10% increase starting the 21st week after move-in. If there is no other income associated with the job, what is the anticipated income?

Before Raise	
\$8,000	\$10 wage x 40 hours x 20 weeks.
\$600	\$15 OT wage x 2 hours x 20 weeks.
After Raise	
\$14,080	\$11 x 40 hours x 32 weeks.
<u>\$1,056</u>	\$16.50 x 2 hours x 32 weeks.
\$23,736	

EXAMPLE Semi-Monthly vs. Bi-Weekly Pay

A property has a one-person income limit of \$25,900. Lenore applies for an apartment and has a job making \$1,000 semi-monthly. Kim applies for a different unit. She is employed and is making \$1,000 bi-weekly. Is each of them LIHTC qualified?

Lenore qualifies: $\$1,000 \times 24 = \$24,000$.

Kim does not qualify: $\$1,000 \times 26 = \$26,000$.

EXAMPLE Seasonal Income

Peter has a disability and generally does not work. However, each summer he works part-time for three months cleaning rooms at a local bed-and-breakfast during their busy tourist season. He makes \$560 a month at this. How much annual income should be counted for this job?

\$1,680: $\$560 \times 3$ months. As there is a clear pattern of seasonal work, the anticipated annual income is limited to the 3 months income likely to be earned the next year.

Religious Order Income

Members of religious orders generally receive a stipend to meet monthly expenses. They may also be employed, with the money from employment usually going to the religious order. The primary financial relationship is with the religious order, and the amount of the stipend received by the person should be counted as income.

EXAMPLE Religious Order Stipend Exceeds Earning

Leslie is missionary serving a language group in a city and is part of an order and receives a stipend of \$2,050 a month. They are also employed and make \$1,900 a month, which goes directly to the order. How much monthly income should be counted?

\$2,050

EXAMPLE Religious Order Stipend Does Not Exceed Earning

Lillian is a nun who is part of an order and receives a stipend of \$1,320 a month. She is also employed and makes \$5,000 a month, which goes directly to the order. How much monthly income should be counted?

\$1,320

Self-Employment

HUD's Description | 24 CFR 5.609(a)&(b)28 & HUD 4350.3 Exhibit 5-2 (A)(3)

"The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family."

NOTE: If the person's main business is based on their real property, then count any income as business income. Do not count it both as an asset and business income."

As discussed in Chapter 4, income from self-employment may be documented using last year's tax return if the business owner filed one. When tax returns are used, the return with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are acceptable. Alternatively, a resident can provide information to annualize income from net income for the current year's business activity based on the number of full months in business, with the totals documented on a Schedule C (or form E or F, respectively, for net income from rental property or a farm).

How to annualize net business income based on a partial year

Net Income Year-to-Date ÷ Number of Months in Business during the Current Year x 12

Internet-Based Businesses

Examples of these include app-based rideshare services (Uber or Lyft) or websites that provide individual jobs to people. (Fiverr.com or FreeLance.com). These types of businesses are generally considered self-employment. Printouts from the website that the person works with can provide the gross income from the business, and perhaps some information on expenses (such as mileage for ride-share services). If the person can provide additional documentation of expenses, these also may be factored in establishing net income.

Office in the Home. A tenant in an affordable housing unit may use a portion of their unit exclusively and on a regular basis as a principal place of business, and claim the associated expenses as tax deductions, as long as the unit is the tenant's primary residence. If the tenant provides daycare services, the tenant must be properly licensed or be exempt from having a license, certification, registration, or approval as a daycare facility or home under state law.

CAUTION! Business income line items that can affect calculations

If this is a new business, this box is checked, and the income on the return may reflect a partial year. Calculate accordingly.

Depreciation must be calculated on a straight line basis. If it is not, the business owner must supply calculations completed as if depreciation were claimed on a straight line basis.

Wages or contract labor paid to someone in the family may need to be included as employment income. If these are paid to persons outside the unit, this is not an issue.

Business losses do not offset other family income and should be counted as \$0

EXAMPLE Business Income Based on a Partial Former Year

Kathy owns a business that began on July 1 of the prior year. Her last year's tax return and schedule C show a total gross income for the year of \$4,000, and net income of \$2,000. The business is anticipated to do similarly this year. What is the anticipated income for this year?

\$4,000: $\$2,000 \times 2$. Net income from half of last year, doubled.

EXAMPLE Annualized Current-Year Business Income

In September, Lilly applies for a unit at a HOME property. She has not filed taxes for her business, but she prepared a Schedule C, supported by documentation of income and expenses for the current year – from January 1 through August 31. To date, Lilly has net income of \$24,000. What is Lilly's anticipated income from her business?

\$36,000: $\$24,000 \div 8 \times 12$.

EXAMPLE Business Losses

Maria started a new business on January 1 of last year. Tax returns showed a loss of \$4,004 for last year. It is anticipated to do similarly this year. Jamie’s husband has employment income which is anticipated to total \$30,000. They have no other income. What is the total anticipated family income?

\$30,000: \$0 + \$30,000. Jamie’s net business losses do not offset other family income.


EXAMPLE Internet-Based Service

Glen started working for an app-based ride-share service on June 1. He applied for an apartment the following November. He provided a printout from the ride-share website showing that he had made \$19,000 through October 31. The printout also shows mileage that, when multiplied by the current IRS business mileage rate, totals \$4,030. He can provide no other evidence of expenses. What is his income from the job?

\$35,928: [$\$19,000 - \$4,030$] ÷ 5 x 12

Rental Income

If a person simply owns rental property, generally the property represents an asset, with the net rental income being asset income (see “Real Property” section of this chapter). If the person’s main business is based on their real property, then count any income as business income. Do not count it both as an asset and business income.



Real Estate as a Business
How to Calculate Net Annual Income

Annual rental payment

- Less annual mortgage interest payments
- Less allowed expenses from Schedule E (taxes, insurance, maintenance etc.)

Annual Net Income

Military Pay

HUD’s Description | **24 CFR 5.609 (b)(11) & Exhibit 5-1 Inclusions (8)**

“All regular pay, special pay, and allowances of a member of the Armed Forces, except...the special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm).”

Military paystubs are called *Leave and Earnings Statements* (LES). These are usually how military pay is best verified. How can paperwork be completed, and income verified if the person is unavailable, such as

when they are out of the country? When a person goes on active duty, they generally grant someone Military Power of Attorney (POA) to handle business affairs while they are away. This person can generally conduct transactions on behalf of the absent person, including securing housing, signing renewals, Tenant Income Certifications, and other affordable housing paperwork. This person can also generally secure LES documents.

EXAMPLE Military Pay

Susan is the head of an LIHTC family but is away from the unit on active duty. Her husband has power of attorney for her and secures the four most recent semi-monthly Leave and Earnings Statements. Among the monthly allowances listed on the LES are:

\$150 Hazardous Duty Incentive Pay (HDP)
\$225 Hostile Fire Pay (HFP)
\$1,623 Basic Allowance for Housing (BAH)

How much income is counted for these items?

\$1,773: \$150 HDP + \$1,623 BAH. The HFP is the only excluded military allowance.

Unearned Income

Unlike earned income, unearned income is counted for all family members, including minors and adult dependent full-time students.

Social Security and Other Periodic Benefits

HUD's Description | **24 CFR 5.609 (b) & Exhibit 5-1 Inclusions (4)**

“The full amount of periodic amounts received from social security, annuities...disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (e.g., Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action).” However, not counted are “deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts.”

Social security payments are counted before any amount is deducted for Medicare or garnishments for past due child support or alimony. However, benefits received for delayed benefits are not counted as income, whether these are paid as a lump sum or in monthly installments. Additionally, when social security benefits are being reduced for prior overpayment, the amount after the adjustment is counted. Finally, if a state or local government, social security or other private pension is split due to a divorce or court action, count only the payment that is court ordered to the person.

EXAMPLE Social Security Delayed Benefits

After several appeals of denial for social security disability benefits, Adriana is finally determined to be disabled and is deemed eligible for benefits since her original application. She begins to receive \$1,100 a month in benefits. This includes current \$750 monthly benefits as well as the owed benefits from the past in \$350 monthly installments. What income should be counted?

\$750: The delayed benefits are excluded.

EXAMPLE Social Security Prior Overpayments

Because of past under-reported earned income, Amanda has her SSI reduced from \$750 monthly to \$650. This will continue for the next two years until the prior overpayment is paid back. The owner/agent counts the gross benefit of \$750 a month. Was this accurate?

No: The \$650 amount after the adjustment for prior overpayment should have been counted.

EXAMPLE Social Security with COLA

Luis is a social security recipient and is anticipated to move into an NHTF unit on November 1, 2024. In September, it was verified that he had 2024 monthly social security benefit income of \$931. The 2.5% COLA for 2025 was announced on October 10, 2024. What would the annual income calculation be?

Step 1: Calculate the remaining 2024 income.

$$\$931 \times 2 = \$1,862 \text{ (income for November and December 2024)}$$

Step 2: Calculate the 2025 monthly income with COLA.

$$\$931 \times 1.025 = \$954.28 \text{ (2025 monthly benefit)}$$

Step 3: Calculate the total 2025 income.

$$\$954.28 \times 10 = \$9,542.80 \text{ (income for January-October 2025)}$$

Step 4: Add 2024 and 2025 benefit income.

$$\$1,862 + \$9,542.80 = \$11,404.80 \text{ annual benefit income}$$

EXAMPLE Supplemental Security Income (SSI) with COLA

Vanessa is an SSI recipient, and she is anticipated to move into an affordable housing unit on January 1, 2025. When his income is being verified, he brings in the benefit letter that he received in October 2024 that included the 2.5% COLA for 2025. The monthly SSI benefit listed in the letter is \$750. What would the annual income calculation look like?

\$9,000: $\$750 \times 12$. No COLA calculation is necessary, as the COLA is already included in the letter.

EXAMPLE Social Security Garnished

Jesus receives gross social security benefits of \$1,390. His Medicare deduction at move-in was \$134. He was also being garnished \$450 for past-due child support. What monthly amount should be counted?

\$1,390: The amount before the Medicare premium and garnishment.

Payments in Lieu of Earnings

HUD's Description | **Exhibit 5-1 Inclusions (5) & 24 CFR 5.609(b)(5)**

"Payments in lieu of earnings, such as unemployment, disability compensation...and severance pay, except...lump-sum additions to family assets." Excluded are insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

These types of benefits are annualized unless in the case of unemployment benefits, future employment is verified. It is possible that an applicant may regularly receive unemployment each year during their off-season. This may occur for persons in construction, teachers, fishermen and similar.

EXAMPLE Unemployment Benefits

A printout from the unemployment agency indicates that unemployment benefits Glen receives are to be paid for 22 more weeks at a rate of \$230 per week. No future job has been secured. What annual income will be counted for the benefits?

\$11,960: \$230 x 52 weeks.

EXAMPLE Unemployment Benefits with Job Secured

Scott is a teacher, who works nine months during the school year and is eligible for unemployment benefits during the three summer months. He moves in at the start of summer and is claiming unemployment benefits at that time. The owner/agent verifies that he is anticipated to start back to work when the school year begins. Should his weekly unemployment be annualized for 52 weeks in this case?

No: As a pattern of three months of claiming unemployment has been established along with the re-start of employment, unemployment should only be anticipated for the three summer months and employment for the other nine.

Welfare

HUD's Description | **Exhibit 5-1 Inclusions (6)**

- (a) "Welfare assistance received by the family.
- (b) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
- (c) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
- (d) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage."

Food Stamp benefits (aka SNAP), although often listed by families as welfare income on their questionnaires, are excluded as income.

EXAMPLE Welfare

Melissa's welfare verification shows a TANF benefit of \$420 a month and food stamps of \$445 monthly. What is Melissa's total annual income from welfare?

\$5,040: \$420 x 12. The food stamp benefit is not counted, but TANF is.

Alimony, Child Support or Gifts

HUD's Description | HOTMA Implementation HUD Notice 2023-10 and Exhibit 5-1 Inclusions (7)

"Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling." Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not. For example, a family's child-support or alimony income must be based on payments received, *not the amounts the family is entitled to receive based on any court or agency order.*"

If set periodic amounts are not received, only an average of the amounts that are received are counted.

EXAMPLE Alimony

Kate has a court order to receive alimony of \$750 a month. Her ex-husband has not paid, and Kate has made no efforts to pursue collection of the arrears. How much monthly alimony must be counted?

\$0: Only amounts received should be counted. Regardless of the reason court-ordered amounts are not received, they are not relevant.

EXAMPLE Child Support – Full Amount Not Received

Billy has a court-ordered right to receive child support of \$803 a month. His ex-wife has paid sporadic amounts most months through child support enforcement. A printout from the enforcement agency shows the following payments. What annual child support should be counted?

Jan:	\$ 1,010
Feb:	\$ 350
Mar:	\$ 550
Apr:	\$ 0
May:	\$ 1,060
Jun:	\$ 400
Total	\$ 3,370

\$6,740: \$3,370 ÷ 6 months x 12.

EXAMPLE Child Support in Excess of Court Order

Rob has a court-ordered right to receive child support of \$850 a month. His ex-wife is catching up on arrears and is paying \$1,000 a month. How much annual child support must be counted?

\$12,000: Full amounts received are counted. The court order is not relevant.

Income includes regular contributions to the family received from organizations or from persons not residing with the family. This includes amounts paid for bills that would normally be considered a family expense. All periodic or sporadic cash and non-cash contributions to the family are counted as income except:

- Groceries that are given to the family (NOT the money to buy groceries, which IS counted).
- Childcare that is paid directly to the care provider for children of the family.
- Amounts received for reimbursement of medical expenses.
- In-kind donations (such as food, clothing, or toiletries) received from a food bank or similar charitable organization. This exemption does not apply to in-kind donations from private sources, like friends or relatives.

EXAMPLE Gift Income

Thomas and his daughter live in a unit. Thomas's mother (who does not live in the unit) anticipates paying Thomas's utilities of \$80 a month. She also writes a check to Thomas's daycare provider for \$500 a month. Thomas's aunt (also not part of the household) gives Thomas \$160 a week in cash that Thomas uses to buy groceries and anticipates that she will also buy an average of \$30 a month in clothes for Thomas and his daughter. How much of the contributions from Thomas's family should be counted as income to Thomas?

\$9,640: [Utility payments of \$80 x 12 = \$960] + [Money for groceries of \$160 x 52 = \$8,320] + [Clothes for \$30 x 12 = \$360].

Only the childcare paid directly to the care provider is excluded. Groceries that are given to the family are not counted as income, but money given to the family is. Thomas has discretion over how cash is used.

EXAMPLE Use of Vehicle

A tenant uses her ex-husband's car to transport their son to medical examinations conducted on a regular basis. The title to the car is in the ex-husband's name, he makes the car payment, and he is responsible for maintenance. Should the use of the car be considered a regular non-cash contribution to the family?

No: This is not counted unless the tenant has exclusive use of the vehicle or the vehicle is in the tenant's name.

Student Financial Assistance

Before HOTMA, for families not receiving Section 8 assistance, any scholarships or grants were excluded as income while assistance income was counted for Section 8 recipients. HOTMA introduced a new way to calculate student assistance income that applied to all families except those who receive Section 8 rental assistance. In 2026, the law changed and student assistance income is no longer counted differently for Section 8 assistance recipients. HOTMA student assistance rules now apply to all families.

The primary differences between the Section 8 and HOTMA student assistance approaches were how the Higher Education Act of 1965 (HEA) assistance and money from private sources (such as parents and grandparents) were counted. Under HOTMA, HEA assistance is not counted as income, and money from private sources is gift income, not student assistance.

Student Assistance Process Flow

Step 1 | Determine if a family includes any adult student at an institute of higher education and how they pay for school. Proceed if the family receives Higher Education Act and/or other scholarships and grants.

Step 2 | Determine if a student has Higher Education Act assistance.

- No |** Apply Charts “HEA and Other Assistance | When no HEA Assistance is Involved.”
- Yes |** Apply Charts “HEA and Other Assistance | When HEA and Other Assistance is Involved.”

Step 3 | Determine if there are any additional adult students at an institute of higher learning in the family.

- No |** Process is complete.
- Yes |** Repeat steps above for each additional student.

Student Financial Assistance per HOTMA

HOTMA Student Assistance Type 1 | HEA Assistance

Assistance from section 479B of the Higher Education Act of 1965 (HEA) is **totally excluded** from a family's income. Note that assistance from the HEA may be partially counted as student assistance for Section 8 assistance recipients while certain HUD appropriations language exists (see above). This is a key difference between the Section 8 and HOTMA approaches. Below is a list of HEA Title IV programs. There may be additional sub-programs:

Grants to Students in Attendance at Institutions of Higher Education

- Federal Pell Grants
- Federal early outreach and student services programs
 - Federal TRIO Programs
 - Gaining Early Awareness and Readiness for Undergraduate Programs
 - Model Program Community Partnership and Counseling Grants
 - National Student Savings Demonstration Program
- Federal supplemental educational opportunity grants
- Leveraging Educational Assistance Partnership program
- Special programs for students whose families are engaged in migrant and seasonal farmwork
- Robert C. Byrd Honors Scholarship Program
- Childcare access means parents in school
- TEACH Grants
- Scholarships for veteran’s dependents

Federal Family Education Loan Programs

Federal Work-Study Programs

William D. Ford Federal Direct Loan Program

Federal Perkins Loans

Higher Education Relief Opportunities for Students

Note that the following was added effective July 1, 2024

Section 134 of the Workforce Innovation and Opportunity Act (WIOA). This includes income earned in employment and training programs including workforce investment activities for adults and workers dislocated as a result of permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster that results in mass job dislocation, to assist such adults or workers in obtaining reemployment as soon as possible.

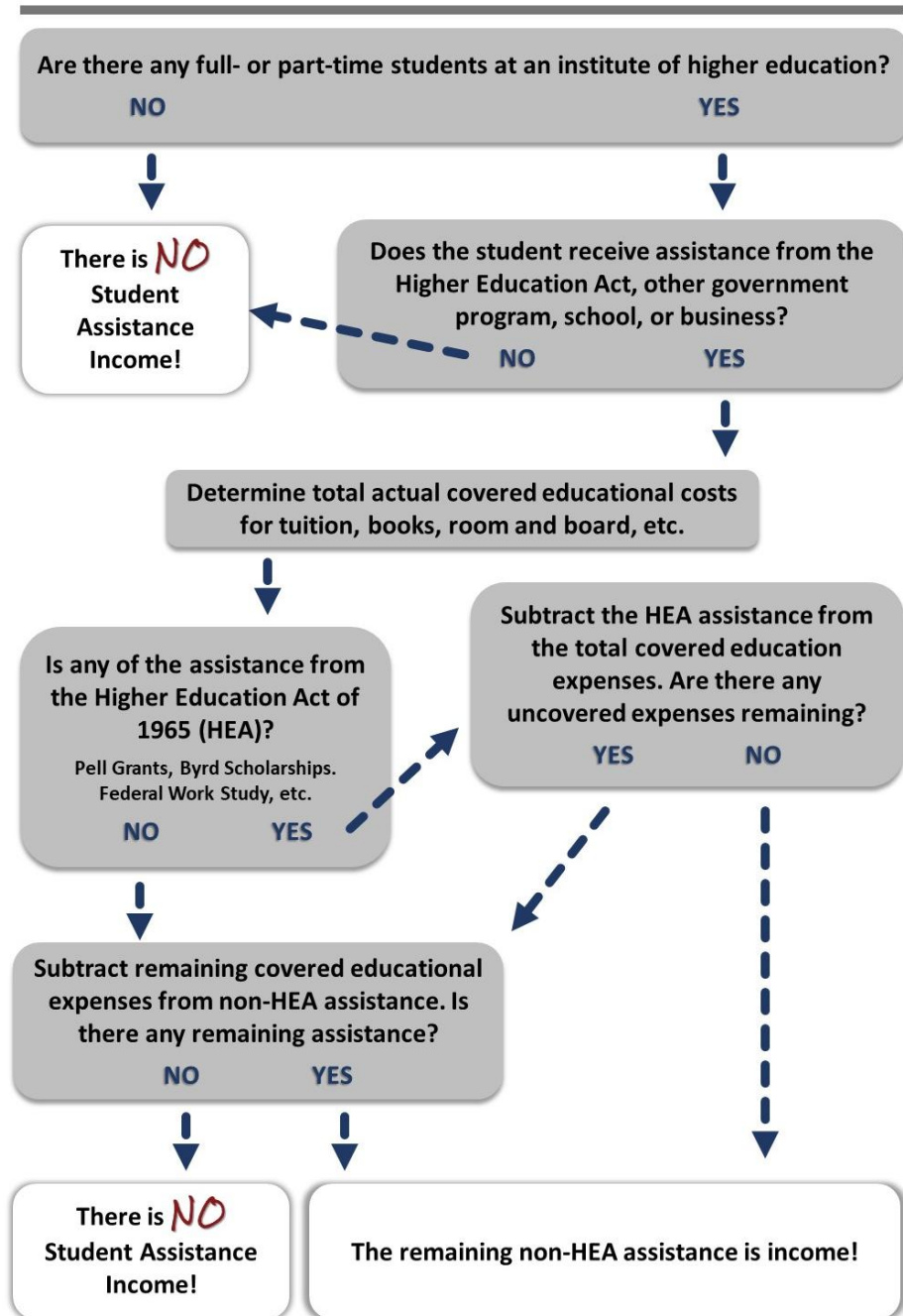
HOTMA Student Assistance Type 2 | Other Scholarships and Grants

Other non-HEA student assistance for purposes of the HOTMA student assistance rule may come from the **Federal government, a State, Tribe, or local government, a private nonprofit foundation, a business, or an institution of higher education.** It may be paid directly to the student or the educational institution on the student's behalf. Student financial assistance paid to the student must be verified with the entity responsible for the assistance. **Student assistance does NOT include** financial support provided to the student in the form of a fee for services performed, such as any work-study or teaching fellowship that is not from the HEA of 1965, non-HEA work-study or teaching fellowships are simply counted as employment income. It also does not include gifts, including gifts from private sources such as family or friends. **Note that assistance from private sources is counted as student assistance for Section 8 assistance recipients while certain HUD appropriations language exists (see above) but not under the HOTMA student assistance rule for non-Section 8 recipients.** This is a crucial difference between the Section 8 and HOTMA student assistance rules.

Non-HEA student assistance is excluded to the extent that it covers **tuition, books, and supplies** (including supplies and equipment to support students with learning disabilities or other disabilities), **room and board,** and **other fees required and charged to a student by an institution of higher education.** It is counted as income if it exceeds these costs. It may also cover the cost of **room and board for dependent student members** of the family who are **living away from their parents at school.**

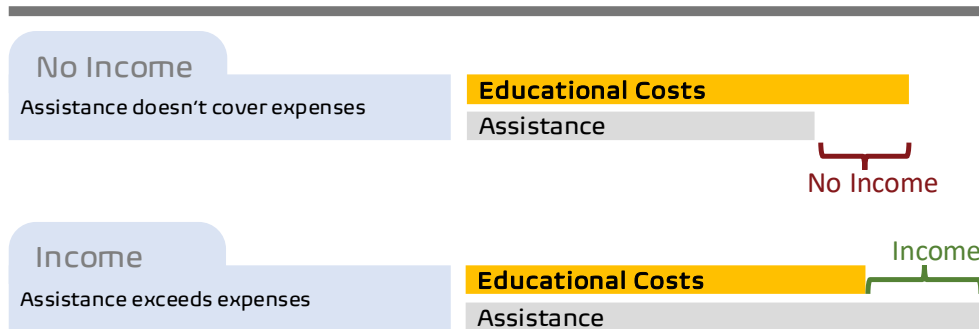
Important note: although HEA assistance is not counted as income, it is subtracted from covered student expenses FIRST to determine if any remaining assistance exceeds the remainder of the covered costs. If there is an excess, the remaining student assistance is income.

Student Assistance Income



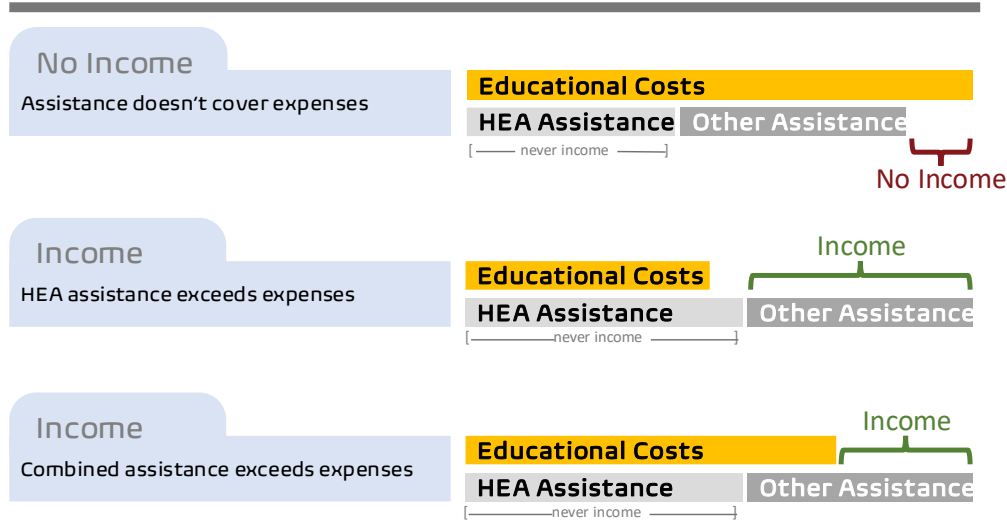
Student Assistance Income

when No HEA Assistance is Received



Student Assistance Income

when HEA and Other Assistance is Received



EXAMPLE Student Assistance | Expenses Exceed All Assistance

A family pays for school in the following ways.

A Pell Grant	\$ 10,000
A scholarship from a local business	\$ 6,000
Parents outside the household	\$ 20,000
Paid in semester installments	
Total covered education costs	\$29,000.

Family student assistance is \$ 0.

Gift income is \$20,000.

Student costs exceed assistance, but the gift income is counted. See the *first* example on the chart *When HEA and Other Assistance is Received*.

EXAMPLE Student Assistance | HEA Assistance Exceeds Expenses

A non-Section 8 assisted family has the following assistance.

A Pell Grant	\$12,000
A scholarship from a local business	\$ 6,000
Covered education costs	\$10,500

\$6,000 of the scholarship is counted as income.

As the HEA Pell assistance covers the entire covered costs, the entire scholarship is income. See the *second* example on the chart *When HEA and Other Assistance is Received*.

EXAMPLE Student Assistance | Expenses Exceed HEA Assistance

A non-Section 8-assisted family has these forms of student financial assistance.

A Pell Grant	\$12,000
A scholarship from a local business	\$ 6,000
Covered education costs	\$15,000

\$3,000 of the scholarship is counted as income.

The HEA Pell assistance and \$3,000 of the scholarship cover the expenses. The remaining \$3,000 is income. See the *third* example on the chart *When HEA and Other Assistance is Received*.

Asset Income

Assets are items of value that may be turned into cash. They have a market value, which is the money that another person would pay to acquire the asset. The net (or cash) value is the market value, less any costs to convert the asset to cash. Starting with HOTMA, Section 8 rental assistance programs have limits on the assets families can own at initial eligibility, but the actual value of assets is not crucial to eligibility for non-Section 8 programs and there is no limit on the assets a person may own. This is true for LIHTC, HOME, and the NHTF. However, the *income* that is generated from the assets is added to total family income and thus may affect family income eligibility.

NOTE: For assets that have income calculated based on an interest rate, the rate is applied to the market value of the asset (see Certificate of Deposit Example below).

The Three Asset Categories

Upon the implementation of HOTMA, all assets that are not excluded are one of three forms of *property*. They are either *necessary personal property* (NPP), *non-necessary personal property* (NNPP), or *real property* (RP). How the value and income from these is calculated differs by asset category.

Asset Exclusions [as updated by HOTMA]

HUD's Description | 24 CFR 5.603(b) *Net Family Assets (3)*

Net family assets DO NOT include the following:

IMPORTANT: The owner does not compute income from any assets in this paragraph.

1. The value of necessary items of personal property.
2. The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers).
3. The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals.
4. The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located.
5. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability.
6. The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government.
7. Interests in Indian trust land.
8. Equity in a manufactured home where the family receives assistance under 24 CFR part 982 (Note: this applies to assistance provided by certain types of Housing Choice Vouchers).
9. Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 (Note: this applies to assistance provided by certain types of Housing Choice Vouchers).
10. Family Self-Sufficiency Accounts.
11. Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

EXAMPLE Assets Part of an Active Business

Renelder and Melvin own a copier and courier service. As part of the business, they use expensive copiers, fax machines and computers and a fleet of bicycles.

None of the equipment that they use in their business is counted as an asset, but the income from the business is counted.

EXAMPLE Assets Not Effectively Owned

Xavier Smith and his daughter, Sophia Jones, have a bank account with both names on the account. Sophia's name is on that account for the convenience of her father in case an emergency arises that would result in Sophia handling payments for her father. The owner/agent confirms that Sophia has not contributed to this asset, does not receive interest income from it, nor does she pay taxes on the interest earned.

Sophia does not own this account. If Sophia applies for affordable housing, the owner should gather sufficient documentation of the facts and not count this account as her asset. This asset belongs to Xavier and would be counted entirely as the father's asset should he apply for affordable housing.

Note that this answer depends on the owner/agent having verified the details of ownership. If that were not done, the entire asset would be counted to Sophia.

EXAMPLE Asset Not Accessible

A battered spouse owns a house with her husband. Because of the domestic situation, she receives no income from the asset and cannot convert the asset to cash.

The owner/agent rightly concludes through due diligence that the house is not accessible to the battered spouse and excludes it from her family assets.

The Asset Threshold

Within HOTMA, there is an *asset threshold* that relates to three rules that dictate how assets and asset income are calculated. The asset threshold is indexed for inflation each year. When HOTMA started regulating the asset threshold in 2024, the amount of the threshold was \$50,000. In 2025, it was \$51,600 (based on the 3.2% interest prevailing inflation in 2024), and in 2026, the threshold was raised to \$52,787. Based on the threshold at the start of HOTMA, the threshold is sometimes referred to as “\$50,000, as adjusted” (that is, as adjusted annually for income).

Each of the three asset rules is triggered based on part of, or total, net family assets.

Rule based on the total **net non-necessary personal property (NNPP)** that a family owns.

1. When the value of all NNPP is excluded because it does not exceed the asset threshold.

Rules based on **total net assets** that a family owns.

2. When total net assets and income can be self-certified by the family.
3. When income must be imputed on individual non-financial account NNPP and real property that cannot otherwise have income calculated.

Note that the value of NNPP in #1 above must be determined *before* total net assets and the appropriateness of #2 can be determined and if #3 must be applied. For instance, if a family owns a checking with a balance of \$400 and stocks totaling \$40,100 in a year where the threshold is \$50,000, the checking and stocks are valued at \$0. If the only other asset that the family owns is real property with net value of \$42,456 and no income, total net family assets are \$42,456, not \$82,956. This means that total net family assets do not exceed the \$50,000 asset threshold applicable that year and assets can be self-certified. Asset income will also not need to be imputed on the real property. If calculations were done in a different order and NNPP not excluded, the total assets may be inaccurately determined to exceed \$50,000, self-certification wrongly denied, and income calculated incorrectly.

Necessary Personal Property [NPP]

Necessary personal property (NPP) is excluded from net family assets and includes items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness or assist a family member with a disability. Although not strictly necessary to subsistence living, they are commonly part of the life of families in affordable housing.

Items classified as NPP are *excluded* from net family assets and *any income* from NPP *is excluded* from family income. See *Necessary vs. Non-Necessary Personal Property* chart below for examples of each type.

EXAMPLE Types of Personal Property
Necessary [NPP] vs. Non-Necessary [NNPP]

NPP	NNPP
Vehicles	
<input type="checkbox"/> Car(s)/vehicle(s) that a family relies on for transportation for personal or business use Examples: bikes, motorcycles, skateboards, scooters	<input type="checkbox"/> Recreational car/vehicle not needed for day-to-day transportation. Examples: campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)
	<input type="checkbox"/> Recreational boats/watercraft
Household Items	
<input type="checkbox"/> Furniture, carpets, linens, kitchenware	
<input type="checkbox"/> Common appliances	
<input type="checkbox"/> Personal effects that are not luxury items Examples: toys, books	
<input type="checkbox"/> Personal computers, phones, tablets, and related equipment.	
<input type="checkbox"/> Professional tools of trade of the family Example: professional books	
	<input type="checkbox"/> Equipment/machinery that is not used to generate income for a business
Jewelry/Clothing	
<input type="checkbox"/> Wedding and engagement rings	<input type="checkbox"/> Expensive jewelry without religious or cultural value, or which does not hold family significance
<input type="checkbox"/> Jewelry used in religious/cultural celebrations and ceremonies	
<input type="checkbox"/> Clothing	
<input type="checkbox"/> Religious and cultural items	
Recreation / Entertainment / Collections	
<input type="checkbox"/> Common electronics Examples: radios, televisions, DVD players, gaming systems	<input type="checkbox"/> Collectibles (e.g., coins/stamps)
<input type="checkbox"/> Equipment used for exercising Examples: treadmill, stationary bike, kayak, paddle-board, ski equipment	<input type="checkbox"/> Items such as gems/precious metals, antique cars, artwork, etc.
<input type="checkbox"/> Musical instruments used by the family	
Health and Medical	
<input type="checkbox"/> Medical equipment and supplies	
<input type="checkbox"/> Health care-related supplies	
Financial Accounts	
	<input type="checkbox"/> Bank accounts or other financial investments Examples: checking account, savings account, stocks/bonds

Non-Necessary Personal Property [NNPP]

Non-necessary personal property (NNPP) includes items of personal property that do not qualify as NPP. Examples of NNPP can be found in the *Necessary vs. Non-Necessary Personal Property chart above*.

Unless specifically excluded from assets, items classified as NNPP are **included in net family assets if the total of all non-necessary personal property that a family owns exceeds the asset threshold applicable that year**. However, if all the NNPP that a family owns adds up to the threshold or less, the assets that are NNPP are all individually assigned \$0 values when calculating net family assets. However, even if the assets are excluded because they total the threshold or less, any actual income received from all NNPP is included in family income.

Non-Necessary Personal Property – Cash, Checking, Savings

HUD's Description | HUD HOTMA Implementation Notice 2023-10 J.5.a

“When verification of assets is required, PHAs/MFH Owners are required to obtain a minimum of one statement that reflects the **current balance** of banking/financial accounts. MFH Owners were previously required to average the balance of six checking account statements to determine the net (cash) value of a checking account.”

When analyzing a statement, watch for regular unexpected deposits or deposits that exceed verified income. Also, it should be ensured that the pages with the needed information is included. If printouts have been used, the financial institution's website URL must appear on the bottom of the printouts.

Some of the above accounts earn income based on an interest rate. Financial accounts either have determinable income or do not and are not subject to imputing asset income.

Debit Cards. Many social security, SSI, unemployment, and welfare recipients receive their benefits from a “Direct Debit Express” or similar debit card. For accounts of this type, this debit card may be the only evidence of the existence of the asset. The balance existing on the debit card is considered an asset and it is verified using the current balance via documents such as ATM slips showing the balance, a management-created affidavit completed after calling the online account service, or paper statements from the applicant. Note, original ATM slips on thermal paper should be photocopied to preserve the data.

EXAMPLE Checking and Savings

A family has a checking account that has a statement that lists a 6-month average balance of \$1,110 and a current balance of \$350. The statement also lists a savings account that has a 6-month average of \$540 and a current balance of \$103. If these are the family's only assets, what is the total value of the accounts?

\$453: The checking and savings current balances of \$350 + \$103.

EXAMPLE Internet Fund Account | One Funding

A family has a GoFundMe account set up on their behalf for a set period that they have access to. The fund raised \$1,020 and GoFundMe took \$89. What is the value of the account?

\$931: \$1,020 - \$89

EXAMPLE Internet Fund Account | Multiple Fundings

A family has a GoFundMe account set up on their behalf for a set period that they have access to. The fund netted \$931 after GoFundMe took its share. They also had another funding round seven months later that raised \$4,567 after GoFundMe took its portion. What is the value of the account?

\$0, as it was funded multiple times in the last year, this is not an asset but \$5,498 (\$931 + \$4,567) is counted as income.

Once it is funded more than once, all funding is counted as income and not an asset, unless it can be determined that the funding cannot recur and qualifies as non-recurring income.

Non-Necessary Personal Property – Trusts

HUD's Description | 24 CFR 5.603(b) *Net Family Assets (4)*

“In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

Starting with HOTMA, all trusts are handled consistently, including special needs trusts.

A trust is an account in which a bank or a custodian holds funds for a specific purpose. A trust is set up by a **creator** to benefit a **beneficiary**. If an applicant or tenant has set up a trust, determine if it is under or outside of the control of the family.

For **an irrevocable trust or a revocable trust outside the control of the family**, any distributions received by the family are counted as income except:

- Distributions of the **principal** or corpus of the trust; and
- Distributions of income from the trust when the **distributions are used to pay the costs of health and medical care expenses for a minor**.

For a **revocable trust under the control of the family**, any distributions from the trust are not income. Any actual income earned by the trust, regardless of whether it is distributed, is counted as income to the family at the time it is received by the trust.

If a family moves assets into a trust for the benefit of a family member in the affordable housing unit, the assets are not disposed of. Moving assets into a trust that benefits someone outside of the family in the assisted unit, however, would be disposed of under these rules.

EXAMPLE Trust | Beneficiary

Stephen is 23 and applies for a unit. He lists a trust as an asset on his application. The owner/agent secures the trust agreement and a verification form completed by the trust administrator. Stephen is the beneficiary of the trust which was created by his parents. It is worth \$756,000. One term of the trust is that he will not have access to any balance amount until he reaches age 45. However, he receives \$400 a month from the interest earned by the trust until age 45. Of this amount, \$150 pays for his health insurance policy. What are the asset value and annual income that must be counted for Stephen, if any?

\$0 and \$4,800: As the trust is not under his control, it is not an asset.

The monthly payments from the trust income (not the principal) are income. As he is not a minor, the health insurance cannot be deducted from the distributed income.

EXAMPLE Trust | Creator

George and Martha are Stephen’s parents (from the above example), and they apply for a unit. They also list the trust as an asset on their application. The owner/agent secures the trust agreement and a verification form completed by the administrator of the trust. They created the trust 20 months prior to the anticipated move-in date. The trust is irrevocable and is worth \$756,000. They have retained no access to any balance and are not getting any periodic amounts from the trust. What is the asset value that must be counted for George and Martha, if any?

\$756,000: The amount put into an inaccessible trust is counted as a disposed of asset for 24 months, which continues 4 months after they move-in. Income will be pro-rated and imputed at the current passbook savings rate for 4 months after move-in (see disposed of assets, below).

Non-Necessary Personal Property – Stocks, Bonds, T-Bills, CDs, etc.

HUD’s Description | **Exhibit 5-2 (A)(4)**

“Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts. Interest or dividends earned are counted as income from assets even when the earnings are reinvested. The value of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after [income] is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received.”

Some of the above accounts accumulate income based on an interest rate, others based on dividends. Financial accounts have determinable income, even if that is \$0. They are never subject to imputing asset income.

Stocks and Mutual Funds. At times people own interest in companies represented by stocks. Stocks are owned in pieces called shares. Mutual funds are groups of stocks collected into an account. Interest in these is also owned in shares. Income in stock-based investments is paid in dividends per share.

The chart below demonstrates how to establish values and income for various types of assets.

Type of Asset	Market Value	Cash Value	Actual Income
Individual Stocks	# of shares owned X price per share	Market value less the cost to sell (commissions)	Annual dividend X # of shares
Mutual Funds	# of shares owned X price per share	Market value less the cost to sell (commissions)	Annual dividend X # of shares
CDs Certificates of Deposit	Current Balance	Market value less fees for withdrawal	Market value X interest rate
Money Market	Current Balance	Market value less fees for withdrawal	Market value X interest rate
Bond	Redeemable value*	Redeemable value*	Interest rate X market value

Savings Bonds. Are government investments purchased at less than their denomination and accumulating income based on an interest rate?



*To calculate the current cash value of savings bonds, go to savingsbonds.gov, Savings Bond Calculator then ENTER the following items as requested:

- A. Denomination
- B. Series type
- C. Issue date
- D. Serial number (optional)

EXAMPLE Certificate of Deposit

A certificate of deposit has a market value of \$10,220. The penalty for early withdrawal is \$1,040, resulting in net value of \$9,180. The interest rate is 1%. What is the anticipated annual income on the CD?

\$102.20: Market value of \$10,220 x 1%.

EXAMPLE Stocks

A resident owns 933 shares of stock in a company. The stock value is \$4.50 per share and the dividend paid is \$.25 per quarter. What is the:
a) market value and
b) income from the stock?

a) \$4,198.50: 933 shares x \$4.50.

b) \$933: 933 shares x \$.25 x 4.

Real Property

HUD's Description | Exhibit 5-2 (A)(3)

"Equity in rental property or other capital investments. Include the current fair market value less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.).

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

When multiple rental properties are a person's main business, see example below.



Real Estate as Rental Property	
Value	Income
Fair Market Value	Annual rental payments
- Less the outstanding mortgage principal	- Less annual mortgage interest payments
- Less the cost to sell	- Less allowed expenses from Schedule E (taxes, insurance, maintenance etc.)
Cash Value	Annual Net Income

EXAMPLE Assets NOT Part of an Active Business

To supplement her social security income, Alice Washington rents out the home that she and her husband lived in for 42 years.

This home is not an active business asset. Therefore, it is considered an asset, and the owner must determine the value of the home and the annual income that Alice receives from it.

EXAMPLE Real Property | Rented

Minka owns a home that she is renting out. She receives \$1,200 a month in rent (\$14,400 annually). The market value of the home is \$200,000. She has an outstanding mortgage balance of \$110,000 and monthly mortgage payments of \$1,400. Total interest payments on the mortgage will be \$9,200 in the coming year and principal payments will total \$7,600. If she were to sell the home, a broker determines the costs to be 10% of the market value, or \$20,000. The cost to maintain the home is \$657 a month (\$7,884 annually). What is the:

- a) net (cash) value and
- b) income that will be counted from the real property?

a) \$70,000: Market value of \$200,000 less outstanding mortgage balance of \$110,000 less cost to convert to cash of \$20,000.

b) \$0: Annual rent of \$14,400, less interest payments on the mortgage of \$9,200, less maintenance and other costs of \$7,884 for a loss of \$2,684.

EXAMPLE Real Property | Not Rented

Ursula owns a home that is sitting unused now that she is living in an LIHTC/NHTF unit. The market value of the home is \$300,000. She has an outstanding mortgage balance of \$210,000. If she were to sell the home, a broker determines the costs to be 10% of the market value, or \$30,000. Ursula presents mortgage and maintenance expenses so that the owner/agent could decrease the value of the home. Her monthly mortgage payments are \$1,400. Total interest payments on the mortgage will be \$9,200 in the coming year and principal payments will total \$7,600. The cost to maintain the home is \$557 a month (\$6,684 annually).

- a) Can the presented expenses be taken off the value of the land?
- b) What is the net value of the home?

a) No. Operating expenses, such as mortgage interest, ongoing taxes and maintenance payments, are not deductible unless they offset rental income (see *Real Property as Rental Property* Chart above).

b) \$60,000: The market value of \$300,000 less outstanding mortgage balance of \$210,000 less cost to convert to cash of \$30,000.

Real Property – Reverse Mortgages

Reverse Mortgages are a type of home equity loan in which a homeowner can borrow money against the value of his or her primary residence. No repayment of the mortgage (principal or interest) is required until the borrower dies, or the home is sold. The transaction is structured so that the loan amount will not exceed the value of the home over the life of the loan. The real property net value on a property with a reverse mortgage is the market value, less the outstanding reverse mortgage (this will generally decrease over time as funds are disbursed).

Payments received by the homeowner from the reverse mortgage are NOT considered income. They are the proceeds of the reverse mortgage against the real property and simply decrease the net value of the asset.

EXAMPLE Reverse Mortgage

Carol is receiving payments from a reverse mortgage. She moved out of her home to live in an LIHTC/HOME unit but did not sell the home. When she moves into the apartment, her house has a market value of \$230,000 and the outstanding reverse mortgage balance is \$80,000. Costs to sell the home are anticipated to be \$25,000. She receives \$1,000 a month from the reverse mortgage. The owner/agent counts the monthly payments as income, for a total of \$12,000 of income attributed to the home.

- a) Is the owner/agent's income calculation correct?
- b) What is the net value of the home?

a) No: The proceeds from a reverse mortgage are loans and are not income.

b) \$125,000: \$230,000 market value – \$80,000 outstanding reverse mortgage – \$25,000 costs to sell

Real Property – Foreclosure and Short Sales

Foreclosure may occur after a borrower fails to make their mortgage payments. Assets lost to foreclosure are not considered to be “disposed of,” as the disposal is not considered an owner’s choice (see section on assets disposed of, later in this chapter).

If a home owned by an applicant is *in* foreclosure, and the foreclosure is not final, this is counted as an asset until the foreclosure is concluded. NOTE: for a home in foreclosure, the actual net value may often (but not always) be zero due to the outstanding mortgage exceeding the value of the property.

A short sale is a sale of real property in which the proceeds from selling the property fall short of the debts secured against the property. The bank or lien holder(s) agree to receive less than the amount owed. An asset in a short sale has zero net value and is not counted. Paperwork relating to the short sale, or a tax form 1099-C received by the seller should establish that a short sale occurred, and the asset is no longer counted.

Real Property – Deeds of Trust

HUD’s Description | Exhibit 5-2 (A)(10)

“A mortgage or deed of trust held by an applicant.

- (a) Payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset.
- (b) This combined figure needs to be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)
- (c) To count the actual income for this asset, use the interest portion due, based on the amortization schedule, for the 12-month period following the certification.
- (d) To count the imputed income for this asset, determine the asset value as of the effective date of the certification. Since this amount will continually be reduced by the principal portion paid during the previous year, the owner will have to determine this amount at each annual recertification.”

EXAMPLE Deed of Trust Income

A tenant sells her home and holds the mortgage for the buyer. When she moves into a HOME unit, the principal balance of the mortgage is \$60,000. The combined payment of principal and interest expected to be received for the year after move-in is \$5,000. The amortization schedule breaks that payment into \$2,000 in principal and \$3,000 in interest.

- 1) What is the projected annual income from the asset?
- 2) What will the value of the asset be at the first annual recertification?

1) \$3,000: The anticipated interest payments she will receive for the contract.

2) \$58,000: \$60,000 – \$2,000 principal payment.

Excluded Assets – IRS-Recognized Retirement Accounts [as adjusted by HOTMA]

HUD's Description | 24 CFR 5.609 (b)

Income is excluded that is “received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.” These retirement accounts are also excluded from net family assets.

Retirement Account Types recognized by the IRS

Source: IRS.gov

- Individual Retirement Arrangements (IRAs)
- Roth IRAs
- 401(k) Plans
- SIMPLE 401(k) Plans
- 403(b) Plans
- SIMPLE IRA Plans (Savings Incentive Match Plans for Employees)
- SEP Plans (Simplified Employee Pension)
- SARSEP Plans (Salary Reduction Simplified Employee Pension)
- Payroll Deduction IRAs
- Profit-Sharing Plans
- Defined Benefit Plans
- Money Purchase Plans
- Employee Stock Ownership Plans (ESOPs)
- Governmental Plans
- 457 Plans
- Multiple Employer Plans

EXAMPLE Retirement Accounts without Access

Michele is working for an employer that provides a pension fund type that is on the IRS' list of recognized retirement accounts. It is valued at \$6,090. Michele will not be able to collect the money until she retires in many years. What is the asset value?

\$0: An IRS-recognized retirement account is never considered an asset, regardless of whether the owner can access it or not.

EXAMPLE Retirement Account with Periodic Withdrawals

A 401(k) account that a retired person has full access to has a balance of \$210,000. The resident is withdrawing \$500 monthly from the account.

- 1) Is the account counted as an asset?
- 2) What is the annual income associated with the 401(k)?

- 1) **No:** An IRS-recognized retirement account is never considered an asset.
- 2) **\$6,000:** \$500 monthly withdrawals x 12 months. This is listed on the periodic income portion of the Certification form, not the asset section.

EXAMPLE Retirement Account with No Periodic Withdrawals

An IRA that a retired person has full access to has a balance of \$110,000. The resident is not making periodic withdrawals, but the IRA verification lists an interest rate of 1.5%.

- 1) Is the account counted as an asset?
- 2) What is the annual income associated with the IRA?

1) No: An IRS-recognized retirement account is never considered an asset.

2) \$0: Income is never counted for a retirement account except for periodic withdrawals.

Non-Necessary Personal Property – Whole Life

HUD's Description | Exhibit 5-2 (A)(7)

"Net (cash) value of life insurance policies available to the individual before death (e.g., the surrender value of a whole life policy or a universal life policy). It would not include a value for term insurance, which has no net (cash) value to the individual before death."

EXAMPLE Life Insurance

Brittany has two life insurance policies. One is term life, with a death benefit of \$1,000,000. The second is a whole life policy. It has a death benefit of \$300,000. Its net (cash) value is \$26,000 with an interest rate of 2.5%. What is the income that will be counted for her life insurance policies?

\$650: For the whole life policy, the income is the value of \$26,000 x 2.5%. The term life insurance is not counted.

Non-Necessary Personal Property – Held as an Investment

HUD's Description | Exhibit 5-2 (A)(8)

"Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. Personal jewelry is NOT considered an asset."

For this type of asset, the intent of the owner to eventually sell the property is key.

EXAMPLE Property Held as an Investment

A person holds a stamp collection appraised at \$32,000. He intends to sell specific stamps when their values peak.

- 1) Is this an asset to the family?
- 2) What income is counted?

1) Yes. It is non-necessary personal property.

2) There is no income to count directly on property held as an investment. However, if the total family assets' net value exceeds the asset threshold for the year, the value of the personal property will have imputed asset calculated on it.

EXAMPLE Property NOT Held as an Investment

A person inherited an antique automobile with a value of at least \$350,000. The owner/agent automatically considered this non-necessary personal property held as an investment. Was that correct?

No: High value does not automatically make the personal property an investment. The holder's intent and use are the important factors. If it is regularly used in daily life for transportation, for instance, it will likely be necessary personal property and excluded.

Non-Necessary Personal Property – Lump-Sum One-Time Receipts

HUD's Description | Exhibit 5-2 (A)(9)

"These include inheritances, capital gains, one-time lottery winnings...and any other amounts that are not intended as periodic payments."

These types of assets are usually deposited and verified as part of another account (checking or savings, etc.).

EXAMPLE Lump-Sum Receipts

A month before moving in, Emily gets a one-time insurance settlement for \$64,000. The money is put into her savings account (her only asset). Subsequently, the balance of the savings account is verified to be \$76,234. The owner/agent only counts the savings account balance as an asset and does not count the lump sum. Was this correct?

Yes: The lump-sum went into an account that was verified and should not be double-counted.

Disposed of Assets

Assets given away for less than their market value are counted for 2 years after they are disposed of. For disposed-of assets, the net value is counted and added to total family assets. The net value is the market value less the cost to convert the asset to cash (such as paying off any mortgages) and any amount they received for the asset.

NOTE: Assets that have been lost because of a division of property in a divorce, separation settlement, bankruptcy, or foreclosure are not disposed of assets. Also, if a family moves assets into an IRS-recognized retirement account or trust for the benefit of a family member in the affordable housing unit, the assets are not disposed of. Moving assets into a trust that benefits someone outside of the family in the assisted unit, however, would be disposed of under these rules.

EXAMPLE Disposed of Asset

Bob sold a house worth \$230,000 to his daughter for \$100,000. Reasonable realtor and legal fees are \$23,000. What is the disposed of asset value?

\$107,000: Market value of \$230,000 - costs to sell of \$23,000 - money received \$100,000.

EXAMPLE Disposed of Asset

Jake cashed in a CD worth \$54,000, bought a new car for daily use worth \$27,000, went on vacation for \$9,000 and donated \$4,000 to his church. The remaining \$14,000 was put in his checking account. What, if any, of the money from the CD was disposed of?

\$4,000: Using cash assets to buy necessary personal property and other things that are not counted as assets is not “disposing of” assets. The charitable donation is the only asset Jake disposed of.

Imputing Asset Income

Residents in affordable housing with a substantial amount of assets are anticipated to earn at least a minimal income on items of non-financial non-necessary personal property and real property. However, financial accounts either have income (interest or dividends) or do not and do not have income imputed. If the total net value of a family’s assets is more than the asset threshold for the year, imputed income must be calculated on individual items of non-financial non-necessary personal and real property using the current HUD passbook rate based on the average FDIC passbook rate for the country. The actual income for financial accounts is added to the actual or imputed income for other assets and must then be included in the family’s total income. HUD publishes the passbook rate for each year prior to the rate being implemented January first.



CHECKLIST Three-Step Approach to Addressing Asset Income

Examine family self-certification of asset values and income collected during the application process.

Identify the three asset types listed:

[1] necessary personal property [NPP] [2] non-necessary personal property [NNPP] [3] real property.

Step 1 Address Necessary Personal Property (NPP) (asset type #1)

Identify and *exclude any necessary personal property or excluded assets* listed by the family.

Step 2 Address Non-Necessary Personal Property (NNPP) (asset type #2)

Based on self-certification, determine *if the value of all non-necessary personal property exceeds the asset threshold*.

If yes | List each NNPP asset's value and actual income on the TIC.

If no | List each non-necessary personal property asset as \$0 on the TIC (when instructed to do in the TIC instructions) but include total actual income as instructed.

Step 3 Address Real Property (asset type #3) – and Imputed Asset Income, if applicable

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

Note | **If a federal tax refund or refundable credit was received in the last 12 months, subtract this amount from the value of total net assets before determining the above.**

If yes | Verify all asset values and income with documentation. Impute income on non-financial account NNPP and real property that have no income that can otherwise be determined and add it to other actual income.

If no | Use self-certification to verify asset values and income if allowed by company policy (for HUD-funded properties only (but not including HOME or NHTF), full documentation will have to be gathered every 3rd year, usually the third year after move-in. Do not impute asset income on any assets.

EXAMPLE Family Asset Income | 1

A family discloses the following assets.

Asset	Market Value	Cash Value	Annual Income
Cars for daily commutes	\$ 34,000	\$ 34,000	\$ 0
Checking (no interest rate)	\$ 120	\$ 120	\$ 0
Certificate of Deposit	\$ 5,320	\$ 3,912	\$ 113
Mutual Fund (no dividend)	\$ 1,212	\$ 998	\$ 0
Real Property (leased out)	\$ 400,009	\$ 20,234	\$ 1,799
TOTAL	\$ 440,661	\$ 59,264	\$ 1,912

What income is counted for these assets? The passbook savings rate was .4% and the asset threshold was \$50,000.

\$1,912

All the assets are disclosed, as listed above.

Step 1 | The cars are necessary personal property. The rest (except for the real property) are non-necessary personal property (NNPP). The NPP cars are removed.

Step 2 | NNPP totals \$5,030.

[\$120 checking + \$3,912 CD + \$998 mutual fund]

NNPP does not exceed \$50,000, so values are excluded, but any income (\$113 here) is counted.

Step 3 | Net (Cash) Value of net assets total \$20,234 (see below).

Total net assets do not exceed \$50,000, so no assets have asset income imputed and added to other income.

Asset	Market Value	Net Value	Annual Income
Checking (no interest rate)	\$ 0	\$ 0	\$ 0
Certificate of Deposit	\$ 0	\$ 0	\$ 113
Mutual Fund	\$ 0	\$ 0	\$ 0
Real Property	\$ 400,009	\$ 20,234	\$ 1,799
TOTAL	\$ 400,009	\$ 20,234	\$ 1,912

EXAMPLE Family Asset Income | 2

A family has the following assets.

Asset	Market Value	Cash Value	Annual Income
Checking (no interest)	\$ 620	\$ 620	\$ 0
Real Property	\$ 290,123	(\$ 4,000) *	\$ 0
TOTAL	\$ 290,743	\$ 620	\$ 0

* The mortgage balance on the property exceeds the market value by \$4,000.

The applicable passbook savings rate was .4% and the asset threshold was \$50,000. What income from assets will be used?

\$0

Since the cash value of assets does not exceed \$50,000, actual income will be used, with no imputed asset income being applied on individual assets.

All the assets are disclosed, as listed above.

Step 1 | No necessary personal property is listed.

Step 2 | NNPP totals \$620. [\$620 checking]

NNPP assets do not exceed \$50,000, so the value of the checking is excluded, but any income received is counted. In this case, there is no income.

Step 3 | The value of net assets total \$0 (see below).

Total net assets do not exceed \$50,000, so no assets have asset income imputed.

Asset	Market Value	Net Value	Annual Income
Checking (no interest)	\$ 0	\$ 0	\$ 0
Real Property	\$ 290,123	(\$ 4,000)	\$ 0
TOTAL	\$ 290,123	\$ 0	\$ 0

EXAMPLE Tax Return and Assets

A family has a checking account with a current balance of \$900 and a certificate of deposit worth \$52,367. The checking account has 0% interest, and the CD has 1%. Eleven months before the family had a tax return of \$3,100. The asset threshold that year was \$50,000.

What is the [1] value of net family assets and [2] the income from assets?

[3] Is imputing asset income necessary?

[1] \$50,167. [\$53,267 – tax return of \$3,100].

[2] \$523.67 [\$52,367 x 1%]

[3] No. While total net assets exceed \$50,000, an actual income can be calculated on both assets and imputing is not necessary.

EXAMPLE Family Asset Income | 3

A family discloses the following assets.

Asset	Market Value	Cash Value	Annual Income
Car for daily commutes	\$ 22,000	\$ 22,000	\$ 0
Checking (no interest rate)	\$ 240	\$ 240	\$ 0
Bonds	\$ 1,230	\$ 1,230	\$ 48
Real Property (not leased)	\$ 601,567	\$ 601,567	\$ 0
TOTAL	\$ 625,037	\$ 625,037	\$ 48

The applicable passbook savings rate was .4% and the asset threshold was \$50,000/ What income is counted for these assets?

\$2,454.27

All the assets are disclosed, as listed above.

Step 1 | The car is removed.

The car is NPP. The rest (except for the real property) are NNPP.

Step 2 | Non-necessary personal property totals \$1,470 [\$240 checking + \$1,230 CD]

NNPP does not exceed \$50,000, so values are excluded, but any income (\$48 here) is counted.

Step 3 | Net (Cash) Value of net assets total \$601,567 (see below).

Total net assets exceed \$50,000, so assets that cannot otherwise have income calculated have asset income imputed and added to other income.

Asset	Market Value	Cash Value	Annual Income
Checking (no interest rate)	\$ 0	\$ 0	\$ 0.00
Bonds	\$ 0	\$ 0	\$ 48.00
Real Property(not leased)	\$601,567	\$601,567	\$ 2,406.27 (imputed income)
TOTAL	\$ 601,567	\$601,567	\$ 2,454.27

EXAMPLE Imputing Income | I

A family has the following assets.

Asset	Market Value	Net Value	Actual Annual Income
Checking	\$ 500	\$ 500	\$ 0
Certificate of Deposit	\$ 4,320	\$ 3,700	\$ 201
Stocks	\$ 1,200	\$ 1,000	\$ 0
Real Property	\$200,000	\$20,000	\$ 0
TOTAL	\$206,020	\$25,200	\$ 201

The applicable passbook savings rate was .45% and the asset threshold was \$51,600. A tax return of \$1,000 had been received 9 months before.

What income is counted for these assets?

\$201: NNPP totals less than the asset threshold and so the value of all NNPP is excluded. This leaves real property with a total net value of \$20,000. Subtracting the tax return results in total net assets counted of \$19,000. This does not exceed the asset threshold and so no income is imputed. Only actual income from the CD is counted.

EXAMPLE Imputing Income | 2

A family has the following assets.

Asset	Market Value	Net Value	Actual Annual Income
Checking	\$ 800	\$ 800	\$0
Real Property	\$890,000	\$4,000	\$0
TOTAL	\$890,800	\$4,800	\$0

The applicable passbook savings rate was .4% and the asset threshold was \$50,000. What income from assets will be used?

\$0: Since the net value of assets does not exceed \$50,000, actual income will be used to calculate income.

EXAMPLE Imputing Income with Disposed of Asset

Robin and Richard moved into a unit on 01/01/2025. They had given a home to their children on 06/01/2023. The home's net value was \$170,000.

a) The owner/agent must count the value of the home as if they still own it until when?

b) The HUD Passbook Rate was .45%, what is the amount of imputed income that should be included for the disposed asset on their move-in certification?

a) 06/01/2025.

b) \$318.75: $\$170,000 \times .45\% (.0045) = \$765 \div 12 \times 5$. As the 24-month period ended during the first certification year, the imputed income was prorated for the months until the asset is no longer counted.

EXAMPLE Charitable Donations

Theresa moved into a unit on 01/01/2026. She made a charitable donation to her church totaling \$700,000 on 07/01/2025.

a) The value of the disposed cash must be counted until when?

b) The HUD Passbook Rate was .45%, what is the amount of imputed income that was included on their move-in certification?

a) 07/01/2027.

b) \$3,150: $\$700,000 \times .45\% (.0045)$

Final Certification Steps

Chapter 3 thoroughly discussed details about income limits referred to in step 6.

Compliance Steps to Qualify a Family

1. Accept a completed application including an income and asset questionnaire.
2. Verify eligibility factors.
3. Clarify and verify student status, as necessary.
4. Determine number of family and household members.
5. Calculate family income.
- 6. Compare family income to the applicable income limit.**
- 7. Complete a Tenant Income Certification (TIC).**
- 8. Execute a lease and other paperwork, per property policy.**

Chapter 7 also discussed details about leasing, per step 8.

The Tenant Income Certification (TIC)

Once the owner/agent has gathered and verified all family composition and income information, the information is summarized as a Tenant Income Certification (TIC). RIHousing offers a sample TIC and may also allow the use of a TIC that is produced by an owner/agent's software. Prior written approval from RIHousing authorizing the use of an alternative TIC must be obtained. All adult family members and the owner/agent must sign and date the TIC. Backdating is never acceptable.

The HOTMA-Compliant 2024 RIHousing "Tenant Income Certification" (TIC) and Detailed Instructions are available at the Agency Website

The image displays several overlapping forms and instruction sheets for the Tenant Income Certification (TIC) process. Key sections visible include:

- INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION:** A main instruction sheet with sections for 'PART I. RESIDENTS DATA', 'PART II. HOUSEHOLD COMPOSITION', 'PART III. ANNUAL INCOME', 'PART IV. TENANT INCOME', 'PART V. RESIDENTS DATA', 'PART VI. RESIDENTS DATA', and 'PART VII. RESIDENTS DATA'.
- Form 1 (PART I):** 'PART I. RESIDENTS DATA' form, including fields for 'Type of Certification', 'Resident Data', 'Household Composition', and 'Resident Data'.
- Form 2 (PART II):** 'PART II. HOUSEHOLD COMPOSITION' form, including fields for 'Household Composition', 'Household Income', and 'Household Assets'.
- Form 3 (PART III):** 'PART III. ANNUAL INCOME' form, including fields for 'Annual Income', 'Annual Assets', and 'Annual Expenses'.
- Form 4 (PART IV):** 'PART IV. TENANT INCOME' form, including fields for 'Tenant Income', 'Tenant Assets', and 'Tenant Expenses'.
- Form 5 (PART V):** 'PART V. RESIDENTS DATA' form, including fields for 'Resident Data', 'Resident Assets', and 'Resident Expenses'.
- Form 6 (PART VI):** 'PART VI. RESIDENTS DATA' form, including fields for 'Resident Data', 'Resident Assets', and 'Resident Expenses'.
- Form 7 (PART VII):** 'PART VII. RESIDENTS DATA' form, including fields for 'Resident Data', 'Resident Assets', and 'Resident Expenses'.

To maintain compliance, owner/agents must practice good organizational skills. Neat and consistent files also help file audits to go smoothly.

1. The following documents are required for **all initial certification files**.

Documents in ALL CAPS and quotation marks are RIHousing-specific forms. Alternate forms may be used with the prior written approval of RIHousing. NOTE: The owner/agent may also require their own documents in addition to these:



- “TENANT INCOME CERTIFICATION” (TIC).**
 - Current RIHousing version or approved alternate.
- “LIHTC PROGRAM STUDENT STATUS AFFIDAVIT.”**
 - o Third party **verification of student status** from an educational institution (when applicable).
 - For initial certification and at each annual certification.
- “RECURRING GIFTS AFFIDAVIT”**
- “CERTIFICATION OF ZERO INCOME”** (if applicable)
- Worksheet for income & expenses or calculation tapes.**
 - To demonstrate how annual income was calculated.
- Verification of income** prepared by a third party, including but not limited to:
 - Employment, Wages, Salaries, Commission, Tips, Unemployment, Child Support, TDI, FIP, Pension, Workman’s Comp, Veterans Benefits, Social Security, SSI, SSDI, Self-employment, etc...
- “ASSET SELF-CERTIFICATION”**
 - If total net assets do not exceed the asset threshold for the year
OR
- Verification of assets** or statements.
 - If the total net assets exceed the asset threshold for the year
- Clarification notes (as applicable).
- Rental application** (time & date stamped when received) **Permanent information, must remain with IC package.**
 - Must have application/certification questionnaire for in-place tenants.
- Lease Agreement & RIHousing’s “LIHTC LEASE ADDENDUM.”**
 - Original and all subsequent leases.
- Unit Inspection documentation.**
 - For move-in and annually thereafter.
- Release of information consents.**
 - For each family member age 18 and older.
- EPAs Lead Hazard Information Pamphlet and Disclosure form. Permanent information must remain with the IC package.**
 - If building was built prior to 1978 (acknowledgment of receipt of the pamphlet is acceptable).
- Race and Ethnicity Self-Certification. Permanent information must remain with the IC package.**
 - Appropriate Field on TIC must be populated. NOTE: Applicant has the right to decline or not disclose.

2. The following are documents required for **all annual certification files in non-100% LIHTC projects**. Documents in ALL CAPS and quotation marks are RIHousing-specific forms. Alternate forms may be used with the prior written approval of RIHousing. NOTE: The owner/agent may also require their own documents in addition to these:



- "TENANT INCOME CERTIFICATION" (TIC).**
 - Current RIHousing version or approved alternate.
 - "LIHTC PROGRAM STUDENT STATUS AFFIDAVIT."**
 - o Third party **verification of student status** from an educational institution (when applicable).
 - For initial certification and at each annual certification.
 - "CERTIFICATION OF ZERO INCOME"** (if applicable)
 - Worksheet for income & expenses or calculation tapes.**
 - To demonstrate how annual income was calculated.
 - Verification of income** prepared by a third party, including but not limited to:
 - Employment, Wages, Salaries, Commission, Tips, Unemployment, Child Support, TDI, FIP, Pension, Workman's Comp, Veterans Benefits, Social Security, SSI, SSDI, Self-employment, etc....
 - "ASSET SELF-CERTIFICATION"**
 - If total net assets do not exceed the asset threshold for the year
- OR**
- Verification of assets** or statements.
 - If the total net assets exceed the asset threshold for the year
 - Clarification notes (as applicable).
 - Lease Agreement & RIHousing's "LIHTC LEASE ADDENDUM."**
 - Original and all subsequent leases.
 - Unit Inspection documentation.**
 - For move-in and annually thereafter.
 - Release of information consents.**
 - For each family member age 18 and older.

3. The following documents are required for **all annual certification files when a project is 100% LIHTC and an Abbreviated Annual Certification (AAC) has been authorized by RIHousing**. Documents in ALL CAPS and quotation marks are RIHousing-specific forms. Alternate forms may be used with the prior written approval of RIHousing. NOTE: The owner/agent may also require their own documents in addition to these:



- "TENANT INCOME Certification" (TIC)**
 - Current RIHousing version or an approved alternative.
- "LIHTC PROGRAM STUDENT STATUS AFFIDAVIT."**
 - Third party **verification of student status** from an educational institution (when applicable).
- Self-affidavit of annual income** (including income from assets)
- Recertification Questionnaire**
- Clarification notes (as applicable)
- Lease Agreement & RIHousing's "LIHTC LEASE ADDENDUM."**
- Unit Inspection documentation.**
 - For move-in and annually thereafter.
- Release of information consents.**
 - For each family member age 18 and older.

4. The following documentation is not required to be in a tenant file but must be on hand for any file review or agency request.



- *Utility Allowance chart.**
Including breakdown on how UA total was determined.
- *Income Limits.**
Documentation of limits used.
- *Rent Limits.**
Documentation of limits used.

WARNING!

Avoiding Noncompliance Income Calculations



Helpful reminders to assist in avoiding mistakes that can result in the loss of tax credits

Below is a list of areas to be aware of where mistakes are commonly made in affordable housing tenant income calculations.

Employment

Do not confuse semi-monthly and bi-weekly pay! Calculating bi-weekly pay as if it were semi-monthly results in missing two pay periods and could well result in an over-income family moving in.

Check verification paperwork carefully! Raises and other anticipated changes can be easy to miss when verification of employment is used. Review all verifications carefully to have all information on hand when doing calculations.

Self-Employment

When using last year's tax return, ensure that it covers a full year! Annualizing partial year income is important to ensure that a full year's income is being anticipated.

Check tax returns carefully! Some items may show up on a tax return schedule that, if missed or misinterpreted, could affect calculations.

Social Security

Be sure to know when it is required to count net income from social security! These include delayed benefits, adjustments for prior overpayments and court-ordered divorce adjustments.

Check printouts and benefit letters carefully! SSI and other income are often listed toward the bottom of SS printouts and are easy to miss.

NOTE: SSI and Social Security award letters must provide net and gross amounts and include details of all adjustments.

Supplement | Income Excluded by HOTMA and Other Federal Laws

Directly quoted from HUD Regulation 24 CFR 5.609(b) and
Fed. Reg. Docket No. FR-6410-N-01 [1-31-2024]

- (1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- (2) The following types of trust distributions:
 - (i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):
 - (A) Distributions of the principal or corpus of the trust; and
 - (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
 - (ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- (3) Earned income of children under 18 years of age.
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- (8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.
- (9)
 - (i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and
 - (ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.
 - (A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—
 - (1) The Federal government;

- (2) A State, Tribe, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

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

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

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

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

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

- (1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

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

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

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

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

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

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

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

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

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

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

- (18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.
- (19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
- (20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (*e.g.*, proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
- (21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.
- (22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.
- (23) Replacement housing “gap” payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.
- (24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:
- (i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
 - (ii) Direct Federal or State payments intended for economic stimulus or recovery.
 - (iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
 - (iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
 - (v) Gifts for holidays, birthdays, or other significant life events or milestones (*e.g.*, wedding gifts, baby showers, anniversaries).
 - (vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
 - (vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
- (25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

Also Excluded by Federal Law

The exclusions listed below apply to income only, except where HUD states that the exclusion also applies to assets. Actual income earned from an excluded asset may be included in income if it is not deposited into an account that is disregarded and excluded under one of the below authorities. If an amount is in an excluded account, like an Independent Development Account or an ABLE account, then the statute or the regulations associated with that income/asset exclusion will dictate what portion of the income earned off the amount, if any, is to be included in the family's income. Please note that exclusions (13) and (23) have provisions that apply only to specific HUD programs):

(1) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b)). This exclusion also applies to assets;

(2) Payments, including for supportive services and reimbursement of out-of-pocket expenses, for volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 42 U.S.C. 5058), are excluded from income except that the exclusion shall not apply in the case of such payments when the Chief Executive Officer of the Corporation for National and Community Service appointed under 42 U.S.C. 12651c determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 *et seq.*) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)). This exclusion also applies to assets;

(3) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)). This exclusion also applies to assets;

(4) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506). This exclusion also applies to assets;

(5) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1)). This exclusion also applies to assets;

(6) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6). This exclusion also applies to assets;

- (7) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands. This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407-1408). This exclusion also applies to assets;
- (8) Amounts of student financial assistance funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended)
- (9) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);
- (10) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Orange Product Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.). This exclusion also applies to assets;
- (11) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420 section 9(c)). This exclusion also applies to assets;
- (12) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- (13) Earned income tax credit (EITC) refund payments ^[4] received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l)). This exclusion also applies to assets;
- (14) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409);
- (15) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95-433 section 2). This exclusion also applies to assets;
- (16) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- (17) Any allowance paid to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821-22) is excluded from income and assets (38 U.S.C. 1833(c)).
- (18) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)). This exclusion also applies to assets;

- (19) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2));
- (20) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC). This exclusion also applies to assets;
- (21) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (Pub. L. 101-503 section 8(b)). This exclusion also applies to assets;
- (22) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. 1437a(b)(4));
- (23) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. chapter 11 or dependency and indemnity compensation under 38 U.S.C. chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*);
- (24) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291 section 101(f)(2)). This exclusion also applies to assets.
- (25) Any amounts in an “individual development account” are excluded from assets and any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).
- (26) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013-1 and 2013-55 must be excluded from annual income unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013-1. The first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).
- (27) Federal assistance for a major disaster or emergency received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)). This exclusion also applies to assets.
- (28) Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113-295.), as described in Notice PIH 2019-09/H 2019-06 or subsequent or superseding notice is excluded from income and assets; and
- (29) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116-260, section 501(j)), and the American Rescue Plan Act of 2021 (Pub. L. 117-2, section 3201). This exclusion also applies to assets.

Chapter 6 | Ongoing Compliance

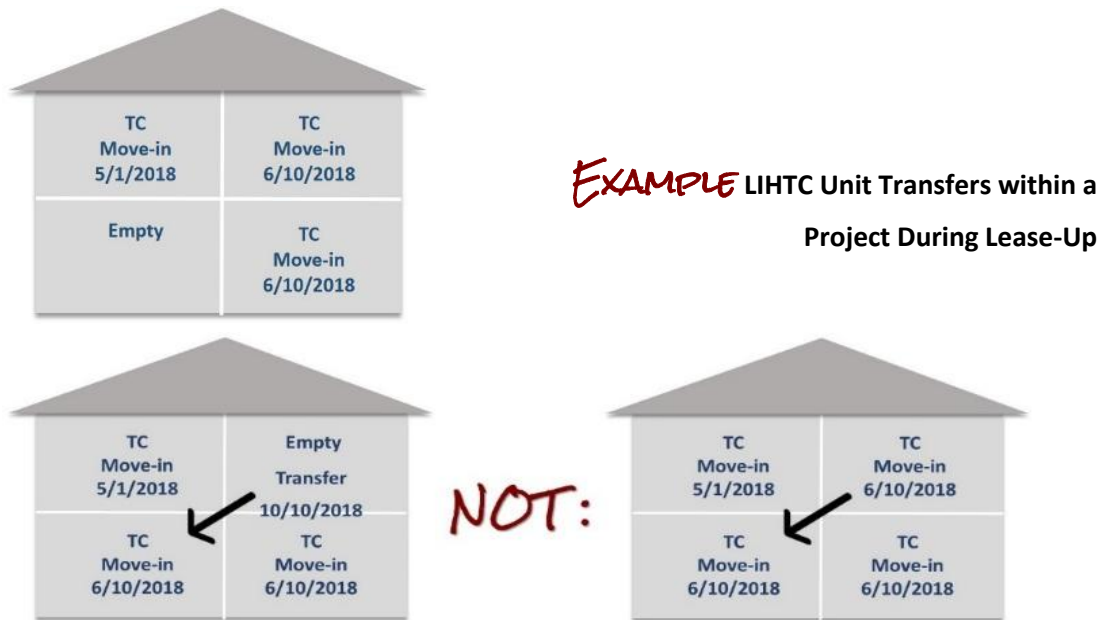
Unit Transfers

For programs other than LIHTC, HOME, or the NHTF, an owner/agent should consult with the program rules to handle unit transfers. When a family in an LIHTC, HOME, or NHTF unit transfers from one unit to another within the same building, the owner/agent does not need to requalify or recertify the family. The two units involved in the transfer simply switch status. This is most important if the family is moving to a market unit, if the units have different Low or High HOME and/or NHTF status, or if the units have different designations at a property that had elected the LIHTC Average Income Test minimum set-aside. The unit the family is going into will assume the original qualifying status of the first unit and the unit they are leaving assumes the status of the unit they are going into had just prior to them occupying the new unit. Thus, the units “swap” status.

For unit transfers occurring between buildings that are part of the same multi-building LIHTC project, as defined by the 8609 line 8(b) elections, the same rule applies with one exception; at properties that are not 100% LIHTC, families that are over the 140% limit at their most recent income recertification cannot transfer to a unit outside of the building they reside in, unless they are treated as a new move-in to a market unit, and the unit they vacate is treated as over-income until an LIHTC-qualified family reoccupies the unit. The Available Unit Rule will remain in effect for their original building until the new family moves into the over-income unit. 100% LIHTC projects are not subject to full income recertification and transfers are allowed between buildings in the project without income examination.

Although a full recertification is not required, RIHousing requires that the owner/agent produce a new TIC for the unit transfer. A new lease and applicable addendums will need to be executed along with any other paperwork needing change per RI state and local law and owner policy.

Important for first-year lease-ups: A family cannot initially qualify for more than one unit at a time. Per the transfer rules, the unit they were in and the unit they go to switch status. If they transfer from a unit that they initially qualified to a unit that has never been LIHTC-qualified, the unit they move to becomes a qualified unit, but the unit they vacate becomes non-qualified starting on the date of transfer.



An LIHTC resident lives in a four-plex in which three units have been LIHTC-qualified, and one is considered “empty” – not yet LIHTC-qualified. The resident transfers to the empty unit. The units involved in the transfer switch status and there are still three LIHTC units and one empty unit. After the transfer, the family continues to be used to qualify only the unit in which they reside.

In an LIHTC property where a transfer takes place, the owner/agent may continue using the effective date of the original move-in for the recertification cycle (see *Annual Recertifications* below). It is not required that the effective date be changed to the unit transfer date. The family may continue to be recertified by the anniversary of the original date it moved into the project. For 100% LIHTC projects not subject to full income recertification, student status verification continues to be due on the anniversary date of original move-in after a transfer occurs. This rule regarding effective dates and recertification may not apply to properties with other funding such as HUD or Rural Development. Such programs may require adjustment to effective dates or interim certifications at transfer.

A family moving to a building that is not part of the same 8609 8(b) multi-building project must be fully certified and qualify as a new LIHTC family prior to transfer. Even if the buildings are part of the same development, from a compliance perspective the family is moving to another project. The unit they vacate is now considered “vacant” and the units involved in the transfer do not switch status.

Annual Recertifications

LIHTC. All program families are subject to some level of recertification each year. For 100% LIHTC properties, this means completion of an abbreviated certification and re-verification of student status (if approved by RIHousing).

100% LIHTC Projects and Abbreviated Annual Certification (AAC)

As 100% projects are federally exempt from income recertification, RIHousing has developed a procedure to allow Abbreviated Annual Certifications (AAC) for these projects. AACs are applicable only to projects that are 100% LIHTC. The owner/agent must request approval for the AAC to benefit from the federal

exemption by writing to their Asset Manager. Upon approval from RIHousing, abbreviated annual certifications may be conducted. Families are allowed to self-certify annual family income (including asset income) on an approved form. Information on the form does not require further verification by the owner/agent. A *Self-Certification of Annual Household Income* form with instructions is available on the Agency website.

AAC Conditions. An AAC request will be approved only under the following conditions and may be revoked at the discretion of RIHousing:

- Annual certifications for programs in place at the development other than LIHTC, such as HUD PBRA or HOME, will be conducted in accordance with applicable program requirements.
- The project's building(s) is/are 100% LIHTC.
- Twenty-four (24) months have passed since the end of the calendar year in which the last building in the project was placed- in- service.
- The initial LIHTC physical inspection and file review have been satisfactorily completed by RIHousing, and any findings of non-compliance have been corrected by the owner/agent.
- The project and ownership/management team must be considered in good standing with RIHousing.
- If a LIHTC file review results in numerous and/or significant program eligibility findings, or 8823 findings of non-compliance, RIHousing will consider the project not in good standing and therefore will have the right to revoke the AAC or deny an AAC request.
- The project does not have any outstanding issues of continuing non-compliance as evidenced by uncorrected Form(s) 8823 on file with the IRS.
- Student status will be certified annually and shall be third-party verified as required under LIHTC guidelines.
- An approved TIC will be generated and signed by all adult family members as well as the owner/agent.
- Data collected from the tenant will be entered into owner/agent software and subsequently to RIHousing's online reporting system.
- If an AAC request is denied, the owner must wait a period of time to re-apply. If the project is:
 - within its compliance period (years 1-15), the minimum wait is 12 months.
 - Beyond the compliance period (after year 15), the minimum wait is 6 months.
- If an AAC is revoked, owner/agent will need to wait until the completion of the next monitoring review before another request for an AAC can be made.

AAC Documentation. The following documents are required for all annual certification files when a project is 100% LIHTC and an AAC has been approved by RIHousing:

1. Recertification Questionnaire
2. Tenant Income Certification (TIC)
3. LIHTC Program Student Status or Third-party verification of student status from an educational institution (when applicable)
4. Self-certification of annual income (including income from assets)
5. Lease Agreement & RIHousing's LIHTC Lease Addendum
6. Unit Inspection documentation at move-in and annually thereafter.
7. Release of information consent for each family member age 18 and older.

Recertification for Less Than 100% LIHTC Projects


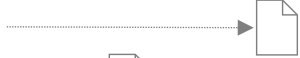





For properties that have non-LIHTC (market) units, this means full income and student status recertification, mirroring what was done at move-in. Recertification does not directly affect a family's right to continued tenancy. The LIHTC program is specifically designed to allow families to benefit from increases of their income without penalty after they move-in. However, owner/agents at projects that contain non-LIHTC units are obligated to rent non-LIHTC units that become vacant to LIHTC-qualified families to replace units occupied by LIHTC families that are "over-income" when recertified. This is called the Next Available Unit Rule (NAUR). This rule may also sometimes be referred to as the 140% Rule.

HOME/NHTFs. The HOME and NHTF programs require annual recertification, but the level of verification required varies by year. Federal policy requires that every sixth year of the HOME/NHTF period of affordability (not every six years a family occupies the unit), a full recertification is conducted using documentation prepared by third parties and supplied by the family. RIHousing policy also requires a full cert every third year of the period of affordability. Other years, a self-certification supplied by the family is sufficient.

As a practical consideration, RIHousing considers the calendar year during which the year of the period of affordability starts to be the year of the period of affordability for the recert cycle. For instance, if the third year of the period of affordability for a project technically starts on 3/14/2026, the calendar year 2026 is the third year of the period of affordability for recertification purposes and all recertifications conducted that calendar year require full source document certification. As the sixth year starts 3/14/2029, recertifications will not require full source document verification again until calendar year 2029.

EXAMPLE HOME (or NHTF) Three-Year Recertification Cycle

Clark moves in on the 10th year of a HOME property's period of affordability. He is fully source document certified, as all move-ins are. The next year, Bruce moves in and is fully certified. As this is the 11th year of the affordability period, Clark provides self-certification for his recertification. The following calendar year is the 12th year of the period of affordability. As this is one of every third years of the period of affordability, all recerts that year at the property are fully certified, including Clark and Bruce. The next year, both Clark and Bruce are eligible for self-certification and will be for the following *years until the 15th year of the affordability period, when all recerts will again be fully certified.*

Year of HOME Affordability Period	Person Type of cert	Full Cert	Self-Cert
10	Clark Move-in		
11	Clark Recert		
	Bruce Move-in		
12	Clark Recert		
	Bruce Recert		
13	Clark Recert		
	Bruce Recert		

Other programs. Other programs monitored by RIHousing have recertification rules dictated by the program. Some require full certification, and others allow self-certification of income and/or assets. Many mirror LIHTC or HOME rules. See the summary of programs listed at the end of Chapter 1 and other available federal guidance for more details.

The Next Available Unit Rule (NAUR)

100% LIHTC Properties

At properties where all units (100% according to the LURA and Cost Certification) are LIHTC, owner/agents must demonstrate due diligence when moving in new families to ensure that all units that become available are rented to LIHTC eligible families. Failure to do so could result in the loss of several or even all units to noncompliance. Thus, owners must take due diligence measures very seriously. See Chapter 10 for further discussion of due diligence and noncompliance.

For Income Averaging Properties: The NAUR is followed by renting each unit that comes vacant to a family that is at or below the set-aside that is designated to determine the 60% average required by the Average Income Test minimum set-aside. As properties that are less than 100% LIHTC are not eligible for the Average Income Test election in Rhode Island, this Manual will not discuss the NAUR for Average Income Test properties that are less than 100% LIHTC.

Less than 100% LIHTC Properties

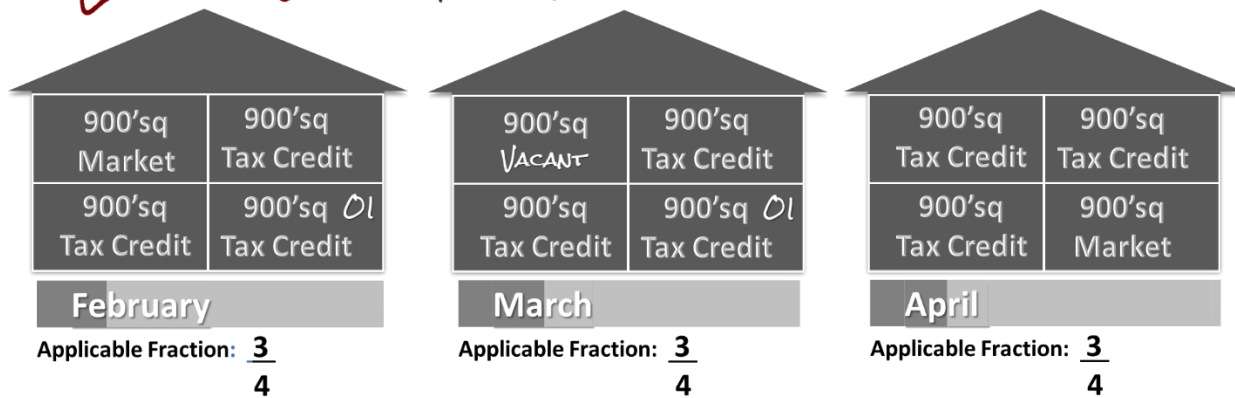
DEFINITION LIHTC “Over-income”

At Move-in	Over the current income limit
At Recertification	Over 140% of the current income limit

LIHTC units at properties with even one non-LIHTC (market) unit are subject to full income recertification every year. When recertified, if a family’s income exceeds 140% of the current income limit, they become “over-income”. Credits continue to be claimable on the over-income unit if the next available unit (of comparable or smaller size) **in the same building** is rented to an LIHTC family. The purpose of this is to restore the applicable fraction, not counting the over-income unit. Therefore, more than one market unit

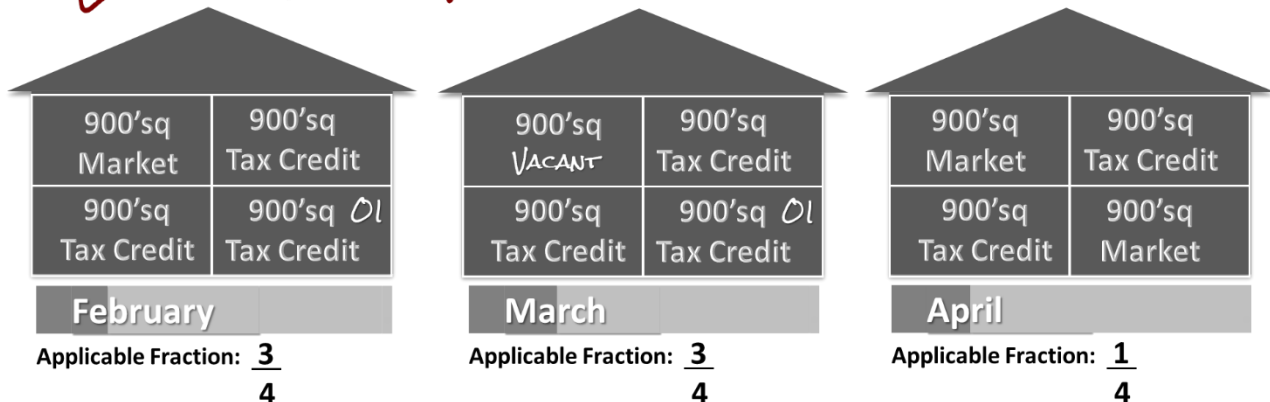
may need to be rented to LIHTC families when an over-income unit is larger than the next available unit. Over-income units must remain in compliance with rent limits until the next available unit(s) are rented and all over-income LIHTC units are replaced. If the rule is violated, and the next available unit is not rented to an LIHTC family, all comparable or larger 140% units will no longer be LIHTC for both the applicable fraction for the building and the project’s minimum set-asides. A unit is no longer “available” if a legally binding agreement is in place prior to the effective date of the recertification that determined the family to be over-income. For instance, if a lease is signed by a non-LIHTC (market) family, but they have not moved in, the unit is not “available” for purposes of the NAUR. In this example, it would be acceptable to move in the market family after the over 140% income recertification is effective. However, non-LIHTC units not legally reserved are subject to the NAUR. Once all over-income units are replaced with new LIHTC units per the NAUR, the over-income families can be treated as market and rents can be raised to market-rate as soon as the lease allows. These units are no longer subject to annual income recertification. They cannot be evicted solely because their income has increased.

EXAMPLE NAUR FOLLOWED



A unit is recertified to be over 140% of the current income limit in February and the NAUR immediately went into effect. The next month, a comparable unit becomes available. This unit is rented to an LIHTC family. Since the applicable fraction has been restored, the over-income family may become a market unit as soon as the lease allows. In this case, that was in April.

EXAMPLE NAUR VIOLATED



A unit is recertified to be over 140% of the current income limit in February and the NAUR immediately went into effect. The next month, a comparable unit becomes available, but it is rented to a market family. Since the NAUR was not followed, all over-income units (in this case one unit) are no longer LIHTC.

Increases in HOME Family Income

Note that some HOME Deed Restrictions will further limit the definition of “over-income,” usually to 60%.

When a HOME unit is determined to be over-income at recertification, the unit is in temporary HOME noncompliance. Temporary noncompliance is acceptable if the owner/agent takes steps at the next available opportunity to restore the property’s unit mix. These steps vary, depending on whether the property is fixed or floating HOME.

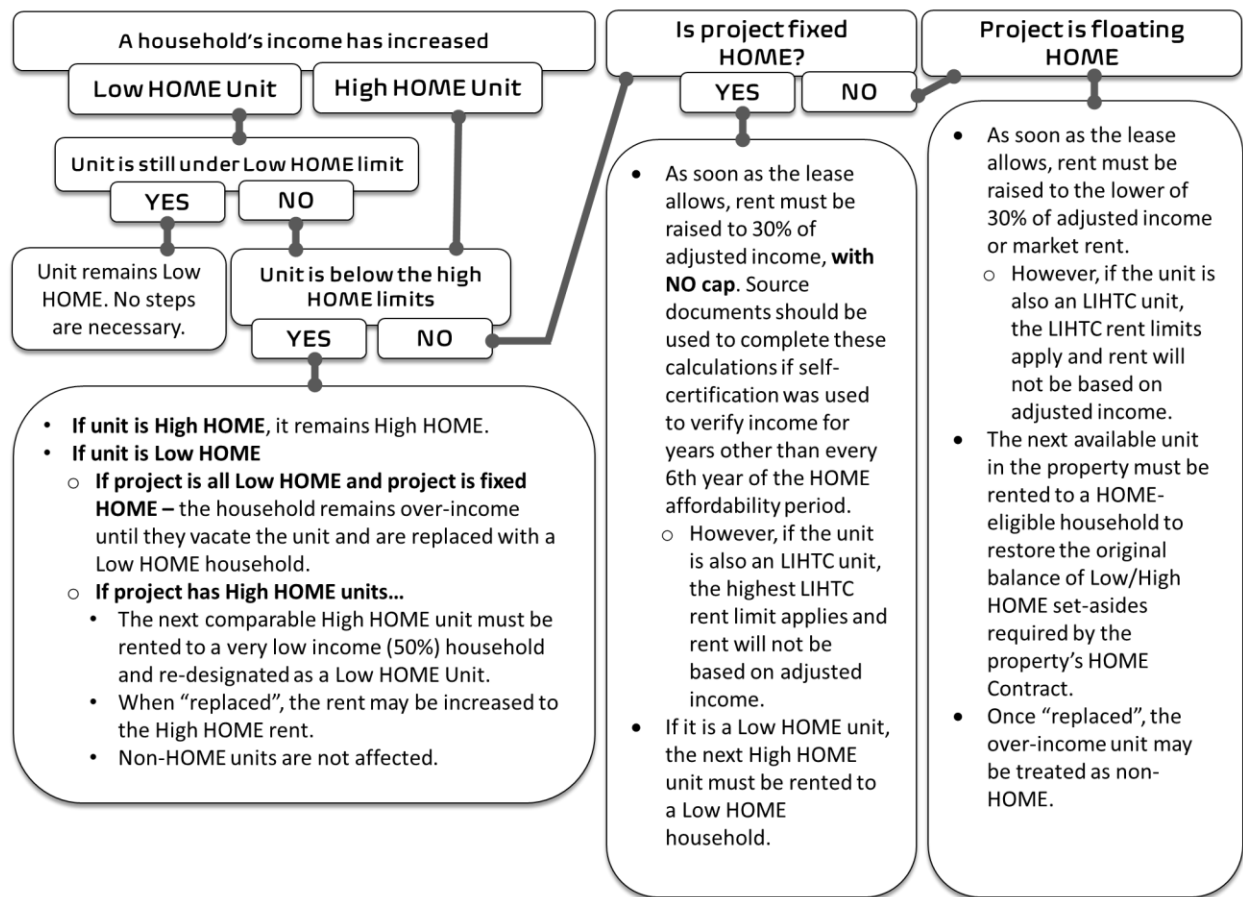
The owner/agent cannot terminate or fail to renew a lease because a family is over-income. However, the family’s rent may be adjusted according to HOME policy. Over-income families are protected by the terms of their leases. Rent increases can only be effective when the lease permits.

The following chart gives instructions on what to do when a HOME unit goes over income. There are different procedures for fixed and floating HOME units that go over the HUD low (80%) limit.

DEFINITION HOME “Over-income”

At Move-in	Over the current High or Low HOME limit
At Recertification	Low HOME Unit Over the Low HOME limit High HOME Unit Over the High HOME limit

Flow Chart: Increases of HOME Income



Over 80% AMI HOME Units

A family may indicate that they are now over the 80% income limit during one of the years that self-certification is allowed at recert. If this is true and rent based on adjusted income must be calculated, the owner should switch to source documents to verify income and ensure accurate calculations. Over 80% income families at HOME properties that are also LIHTC may have their rent raised when their lease allows for it, to the LIHTC limit applicable to the unit based on the LIHTC minimum set-aside for the project. For HOME properties without LIHTCs, the over-income family may have rent raised to 30% of adjusted income, the same as rent is calculated for HUD BPRA, Rural Development, and other subsidy programs. A family receiving assistance from a Housing Choice Voucher will already be paying rent based on adjusted income, and no additional calculation by the owner/agent will be necessary.

Once the gross family income is calculated, five possible adjustments may be made before rent is determined.

Adjustment 1 | Dependent Deduction

This is **an amount per dependent** that is adjusted annually. A dependent is:

- Under 18 years of age
- A person with disabilities
- A full-time student of any age

A dependent can never be the head of the household, a spouse of the head, or a co-head. Foster children, unborn children, those who have not yet joined the household, or a live-in aide are also not eligible to be dependents for purposes of this deduction.

Documentation must be gathered to prove that an adult is a qualified full-time student if they are to be considered a dependent.

Adjustment 2 | Childcare Expenses

Anticipated unreimbursed expenses for the care of children (including foster children) **under age 13** may be deducted if:

- The expenses enable a family member to work or go to school (part or full-time).
- No adult family member is available to provide care.
- The amount that allows the adult to work must not exceed the income received from the work. There is no limit on expenses that allow a person to pursue schooling.

The money cannot be paid to a family member living in the unit and the expenses must reflect reasonable charges. There is no limit on reasonable costs that allow an adult to look for work or attend school. Only the amount of the dependent deduction will be allowed annually to enable a qualified adult FT Student (who is not the head, spouse, or co-head) to attend school because the amount of the dependent deduction is the amount counted as income. These expenses must be for a child living in the unit.

Adjustment 3 | Disability Assistance Expense

Reasonable expenses for auxiliary apparatus or the care of an individual with disabilities above three percent of annual income may be deducted from annual income if the expenses:

- Enable the individual with disabilities or another family member to work;
- Are not reimbursable from insurance or any other source; and
- Do not exceed the amount of income earned by the person who can work because of the expenses.

Along with other forms of documentation, to qualify for this deduction the family must identify the individual with a disability on the application.

Adjustment 4 | Elderly Family Deduction

This **single amount (one per family)** deduction is made from annual income **for any "elderly family."** The deduction is adjusted annually. To be considered an elderly family, the head of household, co-head, or spouse who is a party to the lease must be 62 years of age or older, or an individual with a disability.

Adjustment 5 | Health and Medical Expenses

To qualify for this allowance, **the head, spouse, or co-head must be at least 62 or disabled.** Allowable health and medical expenses include unreimbursed health and medical expenses of all

family members. It includes all anticipated expenses during the 12 months following the recertification that are not reimbursed by an outside source (such as insurance).

The owner may use the ongoing expenses the family paid in the 12 months preceding the certification/recertification to estimate anticipated medical expenses.

Once the annual adjusted income is determined, dividing it by 12 establishes the monthly adjusted income. The monthly adjusted income is then multiplied by 30% to determine rent based on adjusted income.

The worksheet below provides a useful tool for determining adjusted income. An owner/agent may develop their own tools or use software to accomplish accurate adjusted income-based calculations.

Sample Format for Calculating Adjusted Income-Based Rent

Family Member Name	Position in Family	Age	Total Income	Total Expenses

1. Enter Annual Gross Income.	1.
2. Enter the number of family members (excluding head or spouse) under 18, disabled, and adult dependent full-time students.	2.
3. Multiply line 2 by the current dependent deduction.	3.
4. If a family member is enabled to work or further their education as a result of childcare expenses, enter the <u>unreimbursed</u> annual childcare expenses (reasonable childcare expenses for children under age 13).	4.
5. If the family member was enabled to <u>work</u> as a result of the childcare expenses, enter that family member's annual <u>employment income</u> .	5.
6. If an amount is reported on Line 5, enter the lesser of Lines 4 or 5. Otherwise, enter the amount in Line 4.	6.
7. If the family qualifies as an elderly and/or disabled family, enter the current elderly family deduction.	7.
8. Add Lines 3, 6, and 7.	8.
9. <i>If this family has no unreimbursed disability assistance or health and medical expenses, subtract Line 8 from Line 1. This is the Adjusted Income for this family without these expenses.</i>	9.
10. If Line 9 is applicable, divide Line 9 by twelve and multiply by 30%. This is rent based on adjusted income.	10.

*****FILL IN LINES 11 THROUGH 20 IF THE FAMILY HAS*****
UNREIMBURSED DISABILITY ASSISTANCE OR HEALTH AND MEDICAL EXPENSES

11. Enter unreimbursed annual disability assistance expenses.	11.	
12. Enter the annual <u>earned income</u> of the family member enabled to work as a result of unreimbursed disability assistance expenses.	12.	
13. Enter the lesser of Lines 11 or 12.	13.	
14. Enter unreimbursed annual health and medical expenses.	14.	
15. Add Lines 13 and 14.	15.	
16. Multiply Line 1 by 10%.	16.	
17. Subtract Line 16 from Line 13. If negative, enter 0.		17.
18. Subtract Line 16 from Line 14. If negative, enter 0.		18.
19. Subtract Line 16 from Line 15. If negative, enter 0.		19.
20.	20.	
a. If the family reported <u>only</u> unreimbursed disability expenses but <u>no</u> unreimbursed health and medical expenses, add Lines 8 and 17.	a.	
b. If the family reported <u>only</u> unreimbursed health and medical expenses but <u>no</u> unreimbursed disability expenses, add Lines 8 and 18.	b.	
c. If the family reported <u>both</u> unreimbursed disability expenses and unreimbursed health and medical expenses, add Lines 8 and 19.	c.	
21. Subtract either Line 20a, 20b, or 20c from Line 1. This is the Adjusted Income for this family <i>with</i> these expenses.		21.
22. If Line 21 is applicable, divide Line 21 by twelve and multiply by 30%. This is rent based on adjusted income.		22.

Vacant Unit Rule

LIHTC. Vacant units that were formerly occupied by LIHTC families continue to be LIHTC-qualified if reasonable attempts are made to rent the vacant LIHTC units before any vacant market units in the project are rented. This is called the *Vacant Unit Rule* (VUR). At any time that there are vacant LIHTC units, the owner/agent should keep evidence of advertising via newspaper, internet, or flyers, as well as signs and banners at the property and any other marketing efforts used to fill vacancies.

Additionally, the VUR requires that units must be made rent-ready in a reasonable time, whether there is a waiting list or not. Vacant units that continue to qualify as rent-ready cannot be utilized to store maintenance supplies or be used to conduct repairs on items for other units. Appliances and fixtures from a vacant unit should not be “cannibalized” to supply occupied units. While a violation of the VUR can happen earlier, if a unit is vacant for more than 45 days, an owner/agent must immediately notify RIHousing and be prepared to attest that the unit is rent-ready and that marketing is being conducted. If the unit is not rent-ready, extraordinary extenuating circumstances will need to be documented.

If the VUR is violated, each unit of comparable or smaller size to the vacant LIHTC unit that is rented to non-LIHTC (market) families prior to renting to an LIHTC qualified family will be reported to the IRS as noncompliant.

Vacant units that were previously LIHTC-qualified are still qualified LIHTC units while a building is in lease up. In most cases, all “empty” units that have not been occupied by an LIHTC-qualified family should be rented before any newly vacant unit is rented to a second LIHTC family

HOME/NHTF. RIHousing expects the same efforts to turn-over and rent vacant HOME and NHTF units and that the same documentation be retained as is done for LIHTC purposes.

Rent Adjustments

LIHTC. Because LIHTC income and rent limits hold harmless (see Chapter 3), these limits will always stay the same or increase each year; therefore, adjustments to reduce gross tenant rent is never necessary. An increase in the utility allowance (UA) will require that the tenant portion of rent be decreased after the 90-day notice. Decreased utility allowances may result in an increase in tenant rent. Rent increases may be limited by provisions of the lease agreement and shall not violate RIGL 34-18 (“Residential Landlord Tenant Act”). See Chapter 3 for more on rents and UAs.

Rent adjustments must comply with all Section 42 requirements and other federal and state program rules that may apply. Please refer to current RIHousing guidance limiting increases of rents and how and when exceptions may be granted.

HOME/NHTF. HOME and NHTF limits do not hold harmless. If the rents are too high after rent limits are released, the rents must be adjusted by the effective date of the new limits, even though the rents were approved by RIHousing.

Fees

Non-Optional Fees

Any fee charged to LIHTC, HOME, or NHTF families that is non-optional and charged as a condition of occupancy must be included in the gross rent and indicated in the lease or other signed agreement.

Charging an application fee is acceptable if the fee is reasonable. The fees charged must be for reimbursing owners for actual average out-of-pocket costs paid when screening. They should not be designed to make a profit or to discourage applicants from applying for a property or requesting a service or reasonable accommodation. For instance, the average costs to run credit and criminal background checks are an allowable basis for an application fee but charging a larger fee to discourage families from applying is not.

Optional Fees

LIHTC. Optional fees may be charged for a service available at a property or for part of the property not included in eligible basis, provided that the service is not a condition of occupancy and reasonable alternatives to the service are available free of charge. It is not required to include *one-time refundable* security deposits or pet deposits in the gross rent. These deposits are allowable, provided they are reasonable and comply with state and local laws. See the table below for additional details.

HOME/NHTF. RIHousing must approve all fees charged to HOME/NHTF residents. These must be customary for the area, reasonable, and not financially burdensome to low-income families.

Fees Not Permitted

When owners/agents charge fees that are not permitted under IRS guidelines, these charges will be reported as noncompliance to the IRS regardless of whether they cause the gross rent limit to be exceeded.

EXAMPLES Fees that are not permitted

- Fees for the use of residential facilities, such as swimming pools, parking areas, storage or recreational facilities, **when the cost of the facilities was included in a building's LIHTC eligible basis or when these are not approved by RIHousing for HOME/NHTF units.**
- Fees that an owner requires residents to pay as a condition of their occupancy, even if these fees are not paid to the owner. Examples are requiring mandatory renters' insurance or fees for month-to-month tenancy.
- Fees for the routine "turning" of units to make rent ready. Mandatory carpet cleaning fees, for instance, are not acceptable. Carpets must be left unusually dirty or damaged beyond normal wear and tear to justify charging a tenant for their cleaning.

If it is determined that an LIHTC, HOME, or NHTF resident has been overcharged rent or has been charged inappropriate fees at any point within a certification year, RIHousing will require the owner to refund the excess rent or fee amount to the resident for all months affected. The IRS has indicated that they will likely disallow tax credits on the affected unit for the entire taxable year that rent is overcharged at any point during that year. The earliest an LIHTC unit that was overcharged rent or charged inappropriate fees will be considered back in compliance is the start of the following tax year, provided the unit is rent-compliant at the start of the new year.

"CAN I CHARGE THIS?" Fees at LIHTC/HOME/NHTF Properties

Note: other program requirements may be more restrictive.

Acceptable		NOT Acceptable	
Fee Type	Notes	Fee Type	Notes
Application Fees	Must not exceed the average out-of-pocket costs to run background checks.	Fees to Pay for 3rd-party Verification	If there is a cost for verification directly from a 3 rd -party, documentation supplied to the family by the third party can be used. If an owner opts to require verification that costs money, the owner must bear the cost. NOTE: This is not to be confused with fees for recouping actual costs for processing background checks at application.
Unit Transfer Fees	Must not exceed the average out-of-pocket costs to process a unit transfer and may not include expenses to make ready either unit involved in the transfer.	Month-to-Month Tenancy Fees	The IRS considers this a non-optional fee even if the tenant is given the option to sign a longer-term lease.
Security Deposits	The security deposit due to the tenant shall be the entire amount given by the tenant as a security deposit, minus any amount of unpaid accrued rent, the amount due, if any, for reasonable cleaning expenses, the amount due, if any, for reasonable trash disposal expenses and the amount of physical damages to the premises, other than ordinary wear and tear, which the landlord has suffered by reason of the tenant's noncompliance with Rhode Island General Law (RIGL) § 34-18-24.	Required Renter's Insurance	An owner may suggest that residents secure insurance, but only if the insurance is optional and it cannot be a condition of occupancy.
Pet Deposits and Monthly Pet Rent	Pet deposits must be fully refundable if the unit is left reasonably clean and the pet did not cause damage beyond normal wear and tear.	Assistance Animal Deposits	<i>Assistance animals</i> help persons with disabilities, are not pets and are not legally subject to deposits. However, actual costs to repair damage caused by such animals beyond normal wear and tear may be charged.
Coin Operated Laundry Machines or other vending machines.	If the area where the machines are located is accessible to all residents and for LIHTC project and the machines are not in eligible basis.	Community Room Usage or Rental Fee	Community facilities in LIHTC eligible basis must be available without charge. A deposit may be charged if fully refundable if the room is left clean & undamaged. A clear written policy must exist.
Late Rent Fees	May be charged if the rates are explicitly spelled out in writing.	Parking or Storage Fees	Only acceptable for LIHTC projects if the parking lot or storage units are not in eligible basis.

Service Fees for example lockout or key loss)

May be charged if the rates are explicitly spelled out in writing.

Make-Ready fees (also known as cleaning, turnaround, preparation, mandatory carpet cleaning, and unit turnaround fees)

Only costs beyond normal wear-and-tear* may be charged. Helpful hint: pictures are very effective in documenting the state a unit was left in and demonstrating damage beyond normal wear and tear.

Maintenance completed by the owner that is normally required to be completed by the family (such as changing unit light bulbs or removing furniture).

May be charged if the rates are explicitly spelled out in writing.

Lease breakage fees

Having a contingency lease breakage fee does not make a lease transient. This is true even if the tenant breaks the lease less than six months after move-in if the initial term of the signed lease was at least six months.

Owner/agents must guard against a practice of deducting too much from security deposits for items that are displaying normal wear and tear, or such charges could be determined to be unacceptable fees. When developing security deposit refund policies, owner/agents will want to consider the provisions contained within RIGL § 34-18 along with the following guidance based on direction from HUD.

✓ Normal Wear & Tear

Normal costs of turning an apartment after a family vacates may not be charged to either the former or the next family. Costs an owner incurs for the basic cleaning and repairing of items necessary to make a unit ready for occupancy are part of the costs of doing business.

Walls & Ceilings

- Small chips in plaster
- Nail holes, pinholes, or cracks in walls
- Fading, peeling, or cracked paint
- Slightly torn or faded wallpaper

Doors & Windows

- Door sticking from humidity
- Cracked windows from faulty foundation/building settling

Floors

- Floors needing a coat of varnish
- Carpet faded or worn thin from walking
- Loose grouting and bathroom tiles

Fixtures

- Worn or scratched enamel in old bathtubs, sinks, or toilets
- Partially clogged sinks caused by aging pipes
- Rusty shower rod
- Dirty or faded lamp or window shades

Vs.

✓ Tenant Damage

Tenant damages usually require more extensive repair, and at a greater cost than “normal wear and tear” and are often the result of a tenant’s abuse or negligence and not the result of normal living activities.

- Gaping holes in walls or plaster
- Holes in the ceiling from removed fixtures
- Drawing, crayon marking, or wallpaper that the owner did not approve
- Seriously damaged or ruined wallpaper

- Doors ripped off hinges
- Broken windows

- Chipped or gouged wood floors
- Holes, stains, or burns in the carpet
- Missing or cracked bathroom tiles

- Chipped and broken enamel in bathtubs and sinks
- Clogged or damaged toilet from improper use
- Missing or bent shower rods
- Missing fixtures



Conduct annual certifications (recertifications) at properties – and do them timely! LIHTC projects with even one non-LIHTC (market) unit must complete full annual certifications for all LIHTC units, **even in buildings in which all units are LIHTC**. Late or missing recertifications at these properties are also a matter of federal noncompliance that must be reported to the IRS. The HOME and NHTF program rules also take annual certification seriously, whether self-certified or based on source documentation.

Late recertifications also expose the owner to the risk of violation of the LIHTC NAUR or HOME/NHTF increase of income rules if it is discovered that the rules were not followed because the owner/agent did not *know* that a family had gone over-income until they completed the recertification. This risk is in addition to the loss that could result from noncompliance with the recertification rule itself.

Vacant Unit Rule

Keep an advertising file at each property! Any time an LIHTC, HOME, or NHTF unit is vacant, it is required that an owner attests to the fact that they are making all reasonable efforts to market the unit. Examples of all marketing efforts must be retained.

RIHousing requires that all program developments advertise on <http://www.housingsearchri.org/>, regardless of whether there are vacant units.

PART 3 | QUALIFIED PROPERTIES

Chapter 7 | Program Fundamentals

Building Identification Numbers (BINs)

Each LIHTC building has an assigned identification number. This is called a Building Identification Number, or BIN. All tax credits are claimed by building and tax forms often reference the BIN. The BIN is located on line E at the top of the form 8609.

EXAMPLE Building Identification Number

Every Building Identification Number (BIN) in the country has a specific format. The first part is the two-letter state postal code. The second part is the year credits are allocated. Finally, there is a five-number identifier that is assigned by the state agency.

The BIN listed below is for a project in Rhode Island that was allocated credits in 2025.

RI – 25 – 00001

Note: BINs are not always the same as the physical structure of a building. Sometimes individual floors or wings may define separate BINs within a building. In these cases, all compliance rules are applied to the BIN as defined by the 8609s, not the physical structure.

Tax Credit Calculations

Few tax credit managers ever actually have a need to calculate the tax credits that are claimed for a property. Understanding how credits are calculated and the repercussions to the owner if non-compliance is found can help LIHTC professionals understand why many things are done the way they are with respect to compliance.

How tax credits are calculated for each building

Step	Accounting Term
1. Determine how much was spent on the building	Eligible basis
2. Determine the percentage of the building that is tax credit	x Applicable fraction
3. Determine the portion of building costs that were used for LIHTC units	= Qualified basis
4. Apply the appropriate rate	x Applicable Credit % Annual max tax credit

Credits are claimed for each building based on how much depreciable money is spent on the building. Land is not depreciable and therefore is not included. The term used by the tax credit program to describe this amount of money is the **eligible basis**.

Example: The allowable expenses that were spent on a building totaled \$2,000,000

Now that it has been determined how much was spent on constructing the building, it must be known how much of the money went to provide housing for low-income families. This is done by calculating the percentage of the units in the building that are tax credit qualified units. The term used to describe this percentage is the **applicable fraction**. If the units are of differing sizes, the percentage of units will be calculated based on the number of units and the square footage of those units. The lower resulting percentage will be used when claiming tax credits.

The building has 10 units of differing sizes with a total of 10,000 square feet. 6 of the units are LIHTC and total 5,000 square feet. The 4 non-LIHTC units also total 5,000 square feet.

Calculations: the unit fraction is 6/10 (60%). The square footage fraction is 5,000/10,000 (50%).

The lower [50%] is the applicable fraction.

Now that it is known how much was spent on the construction of the building and how much of the building houses low-income families, how much money is represented by the low-income units can be calculated. This is the **qualified basis**.

Calculation: \$2,000,000 X 50% = \$1,000,000 qualified basis

Finally, the qualified basis is multiplied by a rate that the project locks into during development. This rate is called the **applicable credit percentage**. The two categories of credit percentage are 4% and 9%, and the actual rates used will be roughly near or at 4% or 9%. Multiplying the amount of money spent on low-income units (the qualified basis) by the applicable credit percentage results in the maximum amount of annual tax credits that can be claimed for the building for a ten-year credit period.

Calculation: \$1,000,000 X 9% = \$90,000 annual tax credits

X 10 years = \$900,000 credits claimed total

Note: The applicable fraction calculation will be different for the first year of the credit period and will be based on a prorated monthly average fraction. An owner/agent should work closely with investors to meet financial expectations and to maximize first year credits.

What does the tax credit calculation mean for non-accountants?

1. The factor in the calculation most relating to a site manager's daily duties is the **applicable fraction**. Keeping units in the applicable fraction means keeping them in LIHTC compliance. This includes renting to qualified families, keeping rents affordable and maintaining the property decent, safe, and sanitary (see Chapter 1). These are substantial components of management's responsibility, both the property manager and those in supporting roles (maintenance, janitorial, supervisor).
2. It is also important for managers to protect the **eligible basis**. Parts of the building included in eligible basis are subject to rules prohibiting the charging of fees beyond rent. Also, removing amenities

included in eligible basis lowers the value of the property and may have a negative impact on the tax credit calculation.

EXAMPLE Removed Amenity

A basketball court was built next to a building and included in its eligible basis. The court is well-used by residents and in the fifth year of the credit period falls into disrepair because of management neglect. Rather than fix it, the owner removes the basketball court and hoops and plants grass on the spot.

This action decreased the value of the building and is an eligible basis violation.

LIHTC Employee Units

Properties with a unit occupied by a full-time employee who is not income qualified may treat the unit essentially the same as a “common area” if the property requires the employee to live on-site. To meet the requirements of being designated a common area unit, the unit must benefit all rental units in the property and the employee occupying the unit must be full-time at the property. They cannot work for another property or properties. In addition to full-time site managers this can also apply to full-time maintenance and security staff. Charging rent to an employee does not disqualify a unit as an employee unit.

EXAMPLE Applicable Fraction & Employee Units

In a building consisting of 200 units, low-income tenants occupy 198 units, and two units are each occupied by a full-time manager and a full-time maintenance tech. The applicable fraction would *not be 198/200 or 99%*. Rather the employee units are removed from both the numerator and the denominator of the applicable fraction. Below is the correct applicable fraction.

198 / 198 (100%)

EXAMPLE LIHTC Employee to Multiple Properties

A manager runs two 100% LIHTC projects that are adjacent to each other, and a maintenance professional serves these two projects and another one that the company manages across town. As they are employed by multiple properties, neither employee is eligible for an employee common area unit. As there are no market units available, they must be LIHTC eligible if they reside at either of the projects.

Please note that, for this rule, the term “full-time” is not directly related to an arbitrary number of hours worked (such as 40 hours a week). *Full-time* is defined as a substantial amount of time and should be determined based on the specific needs of the property. Needs to consider include the number of units overseen and the duties the full-time employee performs, including being on call during non-business hours such as nights and weekends for emergencies.

LIHTC the Average Income Test (AIT) Minimum Set-Aside

Every LIHTC property has a minimum set-aside. There are three options in Rhode Island: 20-50, 40-60 and the *Average Income Test (AIT)*. The minimum set-aside is elected by the owner on the IRS form 8609, line 10(c). The 8609 is a key compliance form issued by RIHousing then completed by the owner and submitted to the IRS in order for credits to be claimed (see Chapter 2 for further details on the 8609).

Once the minimum set-aside is chosen, the election is irrevocable and thus cannot be changed. Of course, as the name indicates, the minimum set-aside requirements are *minimums* only. Most properties far exceed the minimum LIHTC units. They also may have more restrictive income limits on some units than otherwise allowed by the minimum set-aside

The LIHTC LURA for the property may require additional income limits and/or additional number of LIHTC units.

To determine how the minimum set-aside is met for a property, an owner/agent needs to understand the project's 8609s. Line 8(b), asks, "are you treating this building as part of a multiple building project for purposes of section 42?" The answer to this question determines how the number of units that are needed to meet the minimum set-aside are calculated.

- If the 8(b) election is "yes," the minimum set-aside for the project is based on the total number of units for the entire project (see Example 1 below). ***A list must be attached to every 8609 indicating which additional buildings are part of the project. If this is not done, the 8(b) election will default to "no," even if it is checked "yes."***
- If the 8(b) election is "no," this means that each building is a project, and the minimum set-aside must be met by each building (Example 2).

Two or more qualified low-income buildings may be included in a multiple-building project only if they:

1. are located on the same tract of land (unless all the dwelling units in all the buildings being aggregated in the multiple-building project are low-income units (see IRC §42(g)(7)).
2. are owned by the same person for Federal tax purposes.
3. are financed under a common plan of financing; and
4. have similarly constructed residential units.

Depending on the multi-building elections on form 8609 8(b), a **four-building** development may be:

1. One project.
2. One three-building project and one single-building project.
3. Two two-building projects.
4. Four single-building projects.

EXAMPLE LIHTC Minimum Set-Aside for a Multi-BIN Project

A development consists of 10 duplexes. All buildings are included in the same multi-BIN project. The minimum number of units required by a 40-60 minimum set-aside is:

8 Units: 20 units x 40%

EXAMPLE LIHTC Minimum Set-Aside for Single-BIN Projects

A development consists of 10 duplexes. Each building is considered a single-BIN project. The minimum number of units required by the 40-60 minimum set aside is:

10 Units: 2 units per BIN x 40% = 1 unit x 10 projects.

This election also relates to other compliance rules such as the selection of income limits (see Chapter 3), unit transfers (Chapter 6) and other important provisions.

If the project does not meet the minimum set-aside during the first year of the credit period, the owner

HOW THE MINIMUM SET-ASIDE WORKS

The diagram illustrates the requirements for different minimum set-aside elections on Form 8609. It shows three boxes with arrows pointing to their respective requirements:

- 20-50:** 20% of units, minimum, must be LIHTC. 50% is the income and rent limit for ALL LIHTC units.
- 40-60:** 40% of units, minimum, must be LIHTC. 60% is the income and rent limit for ALL LIHTC units.
- Average Income:** 40% of units, minimum, must be LIHTC. 60% is the average income and rent limit designation for ALL LIHTC units, which may be 20-80% (10% increments).

The background shows the relevant section of Form 8609, 'Part I Allocation of Credit', with the following text:

10 Check the appropriate box for each election.
Caution: Once made, the following elections are irrevocable.
a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) Yes No
b Elect **not** to treat large partnership as taxpayer (section 42(j)(5)) Yes No
c Elect minimum set-aside requirement (section 42(a)) (see instructions):
 20-50 40-60 Average income 25-60 (N.Y.C. only)

cannot ever claim tax credits. Subsequent violations of the minimum set aside result in the loss of credits for the year that the minimum set aside is not met as well as the tax penalty called *recapture* on previously claimed credits.

AIT Details

In 2018, the Income Average Test minimum set aside option was added by Congress. RIHousing allowed projects that had not recorded a LURA when the law passed to select the average income set aside.

EXAMPLE Average Income Test Minimum Set-Aside

AIT					TC MSA 7/10 units Exceeds 40%
80% TC	40% TC	50% TC	70% TC	Market	
70% TC	30% TC	60% TC	Market	Market	

EXAMPLE Average Income Test Minimum Set-Aside - Multi-Building

AIT					TC MSA 7/10 units Exceeds 40%
80% TC	40% TC	50% TC	70% TC	Market	
70% TC	30% TC	60% TC	Market	Market	

RIHousing reserves the right to disallow any clear unit skewing by unit size and requires applicants to provide reasonable parity between different bedroom sizes at each targeted income set-aside utilized in the project. The AIT will only be permitted by RIHousing in a project if 100% of residential units are designated LIHTC and the project does not contain any market-rate units. LIHTC for this purpose is defined as units affordable to persons earning 80% MTSP or less.

Owners of multi-building projects must elect on the Forms 8609 to treat all the buildings as part of a multiple building project (checking "Yes" on line 8(b) of the current form). RIHousing reserves the right to deny the implementation of the AIT at its discretion, based upon previous compliance related performance of the owner/agent.

Properties that elect the Average Income Test set-aside are subject to additional educational requirements for property management staff and additional third-party reporting requirements to RIHousing.

Any owner seeking to implement the AIT must also be able to demonstrate that:

1. The proposed rents are achievable based on a RIHousing-commissioned appraisal, and owners are strongly encouraged to underwrite at rents that are less than the maximum 80% rents.
2. The limited partner has approved the proposed average income set aside, and this is reflected in their *Letter of Intent* and Limited Partnership Agreement.
3. The selected property manager has demonstrated the ability to effectively manage properties subject to federal housing compliance regulations. The property manager must disclose any noncorrected 8823 findings currently outstanding on properties in their portfolio as well as all open Management and Occupancy Reviews for applicable HUD projects with an unsatisfactory or failing compliance score.
4. Prior to closing, owners must provide a matrix showing the designated set-aside percentage(s) by unit size. Owners are encouraged to let the units float to ensure overall continuing compliance.

Additionally, RIHousing requires the following, based on federal regulations.

- Final regulation 26 CFR 1.42-19 applies to taxable years beginning after December 31, 2022. For taxable years prior to the application of these regulations, taxpayers should rely on RIHousing's original guidance.
- The AIT minimum set-aside is considered met if **40 percent** of the units in the property have designations that average **60 percent MTSP income and rent limits** or less and the families living in those units meet the income designation for their respective units.
- **All** LIHTC units in a project must also average 60%, and each unit must be in this project-wide group of units to be included in the applicable fraction for the individual building in which the unit is located.
- If a family moving into a unit is ineligible under the respective income designation of that unit, and the removal of that unit from the applicable fraction causes the average to exceed 60 percent across all low-income units, it does not result in a violation of the minimum set-aside as long as 40 percent of the units in the project still have an average designation of 60 percent or less with families living in them that are in compliance with those designations.
- The owner must keep records and report to RIHousing on unit designation for all units.
- The owner must identify the AIT units within the qualified group of units that satisfy the AIT minimum set-aside (at least 40 percent of total units).
- An income-qualified tenant may transfer units within the project, and their AIT designation will follow to the new unit, and the old unit will assume the designation of the unit they are entering. The units will thus swap designations along with the family.
- The owner's reports and records must be sufficient so that RIHousing may ensure accuracy of the project's applicable fraction, satisfaction with the AIT set-aside, and compliance with all requirements of Section 42 and regulations.
- Owner/agent is responsible to upload tenant data for all units and their AIT designation to RIHousing's Procorem software. Reporting of unit designations through the Procorem software

Portal is required by the 10th of each month. Redesignation of units for current or past taxable years (if otherwise allowable under IRS regulation) does not require prior RIHousing approval.

- For AIT-related non-compliance that is not discovered and corrected within a taxable year, retroactive corrections, if possible, must be made within 180 days of discovery of the issue.

Finally, RIHousing requires the following, based on agency priorities.

- Only 100% LIHTC projects may select the AIT in Rhode Island.
- Owners of multi-building projects that applied to use the AIT are required to elect to treat each building as part of a multi-building project. This is done on IRS form 8609, Line 8b.
- Evidence of the owner's election of AIT must be documented in the RIHousing approved Management Plan and Tenant Selection Plan (TSP).
- Annual income certifications are required per RIHousing general policy. Waivers may be authorized at RIHousing's discretion, per RIHousing 100% LIHTC recertification policy.
- LIHTC compliance monitoring fees are higher for AIT Projects.

The Average Income Test: Calculation methodology of set-asides. HUD publishes the various designations allowed by the AIT. Per federally published guidance, 50% tax credit limits equal the HUD very-low limit, 40% tax credit limits equal 80% of the HUD very-low limits and 60% tax credit limits equal 120% of the HUD very-low limit. Extrapolating from this standard, the federal designations based on the HUD very-low 50% limits are determined. *See the chart and example of calculation in Chapter 3.*

The AIT and Noncompliance. When units are lost to noncompliance at designations of 20% through 50%, additional units may have to be removed from the applicable fraction and minimum set-aside to restore the average. Re-designation of set-asides is one possible solution to address noncompliance, if existing families are income and rent appropriate for another designation than originally set. Vacant units may also be re-designated once rented to another family at another set-aside (note: a vacant unit retains the status of the last family that resided in it, so re-designation generally occurs at the next move-in).

The AIT and Bond Properties. Congress modified the LIHTC minimum set aside to allow for the average income test, but it did not make any change in IRC Section 142, which covers tax exempt bonds. However, the AIT may still be used in bond-financed LIHTC developments if the development satisfies both the AIT minimum set-aside election and one of the minimum set-aside elections applicable to tax-exempt bond financing (20-50 or 40-60). Thus, units with income limit designations above 60% or 50%, as applicable, do not count for purposes of bond compliance.

EXAMPLE Bond and LIHTC Average Income Test Minimum Set-Aside

Bond 40-60 TC: AIT					
80% TC	40% TC Bond	60% TC Bond	70% TC	Market	Bond MSA 4/10 units = 40% AIT MSA 14/20 units - 70% Exceeds 40% $[(4 \times 80\%) + (2 \times 70\%) + (4 \times 60\%) + (2 \times 40\%) + (2 \times 30\%)] / 14 = 60\%$ Averages 60%
80% TC	30% TC Bond	60% TC Bond	Market	Market	

LIHTC 40-50 Set-Aside

Before a law change in 2008, HOME and NAHASDA (a Native American HUD housing program) funding resulted in 4% credit percentage when combined with the LIHTC. However, there was a special set-aside created that allowed some of these projects to claim 9% tax credits. The set-aside required that 40% of the units in **every building** be rented to families at or below the 50% limit. *NOTE:* Rents are not required to be based on 50% limits and can be charged based on the minimum set-aside limit (see the project’s LURA for further clarification).

6 Check the boxes that describe the allocation for the building (check those that apply):

a Newly constructed and federally subsidized b Newly constructed and **not** federally subsidized c Existing building

d Sec. 42(e) rehabilitation expenditures federally subsidized e Sec. 42(e) rehabilitation expenditures **not** federally subsidized

f Not federally subsidized by reason of 40-50 rule under sec. 42(i)(2)(E) g Allocation subject to nonprofit set-aside under sec. 42(h)(5)

This rule applies if a building’s Form 8609, line 6(f) indicates that the building is subject to the “40-50 rule.”

The adjusted law in July of 2008 eliminated the need for this rule for buildings placed in service from then on. Only tax-exempt bond funding and acquisition credits now limit credits to 4%. However, older HOME and NAHASDA properties that are 9% because of this exception, will still need to maintain the 40-50 mix.

It is important to note that this is an LIHTC, not HOME, rule. Because HOME rules also require 50% *low-HOME* units, managers have at times allowed the number of 50% units to decrease below 40% in some buildings when they moved the 50% designated unit to another building. HOME units usually float, and HOME often requires fewer very-low units than 40% per building. If the 40-50 rule is violated, over half of the credits may be disallowed by adjusting the 9% to 4% credits. Also, the IRS indicates that there may be no way to correct such noncompliance. This makes it crucial for owner/agents of 40-50 properties to understand this election.

Owner Set-Asides

Owners may elect to have set-asides that are lower than the amount allowed by the minimum set-aside. This could be for LIHTC or for other program reasons. For instance, an owner of a 40-60 project could have agreed to have 50% units for favorable consideration during the LIHTC application process or because they have brought HOME Funds or section 8 into the development mix of the property. Noncompliance with set-asides elected for LIHTC reasons will be monitored by RIHousing and noncompliance could result in adverse consequences other than loss of tax credits for an owner. Other program set asides are monitored separately, and consequences vary by program. Important note: properties that had LURAs registered prior to March of 2018 do not have the AIT option Set asides for more recent AIT properties where the set aside designations are part of the minimum set-aside are a matter of federal concern and may affect tax credits compliance.

HOME and NHTF Fixed or Floating Designations

Every HOME project is either designated as having fixed or floating HOME units.

- **Fixed HOME.** HOME properties with fixed HOME units will have specific HOME units that will never have to change their designation to non-HOME units. They may, however, change from High to Low HOME status. Non-HOME units in these projects are never subject to HOME restrictions for any reason.
- **Floating HOME.** A property with floating HOME units must maintain a mandated mix of HOME units throughout the property, but specific units may switch status. HOME units may change from High to Low HOME and HOME units, and non-HOME units may be exchanged as necessary to maintain compliance.

HOME program rules relating to steps to take when family income increases after move-in are particularly sensitive to whether the property is fixed or floating HOME (see Chapter 6 for further details on handling increases of income for HOME properties). Also, the High or Low HOME status of individual fixed HOME units may change as required by HOME rules.

EXAMPLE Fixed HOME Property

During the initial occupancy of a project, unit 8-A is established as a HOME unit and comparable unit 8-B is non-HOME. Unit 8-A will keep its designation as a HOME unit for the entire period of affordability and unit 8-B will remain non-HOME. Unit 8-A may change to Low or High HOME as required by other rules.

EXAMPLE Floating HOME Property

During the initial occupancy of a project, unit 516 is established as a HOME unit and comparable unit 515 is non-HOME. If circumstances require it in the future, comparable unit 515 can be designated as HOME if a HOME-eligible family occupies it and the HOME rent is charged and unit 516 can become non-HOME.

Lease Requirements

LIHTC Non-Transience. LIHTC housing is not intended to be “transitory” (temporary). To prevent this, tax credit properties are required to have an initial lease of at least six months for each new family. This is a minimum, so the initial term can be more than six months. After the initial term, owner/agents are free to apply any term they like provided no lease provision violates LIHTC requirements or Fair Housing law. Other programs, such as project-based Section 8 or HOME, often dictate that a specific lease must be used. These leases do not conflict with LIHTC requirements and can be used if the initial term is at least six months. Additionally, RIHousing requires the use of its LIHTC LEASE ADDENDUM for all LIHTC properties, except those that are subject to a HUD Model Leases. For non-HUD properties, the Addendum is required regardless of the lease form used. The LIHTC LEASE ADDENDUM is not a stand-alone document and must be executed whenever a new lease is executed.

Single Room Occupancy (SRO) units and projects developed for transitional housing have been allowed exceptions to the six-month lease term rule. The minimum initial lease term for these special cases is at least one month. For SRO or transitional housing project, the LURA or RIHousing may be consulted to ensure that the project meets one of the exceptions to apply the shorter initial lease term. Upon expiration of the initial lease, the term can transition to month to month, if the lease is so designed. A new lease is not required. See Chapter 11 for special RIHousing lease rules relating to LIHTC acquisition/rehab and resyndication projects.

LIHTC Lease Termination

LIHTC rules prohibit “the eviction or the termination of tenancy (other than for good cause)” of LIHTC residents during the entire period of compliance, including the extended use period and three years after. Eviction or termination of tenancy mid-lease without good cause is clearly prohibited.

What if a lease is up for renewal? Is not renewing a lease that has expired “eviction” or “termination of tenancy”? The IRS has clarified that “neither the owner nor the tenant is obligated to renew a lease once it expires” and that nonrenewal of leases does not necessarily equate to “termination of tenancy.” [8823 Guide 26-4] If an owner intends to non-renew a lease, they will have to ensure that doing so is acceptable as “good cause” under RI State Law.

HOME/NHTF Lease Requirements. A written lease agreement must be provided for tenants of HOME- and NHTF-assisted units. The terms of the lease must be for a minimum of one year unless the tenant and owner agree to a lesser term. However, the terms of the lease can never be less than 30 days.

HOME and NHTF regulations have required lease clauses and prohibited provisions. To ensure HOME and NHTF units meet the leasing provisions, RIHousing has developed lease addendums to accompany the owner-developed lease. The verbiage from these forms must be part of all HOME and NHTF lease agreements. The RIHousing HOME or NHTF Lease Addendum must be signed by all tenants and management of HOME- and NHTF-assisted units and be attached to the lease. The only exception to the requirement to use the RIHousing lease addendum is for HUD projects using HUD model leases. These may use the HUD-approved leases without the RIHousing addendum.

HOME/NHTF Lease Terminations. An owner cannot terminate the tenancy or refuse to renew the lease of a tenant in a HOME or NHTF unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable federal/state/local law, or for other good cause. For HOME, any

termination or refusal to renew must be preceded by not less than 30 days' notice. This notice must be in writing and specify the grounds for the action and basis for termination/nonrenewal in the lease or house rules. NHTF units must follow state or local laws regarding the required notice period to terminate a lease.

The 30-day HOME waiting period is not required if the grounds for the termination or refusal to renew involve a direct threat to the safety of the tenants or employees of the housing, or an imminent and serious threat to the property (and the termination or refusal to renew follows the requirements of State and local law).



Ensure that LIHTC employee units are only occupied by full-time employees of that particular property! Regional managers and site or maintenance managers who manage multiple properties may not be eligible for employee units. Please consult with your RIHousing Compliance Specialist to discuss this provision.

Do not use LIHTC units for non-residential use! A vacant LIHTC unit that is converted to an office, storage area for maintenance supplies or other facility is different from creating a “common area” employee unit. Rather, it is an unused “residential unit” to be included in the numerator of the applicable fraction. Before such a conversion is considered, RIHousing should be consulted.

Leases

Double-check lease dates! It is crucial that dates be entered correctly to avoid lease noncompliance. Owner/agents should have systems in place to review leases before they are executed.

Chapter 8 | Life of an Affordable Property

Development Deadlines

LIHTC Reservation and Allocation

Upon approval for an allocation of tax credits, RIHousing issues a reservation of credits; this holds a portion of the credits allocated to the state in reserve for the owner in anticipation of successful construction and occupancy of the project. If a building can be placed in service the year of the allocation, an IRS Form 8609 is issued by the state and becomes the official allocation document. In most cases, however, the allocation of credits is extended to a later year via a **carryover allocation**. Carryover documents must be executed no later than December 31 of the year in which the credits will be allocated. RIHousing will inform developers of the specific deadline each year. Forms used are state-specific, but include provisions required by federal tax code. The 9% rehabilitation credit is set at 9%. If receiving allocated acquisition credits, the owner must decide whether to “lock-in” the applicable credit percentage (which is published each month by the IRS) with a written agreement on or before a *Carryover Allocation Agreement* is signed. If the rate is not locked in, then the credit percentage rate will float until the placed-in-service date of the project. Similarly, a gross rent floor based on the income limits in effect at the time will apply to a property based on the placed in-service date, unless the owner elects the allocation date. As income limits hold harmless, there is no benefit to selecting a gross rent floor based on the placed in-service date and the allocation date should be elected (see Chapter 3 for more on the Gross Rent Floor).

To continue to qualify for the carryover, 10% of the Reasonably Expected Basis (REB) must be incurred within one year of the date that allocation documents are issued. REB is the value of the land and depreciable buildings in a project expected at the time the building is placed in service. RIHousing has form “10% Test” documentation. Finally, the building must be placed in service by December 31 of the second year after carryover.

Placing In-Service and Lease-up

When a building is *ready for its intended purpose*, the IRS considers it to be placed in-service, and leasing can begin. For **new construction** this generally happens when a *Certificate of Occupancy* is issued that allows an owner to legally rent at least one unit in a building. In many cases, tax credits can be claimed for units occupied by LIHTC-qualified families starting the first full month after the building is placed in-service. For credits based on the **acquisition** of a building that is already occupied, the placed in-service date is the date that the building is purchased per IRC §179.

LIHTC Rehabilitation credits are placed in-service when enough money is spent to meet Tax Code required minimums and to achieve the eligible basis on which the credits will be claimed (see Chapter 11 for further details an acquisition/rehab credits).

Because of several crucial timing factors, construction schedules can help or hurt planned credit delivery. These must be monitored closely.

Upon placing a building in-service, key events should be in-process. These include a cost certification, registering a LURA and leasing up.

EXAMPLE LIHTC Allocation/Construction Timeline

2018	2019	2020	2021
1. Allocation OR 2. Carryover by 12-31-2018	10% REB 12 months from carryover	1. PIS by 12-31-2020 2. Claim 1 st year OR Defer to 2021	

LIHTC Cost Certification. The owner must submit a report on the actual project costs audited by a Certified Public Accountant for approval by RIHousing before the tax credits are allocated. This cost certification details the costs associated with the building components included in the property’s eligible basis. After approval of the cost certification, RIHousing will issue IRS Form 8609 for each building to the owner, with Part 1 of the form completed and signed by RIHousing.

LIHTC LURA. A *Declaration of Land Use Restrictive Covenants for Low-Income Housing Tax Credits* (LURA), is recorded in the local land records for the property by the time it is placed-in-service. Property management should be familiar with this document because it establishes the occupancy and affordability requirements for the project as well as other obligations that go beyond the LIHTC regulations (see Extended Use Period, below).

HOME/NHTF Agreements. The HOME and NHTF programs also have Agreements and Deed Restrictions. All provisions of all regulatory agreements that apply to a property must be implemented, and the owner/agent must be thoroughly familiar with all of them and determine how they interact to ensure compliance with all obligations.

Lease-up. The lease-up period starts once buildings place in-service. For new construction projects, the lease-up generally follows a period during which the owner/agent has marketed the units and accepted family applications.

For acquisition and rehabilitation projects the lease-up period starts at:

- 1) acquisition, when it is determined if in-place families qualify or
- 2) when new applicants are determined to be LIHTC eligible and are approved for move-in.

The management agent is responsible for ensuring that the exact number of committed LIHTC units are delivered so that the owner can claim the credits. Failure to do so may result in the recapture or disallowance of credits, which will likely have financial consequences for the owner. – Chapter 11 discussed acquisition/rehabilitations in greater detail.

During the lease-up period RIHousing requires that the *Initial Qualifying Tenant Report* (IQT) be completed. The IQT summarizes critical information on the unit, family, and occupancy to be used in the lease-up stage of the credit period (see Chapter 7 for further details on the IQT Report).

Credit Deferral and Income Testing. Once a building is placed in-service, the owner may choose to begin claiming tax credits that year, or they may choose to claim credits the next year. Claiming the year after the year placed in-service is called *deferring* credits. The decision to defer credits is often made when a building is not LIHTC-occupied to the level needed to support the planned tax credits by the end of the placed-in-service year.

To defer or not to defer? The choice to defer often comes down to whether tax credit qualification goals are met.

EXAMPLE Decision...defer!

Projected tax credits for a building are based on qualifying all 100 of its same-size units as tax credit. It is placed in service on 10/31/2018. By 12/31/2018, 41 of the 100 units have been qualified.

The owner chooses not to claim credits in 2018 with 41% qualification. Instead, she defers to 2019 to allow time to achieve higher tax credit occupancy by the end of 2019, which is the deadline to start claiming credits.

EXAMPLE Decision... Don't defer!

An 83-unit building has a target tax credit based on 100% qualified occupancy. The building is placed in service on 02/08/2018. By 12/31/2018, all 83 units are qualified.

As the goal that would support the desired tax credits has been met by the end of the year that the building was placed in service, the owner had no need to defer credits to 2019.

When credits are deferred, there are often families that were LIHTC-qualified the year the building was placed in service that are still in-place at the start of the next year. These are still LIHTC families even though they were qualified before the start of the credit period. If the project is not 100% LIHTC and these families moved in more than 120 days prior to the start of the credit period, then a test must be done to determine if the Next Available Unit Rule (NAUR) is triggered. See Chapter 6 for further details on the NAUR).

The "test" consists of confirming with the family that sources and amounts of income included on the original *Tenant Income Certification* (TIC) form is still current. If the family reports changes, a new TIC must be generated based on documentation that the family supplies, such as paystubs. It is not necessary to collect third-party verifications and only income sources reported as changed need to be checked.

If the family is over 140% of the current income limits, the NAUR is triggered. As with all families that were qualified at move-in but have had future increases in income, their housing is not in jeopardy. The income test does not establish a new annual recertification date. Future recertifications will continue to be based on the initial qualification date for the family. Owners/agents of projects that are 100% LIHTC always intend to rent the next available unit to LIHTC families and so income testing is not required for these projects.

EXAMPLE When LIHTC income testing is required

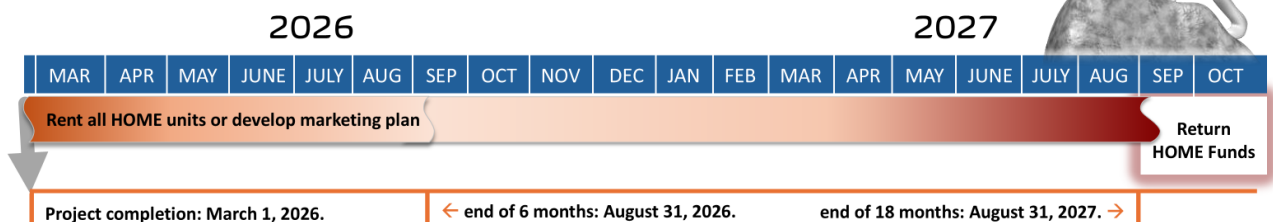
A project that is not 100% LIHTC includes a building with a placed in-service date of 06/30/2018. Credits were deferred to start in 2019. Among the units in the building, Unit 10 was occupied by a qualified family starting on 07/15/2018, and Unit 15 housed an LIHTC family starting 10/18/2018. Which of these is subject to income testing? When will they be fully income-recertified?

Unit 10 must be tested because they moved in more than 120 days prior to the start of the credit period. Both will be fully recertified by the anniversary of their move-in to the project.

HOME Lease-Up Deadline

The HOME-assisted units in a rental housing project must be occupied by families that are eligible low-income families and must meet the requirements of this section to qualify as affordable housing. If the housing is not occupied by eligible tenants within **six months** following the date of project completion, the participating jurisdiction must revise its marketing plan to enable the project to reach the required HOME occupancy. The participating jurisdiction must repay HOME funds invested in any housing unit that has not been rented to eligible tenants within **eighteen months** after the date of project completion.

Note that the former rule required HUD to get involved at 6 months. HUD required the participating jurisdiction to submit marketing information and a marketing plan if necessary. Now it is up to the PJ and the owner to develop a plan to ensure that the 18-month deadline is met. HUD is not involved directly until the obligation to occupy all HOME units is failed.



Welcome Meetings

When a new site comes online, when there is a rehab and/or acquisition or resyndication, or when there is a new management company at a project monitored by the Agency, RIHousing staff holds a welcome meeting with the owner/agent staff they will be working with. The Agency will go over the programs at the site, covering federal program and RIHousing requirements. Compliance and financial tasks and systems used will be explained. This is an opportunity for both sides to ask and answer questions to ensure smooth interaction with the Agency.

The Three Periods of LIHTC Compliance

Once the lease-up of a building is complete and credits are claimed, three LIHTC time periods begin and run concurrently. These three periods are called the:

1. Credit Period
2. Compliance Period
3. Extended Use Period

Note that for multiple-building LIHTC projects, each building will have its own unique periods, and these may be different than other buildings in the same project.

Credit Period | through year 10

The LIHTC provides a fifteen-year tax credit that is usually “accelerated” or claimed over ten years. The credit period is the period over which the owner claims these credits. It starts the first taxable year that credits are claimed and continues nine additional years, for a total of ten years.

Compliance Period | through year 15

The compliance period continues an additional five years after the end of the credit period. Therefore, it also starts with the first year of the credit period, but it continues for fourteen additional years, for the total fifteen years. During this time, the IRS monitors the property via its compliance monitoring agencies (RIHousing). The law requires compliance with federal LIHTC provisions for the full fifteen years. During this time, the tax credits, even if previously claimed, are in jeopardy (see Chapter 10 for more information on compliance monitoring and noncompliance).

Extended Use Period | through year 30 (minimum)

For properties allocated credits after 1989, the owner must agree to at least an additional fifteen years of compliance. The total thirty – or more – years thus committed comprise the extended use period. As with the other periods, the extended use period begins with the first year that credits are claimed. It then continues at least twenty-nine additional years. The IRS does not monitor LIHTC projects that are in the Extended Use Period. RIHousing will continue to monitor the property in accordance with the LURA and will impose penalties, as necessary. Owner/agent responsibilities continue to include submitting to physical inspections and file reviews, qualifying families, conducting recertifications (as required), timely submitting annual owner certifications, paying compliance fees, and uploading tenant events into the Agency reporting system.

EXAMPLE Determining the End of LIHTC Periods

The first year of the credit period for a building is 2018. The project has an extended use period of the minimum-required 30 years. When is the end of the credit, compliance, and extended use periods?

The last year of the credit period is 2027

$$2018 + 9 \text{ years} = 10 \text{ years}$$

The last year of the compliance period is 2032

$$2018 + 14 \text{ years} = 15 \text{ years}$$

The last year of the extended use period is 2047

$$2018 + 29 \text{ years} = 30 \text{ years}$$

CREDIT PERIOD

COMPLIANCE PERIOD

EXTENDED USE PERIOD

2018	2023	2028	2033	2038	2043	2048
------	------	------	------	------	------	------

HELPFUL HINT

To determine when a building's credit, compliance and extended use periods began.

Compare the building's form 8609

Line 5: Placed in service date &

Line 10(a): Deferral election

If 10(a) is:

No – Credits started placed in-service year.

Yes – Credits started year *after* placed in-service year.

Form 8609 Low-Income Housing Credit Allocation and Certification
OMB No. 1545-0047

Part I Allocation of Credit

Check Addition to Qualified Basis Amended Form

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

B. Name and address of housing credit agency

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

D. Employer identification number of agency

E. Building identification number (BIN)

TIN

1a. Date of allocation b. Maximum housing credit dollar amount allowable 1b.

2. Maximum applicable credit percentage allowable (see instructions) 2.

3a. Maximum qualified basis 3a.

b. Check here if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(B). Enter the percentage to which the eligible basis was increased (see instructions) 3b.

4. 4.

5. Date building placed in service

6. Newly constructed and federally subsidized Newly constructed and not federally subsidized Existing building

d. Sec. 42(e) rehabilitation expenditures federally subsidized Sec. 42(e) rehabilitation expenditures not federally subsidized

f. Allocation subject to nonprofit set-aside under sec. 42(h)(5)

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

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

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

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

7. Eligible basis of building (see instructions) 7.

8a. Original qualified basis of the building at close of first year of credit period 8a.

b. Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? Yes No

9a. If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)? Yes No

b. For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(i)(3)(B)? Yes No

10. Check the appropriate box for each election.

a. Elect to begin credit period the first year after the building is placed in service (section 42(i)(1)) Yes No

Note: For acquisition/rehabs, use the 8609 for the rehab costs to make this determination for when both acquisition and rehab credit periods began.

WARNING!
Avoiding
Noncompliance
Lease-up Issues



Helpful reminders to assist in avoiding mistakes that can result in the loss of tax credits

Watch lease-ups closely! Noncompliance and decisions that are made can have a greater impact on the tax credits if these happen in the early days of a project.

EXAMPLE First Year-Errors

A project consists of two buildings. One building contains 15 units and the other has 4. The applicable fraction used on the cost certification for each building was 100%. The LURA also states that 100% of the units will be LIHTC. During lease-up, a unit in the 4-unit building was used as an office. Rather than rent the unit toward the end of lease-up, the owner continued to use the unit as an office. It is not being used to house an employee and so does not qualify as a “common area” unit. Similarly, a unit was exclusively reserved as a model unit after lease-up was done. The owner claimed tax credits on all units in both buildings.

Two years later, two families in the 15-unit building were found to have been over-income when they moved-in during lease-up.

As the applicable fraction is the lesser of the floor space fraction or unit fraction, the correct applicable fraction (in the box) is calculated, as below.

The owner cannot claim credits based on 100% LIHTC occupancy. This represents a loss of 13.33% of the credits claimed for each year in BIN 1 and 50% of the credits per year in BIN 2. An additional penalty, called recapture, will also apply. Future credits will not be allowable until the non-qualified families move out and are replaced with LIHTC families. Finally, there will be substantial penalties on the tax credits for the future LIHTC-qualified families.

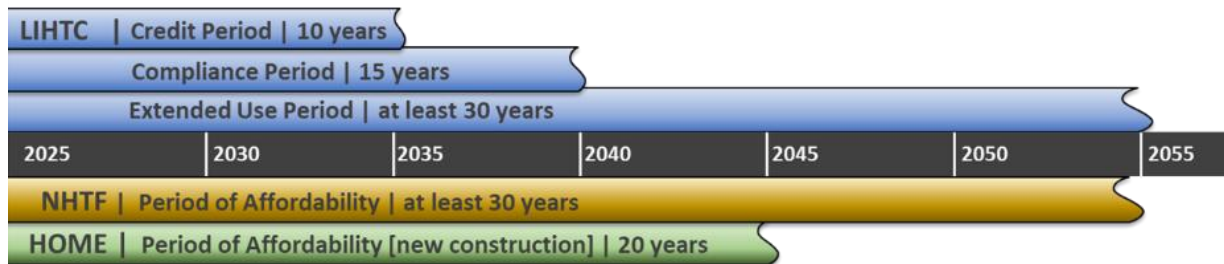
Building 1			
LIHTC Units	13	LIHTC Sq.Ft.	9,352
Total Units	15	Total Sq.Ft.	10,701
Unit %:	86.67	Sq. Ft. %:	87.39

Building 2			
LIHTC Units	2	Total Sq.Ft.	1,208
Total Units	4	LIHTC Sq.Ft.	2,304
Unit %	50	Sq. Ft. %	52.43

HOME and NHTF Periods of Affordability

HOME periods of affordability can vary, but historically they were 20 years for new construction HOME properties and HOME PJs could add time in the HOME agreement applicable to the property. Starting in 2025, the HOME period of affordability is 20 years, and any additional commitment is with the HOME agency. NHTF periods of affordability are 30 years.

EXAMPLES Program Commitment Comparison



Ancillary Program Commitment Periods

Other programs monitored by RIHousing also have affordability and other compliance commitment periods. Refer to individual property regulatory agreements and program requirements for more details related to a specific program and property.

Chapter 9 | Owner Record Keeping

Annual Owner's Certification

Almost all the programs monitored by RIHousing will have an annual certification that must be provided to the Agency. See the information at the end of Chapter 1 for some information on many of these programs.

Federal regulations state that owners of LIHTC, HOME, and NHTF developments are required to certify to RIHousing that the development met the requirements of Section 42, HOME, and the NHTF for the preceding 12 months. Any provisions that have not been met must be disclosed and explained. For the LIHTC, Treasury regulations list twelve specific requirements that must be addressed in the *Certification*. State agencies have the right to add additional items, as appropriate. Similarly, HOME and NHTF programs also require

annual reporting. RIHousing requires owners to report on the form *Owners Certification of Continuing Program Compliance*. On this *Certification form*, the owner certifies, under the penalty of perjury, that the information provided is true, accurate, and that the property is compliant with the requirements of the affordable housing programs. The *Certification* must be submitted as directed by RIHousing's annual notice. RIHousing also requires evidence that management staff has completed annual program training. This evidence must be submitted with the *Owners Certification* each year (see Chapter 10 for RIHousing's training policy.)



Ongoing Reporting

RIHousing will monitor occupancy and family composition activity using an online reporting system. Instructions are provided to owner/agents of covered programs. Reporting through the RIHousing system is mandatory for these programs, even if data is uploaded to other programs. For instance, this includes entries into TRACS for the HUD 811 program.

Owners are required to submit waitlist information and numbers in the prescribed format at the end of each quarter. Monthly and quarterly reporting to RIHousing may include:

- Financial and asset management reports,
- Units designated as HOME – including low and high designations,
- Units designated as Market, and/or an ancillary program, as applicable.

Occupancy Reporting and Tenant Data Collection

Owners must also report additional information utilizing RIHousing's online reporting system. This reports household-level data.

RIHousing regularly reviews LIHTC, HOME, NHTF, and ancillary program family occupancy and demographic data. RIHousing must, by law, collect this data and transmit it to HUD annually in accordance with federal requirements. Tenant data is gathered by the owner/agent from each family on the *Tenant Income Certification* form and transmitted to RIHousing electronically. The HUD Section 8 and 811 programs collect this information via the HUD TRACS software, but HUD properties blended with programs that are also monitored in RIHousing online reporting system must submit data in both systems.

The owner is considered noncompliant if the *Certification* and/or online reporting is inaccurate, incomplete, or if the owner discloses program noncompliance.

Record Keeping and Record Retention

The owner is responsible to keep records for each qualified program low-income building in the project that show for each year in the compliance period and the extended use period, the number of residential rental units, the rent charged on each residential rental unit, the utility allowance charged (if applicable), the annual income certification of each low-income tenant and the documentation to support each of these items.

Owners must maintain records necessary for RIHousing to conduct compliance monitoring and for the IRS and HUD to conduct any audits. LIHTC records for the first year of the credit period must be retained for six years after the deadline for filing the tax return for the last year of the compliance period. Records for all other years in the fifteen-year compliance period must be kept for a minimum of six years following the deadline for filing that year's tax returns for the property. HOME and NHTF records for each year must be retained for at least five years.

The records must include the following:

1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit).
2. The percentage of residential rental units in the buildings that are low-income units.
3. The rent charged for each residential rental unit in the building, supporting documentation, and the applicable utility allowance.
4. The number of occupants in each program unit.
5. Unit vacancies in the building and information that shows when and to whom the next available units were rented (this information must include the unit number, resident name, move-in dates, and move-out dates for all residents, including market residents).
6. The annual income certification of each eligible resident (as applicable).
7. Documentation to support each eligible resident's income certification.
8. The LIHTC eligible basis and qualified basis of the building at the end of the first year of the credit period.
9. The character and use of the nonresidential portion of any building included in the building's LIHTC eligible basis that are resident facilities available on a comparable basis to all residents and for which no separate fee is charged for use of the facilities (or facilities otherwise reasonably required by the development).

EXAMPLE First Year LIHTC Record Retention

A project was placed in service in 2019, and credits are deferred and first claimed in 2020. This makes 2034 the final year of the compliance period. Until when must the first-year files and other records be kept?

April of 2041.

This is six years after the April 2035 deadline for filing the 2034 taxes.

WARNING!
Avoiding
Noncompliance
Annual Reporting



Helpful reminders to assist in avoiding mistakes that can result in the loss of tax credits

Submit annual reporting in a timely fashion! Not submitting the annual *Owners Certification* on the schedule determined by RIHousing is reportable noncompliance to the IRS.

Chapter 10 | Compliance Monitoring

Annual Inspections – File and Physical

Ongoing Review. IRS and HUD regulations require that, at least once every 3 years, state agencies conduct on-site inspections of all LIHTC/HOME/NHTF buildings in a project; inspecting at least a sample size in accordance with IRS and HUD guidance, of the project’s low-income units and reviewing the certifications and supporting documentation along with the rent records for all residents in the units. Properties directly financed by RIHousing and/or monitored under other federal, or state programs administered by RIHousing (such as Sections 8 and 811) will be reviewed on a schedule set by the involved program. See the end of Chapter 1 for details on ancillary other program monitoring requirements. Additionally, projects whose operations do not meet RIHousing’s financial and operating management standards may be subject to more frequent examinations.

Initial Review. IRS and HUD regulations require that state agencies conduct on-site inspections of all buildings in the project; inspect a percentage of the project’s low-income units and review the certifications and supporting documentation along with the rent records for all residents of the units. For LIHTC projects, the first review must be conducted by the end of the second calendar year following the year the last building in a project is placed in service. First reviews for the HOME and NHTF programs will be within the first 12 months of completion. RIHousing will conduct an initial on-site review to evaluate owner compliance with program requirements.

EXAMPLE First LIHTC Inspections

A two-building project had BIN # 1 placed in-service on October 1, 2024, and BIN # 2 placed in service March 30, 2025. When is the latest RIHousing will inspect the project?

December 31, 2027: That is no more than two years after the year the last BIN is placed in-service.

RIHousing will give the owner/agent 15 days’ notice before an on-site visit. While on-site or via desk audit, RIHousing also will review other property management documents such as rent rolls, Utility Allowances if applicable, marketing materials and other information to assess compliance with LIHTC requirements. Owners/agents must provide RIHousing compliance staff with access to all documents regarding continuing compliance and other relevant materials. RIHousing will evaluate the state of continuing compliance and report the results to the owner/agent upon conclusion of the review.

File inspection

RIHousing will review tenant files for compliance with program student, income, and rent limit rules. Each family must be at or below the applicable income limits and be charged appropriate rents. Some families that include students are not eligible unless an exception is met. Proper procedures and forms must be implemented. See Chapters 4 and 5 for further details on tenant file requirements.

Physical Inspection

The details of physical inspection standards for various ancillary programs that RIHousing monitors can be found at the end of Chapter 1. For most programs, all buildings and a sample percentage of units are

inspected during site visits in accordance with guidance from the IRS and HUD. RIHousing will inspect any vacant LIHTC units that are reported as rent-ready or that have been vacant for 30 days or more to ensure compliance with LIHTC unit vacancy rules. Physical Inspections are conducted using HUD's National Standards for the Inspection of Real Estate (NSPIRE), which replaced HUD's old Uniform Physical Conditions Standards (UPCS) and Housing Quality Standards (HQS) protocols for various programs during the years 2023 through 2025. NSPIRE is the standard also followed for HUD REAC (Real Estate Assessment Center) inspections. However, LIHTC and HOME/NHTF inspections do not use the overall scoring for a project that is part of REAC.

HUD has published *NSPIRE Standards* that identify specific NSPIRE deficiencies. The *NSPIRE Standards* then define which severity level applies to the deficiency. Severity levels include [1] Life-Threatening, [2] Severe, [3] Moderate, and [4] Low. The *Life-Threatening* category includes deficiencies that present a high risk of death to a resident. The *Severe* category includes deficiencies that present a high risk of permanent disability, serious injury, or illness to a resident. It also covers when the physical security or safety of a resident or their property is seriously compromised. The *Moderate* category includes deficiencies that present a moderate risk of an adverse medical event requiring a healthcare visit. It also may cause temporary harm if left untreated or cause or worsen a chronic condition that may have long lasting adverse health effects. Also, the physical security or safety of a resident or their property could be compromised. *Low* deficiencies are critical to habitability but do not present a substantive health or safety risk to residents. NSPIRE reviews three inspection areas: [1] "Outside" a building. This area formerly included the UPCS "site" and "building exterior." [2] "Inside" the building. These were UPCS "common areas" and "building systems." [3] "Units," which is the same designation as UPCS.

Affirmative Requirements. NSPIRE added several new affirmative requirements that an owner must ensure are present at existing properties to meet the standard. Although many of these are already required by local code, some retrofitting may be required. Railings are required in places they may not have been before, GCFI protection is required at outlets near water sources when not previously mandated, and there are specific smoke detector placement requirements. As some cost is involved, owners/agents need to inform themselves about the NSPIRE affirmative requirements and implement them.

HELPFUL HINT

The *NSPIRE Standards* can be found by going to the website www.hud.gov and searching by keywords "NSPIRE Standards."

NSPIRE is a complex protocol. The following is a quick overview of NSPIRE as described by IRS guidance in the instructions to IRS Form 8823 and adjusted for NSPIRE. However, there are many additional details provided in HUD guidance.

SITE | part of the NSPIRE “Outside” Inspection Area



Inspectable Area

Outside

Site components must be free of health and safety hazards and be in good repair.

- Fencing and gates
- Grounds
- Mailboxes
- Project signs
- Parking lots/driveways/roads
- Play areas and equipment
- Refuse disposal
- Retaining walls
- Storm drainage
- Walkways/steps

WARNING Possible site concerns!

- Dangerous walkways or steps
- Poor drainage
- Septic tank back-ups
- Sewer hazards
- Excess accumulated garbage/debris
- Vermin or rodent infestation
- Fire hazards

BUILDING EXTERIOR | part of the NSPIRE “Outside” Inspection Area

Each building on the site must be structurally sound, secure, habitable and in good repair

- Doors
- FHEO & Uniform Federal Accessibility Standards (UFAS)
- Fire escapes
- Foundations
- Lighting
- Roofs
- Walls
- Windows

WARNING Possible building exterior concerns!

- Damaged soffits/fascia
- Missing/damaged downspouts/gutters
- Splashblocks missing
- Walls stained/peeling/need paint
- Wall cracks, gaps, damaged or missing pieces
- Back up lighting fails when tested
- Bushes/trees touching buildings



Inspectable Area

Inside

BUILDING SYSTEMS | part of the NSPIRE “Inside”
Inspection Area

Each building’s domestic water, electrical system, elevators, emergency power, fire protection, HVAC and sanitary system must be free of health and safety hazards, functionally adequate, operable and in good repair.

- Domestic water
- Electrical systems
- Elevators
- Emergency power
- Fire protection
- HVAC
- Roof exhaust systems
- Sanitary systems

WARNING Possible building system concerns!

- Blocked access to the electrical panels by furniture or other items
- Open breaker/fuse ports
- Water heater pressure relief valve discharge tube does not extend to within 6 inches of the floor

COMMON AREAS | part of the NSPIRE “Inside” Inspection Area

Common areas must be structurally sound, secure and functionally adequate for the purposes intended.

- Basements/garages/carports
- Closets/utility & mechanical rooms
- Community room
- Day care facilities
- Halls/corridors/stairs
- Kitchens
- Laundry rooms
- Lobbies
- Offices
- Other community spaces
- Patios/porches/balconies
- Pools and related structures
- Restrooms
- Storage facilities
- Trash collection areas

WARNING Possible common area concerns!

- Clothes dryers not properly vented in public laundry room
- Expired certification, missing, damaged or discharged fire extinguisher



Inspectable Area

Units

UNITS | also the NSPIRE “Unit” Inspection Area

Each dwelling unit within a building must be structurally sound, habitable and in good repair. The dwelling unit must be free of health and safety hazards, functionally adequate, operable and in good repair.

- Bathrooms
- Calls-for-aid
- Ceilings
- Doors
- Electrical systems
- Floors
- Hot water heaters
- HVAC systems
- Kitchens
- Laundry areas
- Lighting
- Outlets/switches
- Patios/porches/balconies
- Smoke detectors
- Stairs
- Walls
- Windows

WARNING Possible unit concerns!

- Lack of hot and cold running water
- Lack of an adequate source of potable water
- Lack of at least one working smoke detector on each level of the unit
- Bathrooms that are not in proper operating condition, including being:
 - Usable in private
 - Adequate for personal hygiene

HEALTH AND SAFETY ITEMS | apply to all NSPIRE Inspection Areas

All inspectable areas must be free of health and safety hazards. These issues are any hazardous conditions that pose a threat to the health and safety of residents and others.

- Air quality
- Electrical hazards
- Elevators
- Emergency/fire exits
- Flammable materials
- Garbage and debris
- Hazards
- Infestation

WARNING Possible Health and Safety concerns!

- Sharp edges
- Infestation by rats, mice or vermin
- Trip hazards
- Blocked egress
- Electrical, natural or fire hazards.
- Improper ventilation
- Noncompliance with requirements related to lead-based paint hazards or unavailable certifications thereof

Life Threatening Health & Safety deficiencies pose risk of potential harm or death to residents or others, and are especially of concern. They must be corrected immediately.

- Mold observed or propane, natural, sewer or methane gas odor
- Inoperable smoke detectors
- Blocked egress
- Improperly stored flammable materials

Preparing for an NSPIRE site inspection. An inspection will go more smoothly if the owner/agent prepares well. Conducting walk-throughs in advance of the inspection can help to identify issues that need to be addressed. It is important to give sufficient notice of the inspection to the tenants.

After the physical inspection. Immediately upon conclusion of the physical inspection the inspector will notify the owner/manager of when specific issues need to be corrected, based on NSPIRE standards. The most dangerous *Life threatening* and *Severe* findings must be corrected within 24 hours of the inspection. Evidence of correction must be submitted within the timeframe allowed.

COMMON PHYSICAL INSPECTION DEFICIENCIES

1. Smoke Detectors Missing or Will Not Test
2. Auxiliary Lighting Does Not Test
3. Fire Extinguisher Missing or Certification Expired
4. Missing Electrical Panel Covers
5. Flammable Materials Improperly Stored
6. Hazards, Tripping
7. Damaged Sinks/Showers
8. Doors Surface Damage
9. Doors, Damaged Frames
10. Doors Damaged Seals
11. GFCI not present or does not test
12. Access Blocked to the Electrical Panel
13. Open Breaker/Fuse Ports
14. Water Heater Pressure Relief Valve Tube Does Not Discharge Near the Floor
15. Leaking Plumbing
16. Refrigerator Door Gasket Seals Damaged
17. Clothes Dryers Not Properly Vented
18. Outlet and Switch Plate Covers Missing, Cracked or Broken
19. Blocked Egress
20. Fences – Damaged/Falling/leaning
21. Roofs – Damaged Soffits/Fascia or Missing Guttering/Downspouts
22. Walls – Damaged or Paint Peeling
23. Sanitary Sewer Covers Damaged
24. *Unregistered vehicles on site (Rhode Island-specific)*

Note: Generally, if an item is installed or present, it must function and have all parts as designed—For example, screen doors are not required by program rule; however, if installed, they must be complete, with full screens and if a closer is used it must function as designed. Similarly, pull cord call-for-aid systems are not required, but if present they must function, and the pull cords must extend to the cove base.

LIHTC 8823 Reporting

RIHousing has an obligation and is responsible for monitoring LIHTC projects for compliance with the requirements of Internal Revenue Code (IRC) §42 and HUD standards. When LIHTC noncompliance is identified, either in tenant files or during a physical inspection, or if a building is disposed of, RIHousing is required to notify the IRS using Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition.

Typically within thirty business days of a physical inspection, RIHousing will provide the owner and management agent with a written report of all findings of noncompliance. The report may also identify administrative or technical issues, or recommend changes for improvement. For NSPIRE findings other than *Life Threatening* and *Severe* findings, owners are given 30 days to provide evidence of corrected deficiencies, i.e. signed work orders. If additional time is needed to correct deficiencies, the owner must request the extension in writing and provide evidence as to why an extension is necessary, along with estimated repair commencement and completion dates.

The IRS limits the time that a state can give for any correction extensions before the state must report the matter to the IRS, so swiftly resolving findings is best. When the owner submits proof of correction or when deadlines to report set by the RIHousing expire, RIHousing will submit an 8823 for each noncompliant LIHTC building to the IRS to update the Service on the noncompliance found. At a minimum, 8823s are issued for all *Life Threatening* and *Severe* issues.

Issues with HOME and the NHTF are handled directly between the owner/agent and RIHousing and only reported to HUD when serious enough to merit repayment of HOME/NHTF funds.

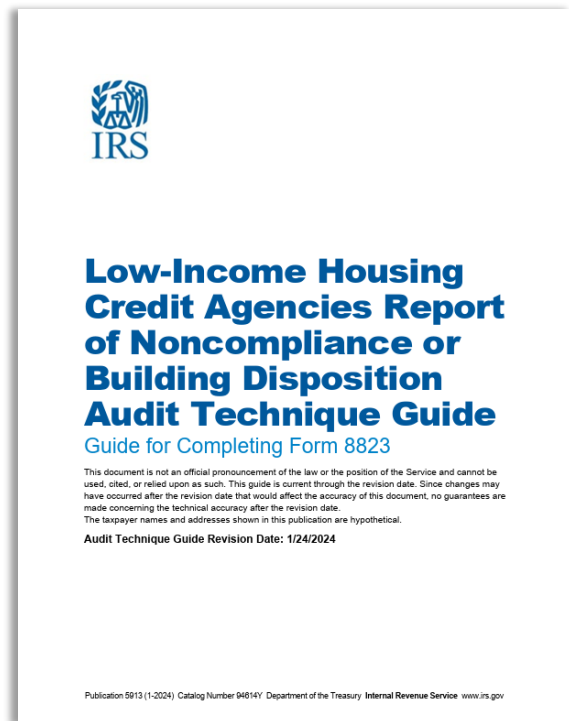
Based on the information provided by the owner, RIHousing will determine whether the owner was always in compliance, has corrected the noncompliance, or remains out of compliance. For LIHTC properties, within 45 days of the owner's response, RIHousing will file Form 8823 with the IRS reporting any noncompliance and whether it was corrected. RIHousing will also send a copy of the 8823 to the owner. Depending on the nature of the noncompliance (and whether it was corrected in the initial correction period), the IRS will determine if an audit is warranted.

If the owner discovers and corrects noncompliance before notice is given of an LIHTC review, except for NSPIRE violations, RIHousing will not report the noncompliance to the IRS and loss of credits is unlikely to occur. The existence of NSPIRE violations can only be established on the day of inspection or when another agency makes a determination of violation.

For 8823s that were filed showing uncorrected noncompliance, RIHousing will file a “corrected” Form 8823 with the IRS upon receipt of proof of correction from the owner. Corrected Form 8823’s are only allowable if the noncompliance is corrected within three years after the end of the original correction period.

Correcting Federal LIHTC Noncompliance

To provide state agencies with guidelines for evaluating LIHTC compliance and reporting noncompliance to the IRS, the IRS has produced the *Guide for Completing Form 8823* (the 8823 Guide). RIHousing uses the 8823 Guide as a resource to help determine if federal noncompliance has occurred. Each chapter of the 8823 Guide addresses a different type of noncompliance, providing examples of what is – and is not – noncompliance and how noncompliance can be resolved. Below is a chart that provides a roadmap to the categories of noncompliance, where these are addressed in the 8823 Guide.



DEFINITIONS Results of LIHTC noncompliance

LIHTC Disallowance

When there is outstanding noncompliance on the last day of the taxable year, the unit(s) involved cannot support tax credits and are removed from the units counted toward both the applicable fraction for the building and the minimum set-aside for the project. This reduces the tax credits claimed and these credits are said to be *disallowed* in such cases.

LIHTC Recapture

Examples of LIHTC *NONCOMPLIANCE*

	8823 Guide Chapter
Description	
The family is above the minimum set-aside income limit upon move-in.	IV
Late or not-completed annual recertification at properties That are not 100% LIHTC.	V
Violations of NSPIRE standards.	VI
Failure to submit complete annual Owner’s Certification of Continuing Program Compliance.	VII
Changes in eligible basis (for instance charging inappropriate fees or removing amenities) and changes in the applicable percentage.	VIII & IX
Failure to keep the number of units in compliance as required by the minimum set-aside.	X
Rents charged over the limit based on the minimum set-aside.	XI
Project not available to the general public.	XII & XIII
Violations of the available unit rule.	XIV
Violations of the vacant unit rule.	XV
Failure to execute the LURA by the time credits are claimed.	XVI
Units occupied by non-qualified student families.	XVII
Utility allowance was calculated incorrectly, and as a result, a family is above the federal rent limit.	XVIII
Owner fails to respond to agency notifications of inspection.	XIX
LIHTC units used on a transient basis (initial leases less than 6 months).	XX
Building no longer participating in the LIHTC program.	XXI
Nonprofit organization failed to materially participate	XXII
Other noncompliance issues	XXIII
Building disposition	XXIV
Misc. noncompliance topics	XXV
Tenant good cause eviction and rent increase protection	XXVI

The 15-year housing tax credits can be claimed in 10 years. They are said to be *accelerated*. The effect is that every year the owner claims 1/3 more credits because of the accelerated credit claimed that would otherwise be claimed in years 11-15. These accelerated credits may be retained if compliance is maintained. In cases where there is non-compliance and the qualified basis decreases from one year to the next, there is a significant penalty on the decrease and all accelerated credits claimed on the decreased amount will have to be paid back or *recaptured*.

Correcting HOME/NHTF Noncompliance

Noncompliance with HOME and NHTF requirements are handled directly between RIHousing and the owner/agent. HUD is only involved in the most severe situations where HOME funds may need to be repaid. RIHousing will provide instructions on how to address noncompliance in their finding reports to the owner/agent following a review. Following these instructions and demonstrating prompt attention to all issues will ensure that repayment of HOME/NHTF funding is not necessary.

Due Diligence

LIHTC Noncompliance discovered by the owner/agent or RIHousing should be corrected as promptly as possible to avoid potential recapture or disallowance of tax credits. Uncorrected noncompliance may affect the applicable fraction and minimum set-aside which are determined by the number of units in compliance as of the last day of a taxable year (most often December 31). Keep in mind two important matters with respect to the importance of timely correction of noncompliance:

- ***Noncompliance that is corrected on the last day of the taxable year in which it occurs will not result in the loss of credits.***
- ***Except for NSPIRE violations, if noncompliance is corrected prior to the notification of an audit, RIHousing will not report the noncompliance to the IRS and loss of credits is unlikely to occur.***

RIHousing has a responsibility and an obligation to monitor compliance and to report noncompliance to the IRS or to ensure that other program compliance is met. In most cases, RIHousing also has a financial interest in the property and thus has a responsibility to protect its investment. The Owner also has an obligation and a responsibility to protect the investment/property and can do so by demonstrating due diligence; this can be accomplished in many ways, including establishing strong internal controls, business practices, and compliance systems. These tools will assist the owner in proactively preserving the property- both bricks and mortar and records/files.

Internal controls and compliance systems can include:

1. Separation of duties
2. Adequate supervision of employees
3. Management oversight and review (internal audits)
4. Third party verifications of tenant income
5. Independent audits and timely recordkeeping
6. Utilizing compliance software that effectively and efficiently manages and streamlines the asset management and compliance processes.

LIHTC Casualty Loss

Unfortunately, disasters or accidents sometimes damage or destroy LIHTC units or properties. Such losses that are sudden, unexpected, and not gradual or the result of owner negligence, are called casualty losses. A hurricane or a kitchen fire can result in casualty loss. When these occur, it is the responsibility of the owner/agent to report the loss to RIHousing as soon as possible after an incident that results in a unit or building going off-line. Furthermore, the owner must submit a plan to RIHousing that sets a timeframe for restoration of the lost buildings or units.

Casualty loss that is ***not part of a presidentially declared disaster*** invokes no recapture if the loss is returned to a good condition within a *reasonable period*. This period is no more than 24 months after the

end of **the year** that loss occurred. However, credits cannot be claimed while the unit(s) or building(s) are offline. **For presidentially declared disasters**, both recaptured and disallowance of credits are avoided if the loss is restored in a *reasonable period*. In the case of a declared disaster, the maximum reasonable period is 25 months **after the month** that a disaster is declared. For either type of casualty loss, RIHousing may impose a shorter reasonable period based on specific details as to the severity of loss.

For LIHTC projects, RIHousing must report the loss and restoration to the IRS. If the units have not been fully restored, RIHousing will submit a copy of the owner's plan and timeframe for replacement along with an uncorrected 8823 to the IRS. Once all units have been restored and are available for occupancy, RIHousing will issue a corrected Form 8823 to show the units are back in compliance.

If an owner fails to report a casualty loss to RIHousing promptly, RIHousing will report the incident as noncompliance to the IRS using Form 8823 as soon as compliance staff becomes aware that a loss event occurred.

Displaced Persons. For a period after a presidentially declared disaster, LIHTC properties across the nation may house people displaced by the disaster *regardless of their income and without any income certification*. RIHousing will issue bulletins following specific disasters, along with directions and how long the temporary allowance to house disaster victims will last.

Annual Compliance Monitoring Fees

As allowed by Treasury and HUD regulation, the cost of monitoring for program compliance is generally offset by monitoring fees charged by the agency. RIHousing will charge annual per-unit fees specific to the type of property. These include different fees for: 1) traditional LIHTC properties that are in their compliance period, 2) those in the LIHTC extended use period, and 3) properties that elect the LIHTC Average Income Test minimum set-aside. HOME and NHTF projects may be subject to different fees depending on when the HOME funds were committed. Late fees will also be assessed if payments are not made timely. See the most recent RIHousing bulletin for the current fees.

Training Policy

It is the owner's responsibility to ensure that the on-site management knows, understands, and complies with all applicable federal and state rules, regulations, and policies governing the development. For the LIHTC Program, The Owner must certify that at least one member of the on-site management staff attends training for compliance in managing a tax credit project at least once annually. Proof of training (such as certificates of attendance) must be submitted to RIHousing by January 31 of each year.



LIHTC Training Certification for FY

Please complete and return this form via Procorem (one form per Development) to your RIHousing **Procorem Workcenter** no later than Friday, January 31,

WARNING!

Avoiding Noncompliance Physical Repairs



Helpful reminders to assist in avoiding mistakes that can result in the loss of tax credits

Conduct repairs in a good and workmanlike manner! Inferior repairs are not acceptable. Materials used to address physical deficiencies must be suitable for the purpose and defect free.

EXAMPLES Physical Repairs Acceptable to RI Housing

Type of Deficiency	Acceptable Repair	INSUFFICIENT REPAIR
Cracks in Brick Wall	Tuck-pointed using mortar	Caulking
Drywall Repair	Sheetrock with mud and/or tape	Covering hole or damaged drywall with plywood or Laminate
Wooden Door Repair	Wood or wood veneer	Sheetrock mud or plywood
Downspouts	Same materials, shape, and design	Plastic or PVC piping on metal

Timely Response

Respond timely to audit findings! Correcting issues during the correction period may significantly reduce the risk of IRS audit. If 8823s must be submitted to the IRS, it is best if they go in initially as “corrected.” This happens when issues are corrected in the correction period given by RI Housing in the findings letter after an LIHTC review.

For non-LIHTC properties, promptly addressing noncompliance also demonstrates due diligence and proper care by the owner/agent. This helps ensure a positive determination by RI Housing and avoids the need for repayment of funding.

PART 4 | LIHTC ACQUISITION/REHAB & RESYNDICATION

Chapter 11 | Special Rules for LIHTC Acquisition/Rehab

Rehabilitation costs can be a basis for claiming tax credits. Additionally, if an owner is planning to rehabilitate a property, they can also receive tax credits based on the cost of acquiring or purchasing the building or buildings. These combined credits are referred to as acquisition/rehab credits.

In some cases, the owner may elect to only take rehabilitation credits based on a variety of factors determined during the allocation process. Regardless, the property is still acquired or purchased by the ownership entity and the date of acquisition will still play a part in the compliance process.

Generally, the day-to-day compliance operation of acquisition/rehab and rehab-only properties are the same as new construction; however, there are some significant differences. This chapter discusses the key differences between new construction and acquisition/rehab tax credits.

IMPORTANT NOTE

In this chapter we present some basic compliance provisions relating to acquisition/rehab projects. These projects can be complex and RIHousing recommends that competent consultation is sought to ensure that the requirements are applied most effectively.

Placed in Service Dates and Annual Certification Dates

A building is placed in-service when it is *ready for its intended purpose*. For new construction or existing buildings being used for housing for the first time, this is generally the date when the first unit in a building can be legally occupied. In most cases, this is evidenced by a certificate of occupancy (CO) or similar documentation. For an acquisition/rehab (or resyndication) that is combined with new construction buildings, the newly constructed buildings will follow the usual method of determining the placed-in-service dates when the building receives a CO. However, with acquisition/rehab buildings, these rules are less obvious.

Acquisition

For buildings that are **acquired with families living in place**, the building is ready for its intended purpose upon acquisition. Therefore, the date of acquisition by purchase (as defined by section 179 (d)(2) depreciation rules) becomes the placed in-service date for the tax credits.

For buildings in which there are **no occupied residential units at the time of acquisition**, the placed-in-service date is determined once the units are ready for occupancy as evidenced by a CO, like new construction.

Rehab

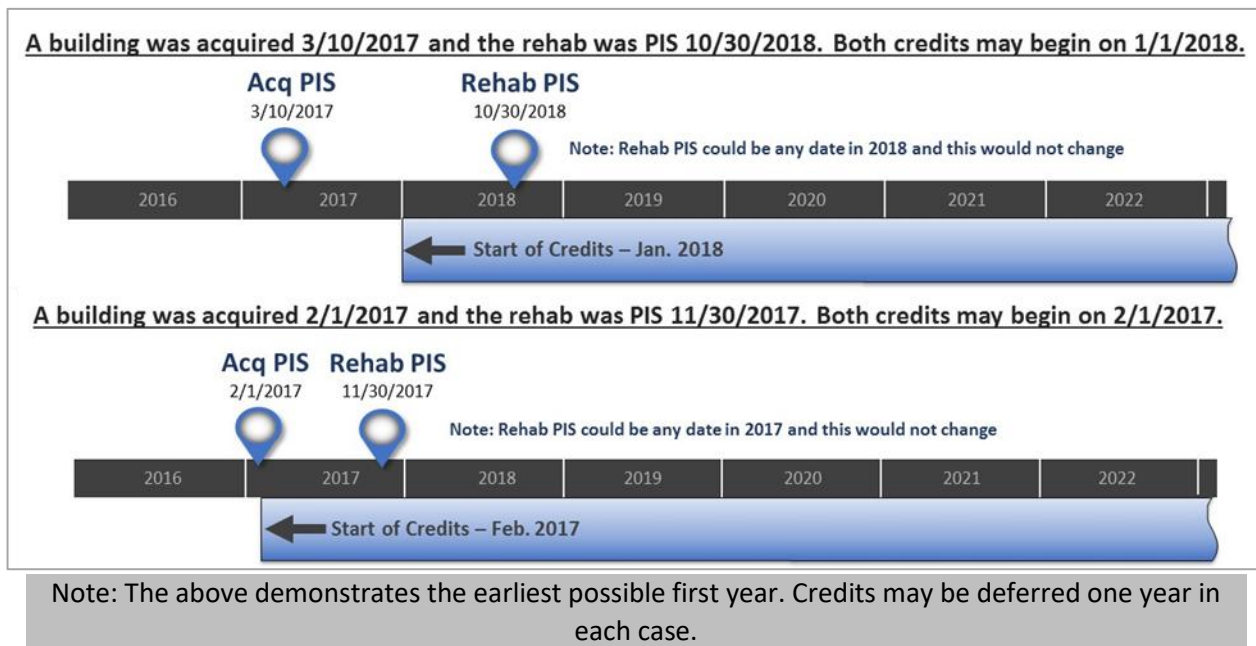
The **rehabilitation** placed in-service date does not directly relate to occupancy. Rather, it is an expenditure test to determine what *year* credits can be claimed and when the eligible basis that can support the planned credits is met. Technically speaking, rehab credits can be placed in-service at the close of any 2-

year period over which the rehab expenditures are made. The greater of 20% of the adjusted basis of the project or a minimum set by the IRS must be spent. RIHousing may require a higher minimum.

Start of Acq/Rehab Credit Periods

Tax credits for both the rehab and acquisition can be claimed as early as the later of the acquisition date or the start of the year a building rehabilitation is placed in-service. If not claimed that year, credits may be deferred for one year.

EXAMPLES Starts of Acq/Rehab Credits



Existing Families

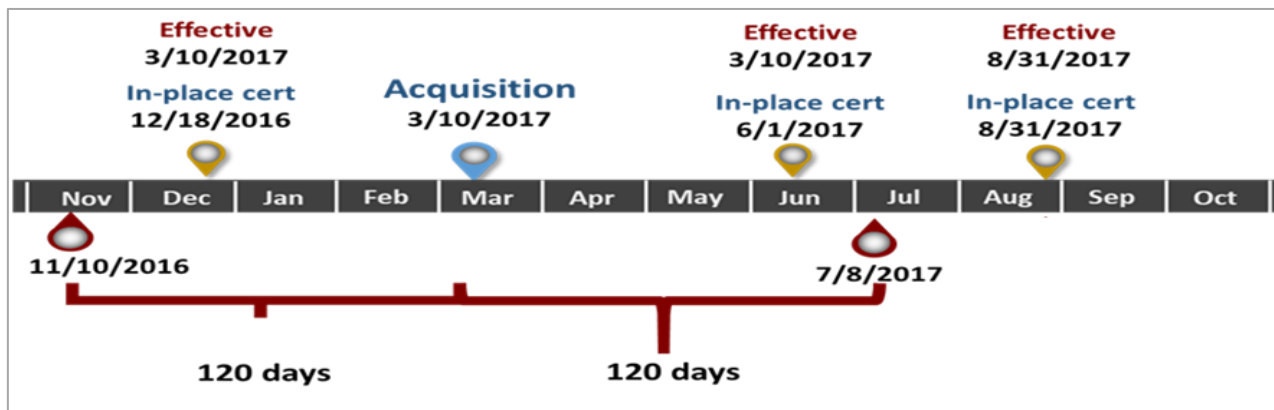
120-day Certification Rule

As with new construction, new residents that move in after the acquisition of an existing property have effective dates based on move-in date and all paperwork must precede that date. However, there may be existing residents as of the date of acquisition. Acquisition and rehab credits are BOTH satisfied with one set of certification paperwork. This means that once a certification is completed for acquisition, another one does not need to be done separately for the rehab.

The effective dates for these tenants can be retroactive to the acquisition date, even if the paperwork takes up to 120 days to be completed. Income certifications for families who are in place on the date of acquisition that are completed no more than 120 days **before or after** the date of acquisition may have an effective date as of the acquisition date. Certifications completed after the 120 days are effective the date the last adult signs the certification. From the original income certification, required income and student status recertifications will be due based on the anniversary of the effective date of the initial certification at acquisition.

In many cases, credits will be claimed going back to acquisition. This can be true for units with families that were in place at acquisition and that are certified within the 120-day deadline. Even if credits are not going to be claimed during the year of acquisition, completing the certifications at acquisition still accomplishes some important things. First, families that are qualified at acquisition are then protected against disqualification if their income increases in the future. Once a family is certified after acquisition, they are considered a qualified LIHTC family and will not have to move out if their income increases in the

Effective Dates for Families In Place at Acquisition date	
If certified:	The effective date is:
120 before or after acquisition	The date of acquisition
After 120 days	The date the TIC is signed



future. If an owner/agent waits until later to certify the family, their income may have increased over the limit, and they will not be considered a qualified family. Additionally, in a 100% LIHTC development, if an in-place family does not qualify at acquisition, the unit is not eligible for credits until it is occupied by a qualified family. Knowing far in advance when a family does not qualify provides time for them to relocate upon expiration of their lease.

EXAMPLE 120-day Acquisition Grace Period

Note: Regardless of effective dates allowed, every cert must have paperwork that is no more than 120-days old **on the date it is signed**.

Safe Harbor Income Testing

Acquisition credits are deferred when the rehab is not placed in service during the year of acquisition. Both acquisition and rehab credits will begin at the start of the year that the rehab is PIS. Any tenant qualified up through January 31st of that year starts credits for their unit for that entire year.

When credits are deferred, units qualified before the start of the credit period with families who are still in place at the start of the credit period will not need to be re-qualified. If they have been in the property more than 120 days before the start of the first year, however, an “income test” may need to be run on

the family at the start of the first credit year. The income test is self-certification by the family as to whether their income has changed since they were initially qualified. The family will provide supporting documentation to allow for new calculations if their income has changed. The family's eligibility to stay is not in question, but the Available Unit Rule (AUR) will be applied to any units that are over the 140% limit at the time of the start of the credit period. Because of how the AUR works, **safe harbor income testing only applies to projects that are less than 100% tax credit.**

Transfers

Because of complex construction schedules, family transfers are often necessary during rehabilitation. The unit transfer rules found in Chapter 6 apply to acquisition/rehab as well as new construction projects. At times, an owner may elect to identify a combination of buildings as “projects” within a rehabbed development. Each building may be designated as its own project, or some buildings may be combined into projects. It is very important to know the IRS Form 8609 8(b) multi-building election for a project, along with what buildings are included in the project(s), to determine whether transfers between specific buildings in a development will require a new initial income determination or not.

Resyndication

When an owner of a tax credit property finishes the 15-year compliance period, they may consider rehabilitating the property and applying for new tax credits based on projected acquisition/rehab costs. Since general partner/investor relationships are established through *syndicators*, this process is often referred to as “resyndication.” The IRS generally calls resyndication a “subsequent allocation of credits.”

After the end of the compliance period, there is still an agreement in place to continue affordable housing restrictions for at least an additional 15 years beyond the end of the compliance period. This results in a total of at least a 30-year extended use agreement. For a subsequent allocation of credits, the new credits will also have a new extended use agreement for at least 30 years, and it will start with the new credits. In other words, the extended use periods will likely overlap by several years.

EXAMPLE Extended Use Period Overlap



Grandfathering of Residents

According to the IRS' 8823 Guide, “households determined to be income-qualified under IRC §42 during the 15-year compliance period are concurrently income-qualified households for purposes of the +30-year extended use agreement. As a result, any family determined to be income qualified at the time of

move-in for purpose of the extended use agreement is a qualified low-income family for **any subsequent allocation** of IRC §42 credit.”

The 8823 Guide goes on to illustrate:

“An owner received IRC §42 credits to construct new low-income housing. The owner placed the buildings in-service in 1991 and started claiming credits the same year. The 15-year compliance period ended December 31, 2005. In 2007, the owner applied for and received an allocation of credit to rehabilitate the existing low-income buildings. The rehabilitation is completed, and the owner starts claiming the credit in 2009.

“On February 1, 2004, John and Mary are determined to be income qualified and move into a low-income unit project. John and Mary timely complete their income recertification each year 2005 through 2008. The unit has always qualified as a low-income unit, except when the unit was not suitable for occupancy during the rehabilitation period.

“The unit is a low-income unit on January 1, 2009, when the owner (a calendar year taxpayer) begins claiming the credit. If the unit was determined to be an over-income unit under IRC §42(g)(2)(D) at the time of the household’s last income recertification in January of 2008, then the owner is subject to the Next Available Unit Rule.

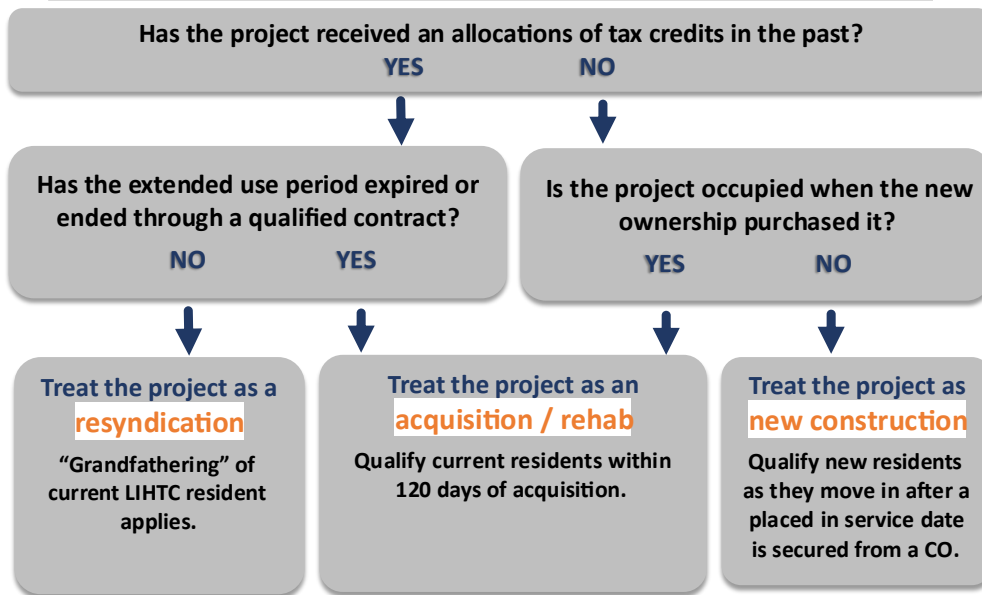
“NOTE: Similarly, vacant units previously occupied by income-qualified households continue to qualify as low-income units if the units are suitable for occupancy. However, the owner is subject to the Vacant Unit Rule.”

In other words, people who are income qualified for tax credits for the first set of credits and are in place at the start of the second set of credits automatically continue as LIHTC-qualified for the second set, regardless of income at the time of the start of new credits. Sometimes this is referred to as “grandfathering” those residents into the new credits. If resyndicated buildings are part of a project with newly constructed buildings, credits are generally claimed when appropriate to the new construction.

The IRS does not specify what paperwork is required to prove that an in-place family qualified; however, at minimum, the original tenant income certification (TIC) and backup documentation proving that the family qualified at move-in should be retained with the new file establishing the second set of credits. A new move-in application is not required by RIHousing, but the paperwork should include the same compliance documentation required for new move-in families. The owner/agent must review the original certification documents to ensure that there is sufficient evidence of income qualification. If these documents are not available, the principles for move in compliance established in the 8823 Guide indicate that a subsequent recertification file demonstrating that the family qualified under limits in effect at the time of a recertification establishes a point that the family qualified, even if that time was after they moved in. Alternatively, a certification created retroactively to the move-in date can accomplish the same thing. Either approach in cases where the original file is missing or insufficient should establish that they qualified at some point during the first extended use period and continue to qualify for the second set of credits. An owner may discover that older files at a resyndicated property do not well-establish family eligibility, as verification requirements have become more clearly understood over time. To ensure a clean file that meets modern verification standards and bolsters investor confidence, an owner may complete an initial recertification on in-place families. If the family qualifies under current income limits for the new

credits, no further work is necessary. If the family is over the current income limits, then the above paperwork, along with a note explaining why the older paperwork is being used, can be placed in the file to take advantage of the grandfathering provision. RIHousing allows either relying on original paperwork or a certification current to resyndication as evidence of initial qualification. It has been noted that using the original paperwork, if sufficient, does create less of a burden for families and owners/agents.

Flow Chart: Acq/Rehab or Resyndication?



Income and Rent Limits

Income Limits. Since grandfathered families continue to qualify based on their original certification, income limits at the time of the start of new credits are not relevant to their status with the new credits. Of course, if an existing family is certified at the time of resyndication, then current limits will be used for the initial analysis. Families who move in after the acquisition date will also be held to the current income limits. Subsequent tenant income recertifications for all families must reflect current income limits.

Rents. Families who are in place as of the date of acquisition may automatically income qualify for the new credits, but their rent may not be correct and will need to be adjusted to be eligible for tax credits. This is because resyndication establishes a new placed in-service date for the second set of credits (the date of acquisition). For BOTH residents who are in-place at acquisition and who move in afterwards, the rent restrictions will be calculated based on the higher of the current income limits applicable to the project, or the gross rent floor in-place with the second allocation (see Chapter 3 for information on the Gross Rent Floor). Income limits will hold harmless from the new placed in-service date.

EXAMPLE Resyndication and Income Limits

An owner acquires an existing LIHTC property with existing LIHTC residents on 8/13/2025. The five existing LIHTC buildings are rehabbed using resyndicated credits. Additionally, the owner builds two new buildings. All buildings will be part of the same LIHTC project. Existing residents are grandfathered in.

- a) What income limits are used *for new move ins* to any of the seven buildings after acquisition?
- b) What rent limits must be used for *all LIHTC* units?

a) & b) – Those in effect as of 8/13/2025

Held Harmless and HERA Special Limits. LIHTC income limits are held harmless starting when a project is placed in service. With resyndication comes a new placed in-service date (which is the acquisition date); therefore, the former placed in service date from the original tax credits no longer applies. Consequently, any previous higher income limits that were held harmless cannot be used; rather the current published income limits in effect as of acquisition would replace the old limits. Similarly, HERA Special limits are an option for projects that were in-service in 2008 or earlier. Since the new credits establish a new placed in-service date, HERA special limits and rents are no longer an option.

Resyndication and students. Although families who qualified in the past are income eligible at resyndication, the IRS does not indicate that they are grandfathered regarding *student status*. This is consistent with the fact that families never lose tax credit eligibility regardless of income increases after moving in, but they always can lose their tax credit status if they become ineligible students. Student status must be verified at acquisition to establish if families that are grandfathered in for income reasons are also student eligible.

EXAMPLE Resyndication and Existing Families

The Munch family moved into an LIHTC unit in 2005. The property was constructed in 2004 and was eligible for HERA Special limits as it placed in-service prior to 2009. It was also still in its extended use period when it was awarded new acquisition/rehab credits during the 2024 allocation round.

The Munch family is over income when applying the 2024 MTSP limits, but the owner has the original 2005 Munch move-in paperwork proving the Munch family qualified in 2005. Per the IRS, the family remains a qualified family, but the 2024 MTSP rents are lower than the HERA Special Limits that were being used prior to resyndication and the owner will be required to lower the tenant's rent at the time of acquisition.

EXAMPLE Acq/Rehab Credits with New Construction

A two-building LIHTC project was allocated credits 20 years ago, and it is still in its extended use period. On February 1, 2027, the project is acquired by a new owner, who rehabs the two buildings with a new allocation of tax credits that year and begins construction on two more buildings, also funded with tax credits. The rehabs for the first two buildings are placed in service in November and December of 2027. The new buildings are placed in service in March of 2028. All four buildings are treated as part of the same multiple-building project on the forms 8609 for the buildings.

- A) When do the income and rent limits start for all buildings in the project?
 - B) What is the deadline to certify LIHTC families that are living at the project at the time of acquisition and what income limits will apply to them at that time?
 - C) What is the effective date for new move-in certifications to the existing and new buildings?
 - D) What is the deadline for the buildings to start claiming credits?
- A) When the first building in the project is placed in service, which is the acquisition date of the existing buildings.
 - B) There is no deadline, as long as original qualifying LIHTC paperwork can be secured. Also, if income limits were met at move-in, current income limits are irrelevant to existing families.
 - C) All move-in certs for existing and new buildings will be effective the date of move-in.
 - D) Each rehab building will start credits or defer credits one year, based on the year that the rehab is placed in service. In this case, credits will start in 2027 or 2028 for the existing credits and 2028 or 2029 for the new buildings.

Agency Monitoring

RIHousing typically conducts the LIHTC initial certification review within two years from the date the last building in a project is placed in service. Because of this timeframe, potentially it could be several years after the first tenants move in (for new construction), or the acquisition date/initial certification date (for an acquisition/rehabilitation). The 8609 minimum set aside election and the placed-in-service date/first year of the credit period are unknown to RIHousing until copies of the new 8609(s) are received. Until then, the original LIHTC projects are still in service, and we will continue to require reporting and monitoring on those units under their original allocation and in accordance with their LURA.

Limits may decrease...

HERA SPECIAL

STATE: RHODE ISLAND		-----I N C O M E L I M I T S-----					
		PROGRAM	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON
Placed in service: 10/10/1999	Newport-Middleton-Portsmouth, RI HMFA	VERY LOW INCOME	32950	37650	42350	47050	50850
	FY 2018 MFI: 94100	60% INCOME LIMIT	39540	45180	50820	56460	61020
		HERA Special 50%*	33100	37800	42550	47250	51050
		HERA Special 60%*	39720	45360	51060	56700	61260

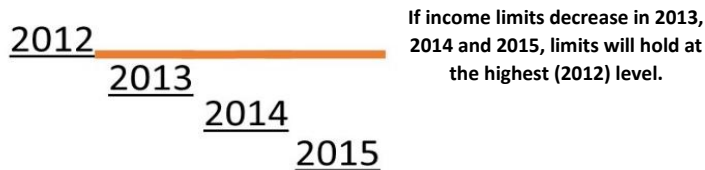
HERA Special?
 Applicable to area?
 PIS 2008 or earlier?

Acquisition:
3/14/2018

HERA Special?
 Applicable to area?
 PIS 2008 or earlier?

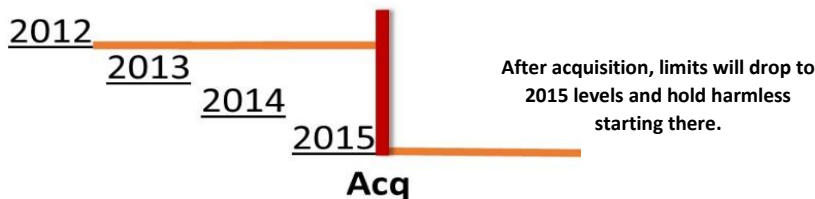
Before Acquisition...

HELD HARMLESS LIMITS



After Acquisition...

HELD HARMLESS LIMITS END



Safe Harbor

Income Testing

For resyndication projects that are **less than 100% LIHTC**, grandfathered families and those who have moved in since will not need to be re-qualified at the start of the credit period. If they have been in the property more than 120 days before the start of the first year of the credit period, however, an “income test” will need to be run on the family at the start of the first credit year. The income test is self-certification by the family as to whether their income has changed since they were initially qualified. The family will provide supporting documentation, such as paystubs, to allow for new calculations if their income has changed. The family's eligibility to stay is not in question, but the Available Unit Rule (AUR) will be applied to any units that are over the 140% limit at the time of the start of the credit period.

The Uniform Relocation Act (URA)

Acquisitions of properties involving federal funding (such as HUD or HOME) trigger a federal law called *The Uniform Relocation Act (URA)*. This applies when an already federally funded property is rehabbed, or when federal funding is introduced to a property, such as when HOME funds are used in a rehab. The URA provides important protections and assistance for families affected by the acquisition/rehab of federally funded projects. The URA does not consider the LIHTC to be federal funding, but it comes into play where other programs are involved, including HOME. This law was enacted to ensure that families occupying properties that are acquired, or who move as a direct result of projects receiving federal funds, are treated fairly and equitably and receive assistance in moving from the property they occupy.

Some of the URA responsibilities that an owner has toward displaced families include:

- Providing relocation advisory services to displaced tenants and owner occupants.
- Providing written notice to vacate within minimum time frames prior to requiring possession.
- Reimbursement of moving expenses.
- Providing “gap” payments for the added cost of comparable replacement housing.

Further discussion of the URA is beyond the scope of this manual. However, please be advised that this requirement can seriously affect how an owner/agent leases up an LIHTC acquisition/rehab that is combined with other federal programs and the associated costs involved with its implementation. Also, termination of tenancy will often not be an option for families that do not qualify for LIHTC units. **Because of the major implications of the URA, it is vital to refer to HUD URA guidance long before acquisition to help determine whether the URA covers a program involved in a project and what the implications are.**

COMPARISON CHART New Construction v. Acq/Rehab Tax Credits

Rule	New construction	Acq/rehab	Resyndication
Date placed in-service	Generally, the building is placed in-service when a certificate of occupancy (CoO) is received, and new residents can be moved in.	Acquisition: Date of acquisition. Rehab: Determined based on an expenditure test conducted after construction.	Same as Acquisition/Rehab.
Effective dates of family certifications	When each family moves in. All paperwork must be completed no more than 120 days before move in.	For families in-place at acquisition, the effective date is the acquisition date if the paperwork is completed within 120 days before or after the acquisition date. New move-ins after acquisition are treated the same as for new construction. No certs are necessary at rehab placed in-service dates, so effective dates do not apply.	For LIHTC families in place at acquisition, the effective date is the acquisition date if paperwork is available proving that the family was LIHTC-qualified at any time in the past. There is no 120-day deadline to secure paperwork. New move-ins after acquisition are treated the same as for new construction. No certs are necessary at rehab placed in-service dates, so effective dates do not apply.

<p>Initial lease term</p>	<p>The initial lease term must be at least six months after move in and initial qualification.</p>	<p>A new LIHTC lease is required to be executed with an existing resident at acquisition. An exception exists for HUD properties with a Model Lease in place. The HUD Model Lease can be handled according to HUD rules, and this will satisfy LIHTC requirements.</p>	<p>A new LIHTC lease is required to be executed with an existing LIHTC resident at acquisition. An exception exists for HUD properties with a Model Lease in place. The HUD Model Lease can be handled according to HUD rules, and this will satisfy LIHTC requirements. Note: Contact RIHousing if LIHTC family refuses to sign a new lease before terminating their existing LIHTC lease.</p>
<p>IRS form 8609</p>	<p>There is one form for each building.</p>	<p>There is one form for acquisition credits and one for rehab credits for each building. The two 8609s will have different amounts for the eligible basis and qualified basis as well as for credit percentages. They will share the same applicable fraction, however.</p>	<p>Same as Acquisition/Rehab.</p>
<p>Tax credit calculations</p>	<p>Each building has an eligible basis, an applicable fraction, and a credit percentage.</p>	<p>Each building has two eligible basis figures (one for acquisition costs and one for rehab costs). The credit percentage will be 4% for the acquisition credits and may be 4 or 9% for the rehab credits, depending on whether the rehab was financed with tax-exempt bonds. The applicable fraction is the same for both sets of credits.</p>	<p>Same as Acquisition/Rehab.</p>
<p>Credit deferral</p>	<p>Credits may be claimed the year a building is placed in-service, or they may be deferred to the following year depending on if the building has met the planned LIHTC occupancy by the end of the year.</p>	<p>As with new construction, deferral may occur because buildings are not qualified by the end of the year the rehab is placed in-service. Acquisition credits must never be claimed before rehab credits are claimed.</p>	<p>Same as Acquisition/Rehab.</p>
<p>Building Identification Numbers (BINs)</p>	<p>The building will receive a new BIN.</p>	<p>Same as New Construction.</p>	<p>The original BINs will apply to all subsequent allocations of credits.</p>

PART 5 | COMBINED PROGRAMS

Chapter 12 | Compliance with Multiple Programs

Affordable housing programs are often combined at the same property. When this is done, it is the owner/agent's responsibility to ensure that all program requirements are met. These programs are not always designed to work together, and this can create compliance challenges.

When determining how to comply with multiple housing programs layered at a property, the first step is to understand comparable rules for each program. Federal and state guidance and individual regulatory agreements for a property should be gathered and read carefully. Once this is done, analysis can be performed to establish which interaction is appropriate to maintain compliance with all programs. Rules for other funding programs are complex and beyond the scope of this manual. However, RIHousing has provided a Multi-Program Guide (see the special supplement at the end of this manual) and a basic discussion of program interactions to assist owner/agents in understanding the provisions and complexities of other programs when combined.

Note: The Multi-Program Guide simply lays out the various provisions of the programs covered. It does not provide the interpretive actions to take when combining programs, as these vary based on many project- and owner-specific factors. Below, examples of possible interactions are presented for educational purposes.

Monitoring requirements



When reconciling program requirements, it is important to understand the difference between federal requirements and those imposed by the regulatory agency. More restrictive income and rent set-asides or specific calculation methodologies are examples of requirements that regulatory agencies may impose.

Note: the two major HUD rental assistance programs monitored by RIHousing include HUD Section 8 PBRA and Section 811 PRA, two forms of project-based rental assistance. When the term "HUD" is referred to as a housing program in this manual, it generally refers to Section 8 PBRA. HOME and 811, although also HUD programs, are always referred to as "HOME" and "Section 811."

MULTI-PROGRAM INTERACTION SUMMARY

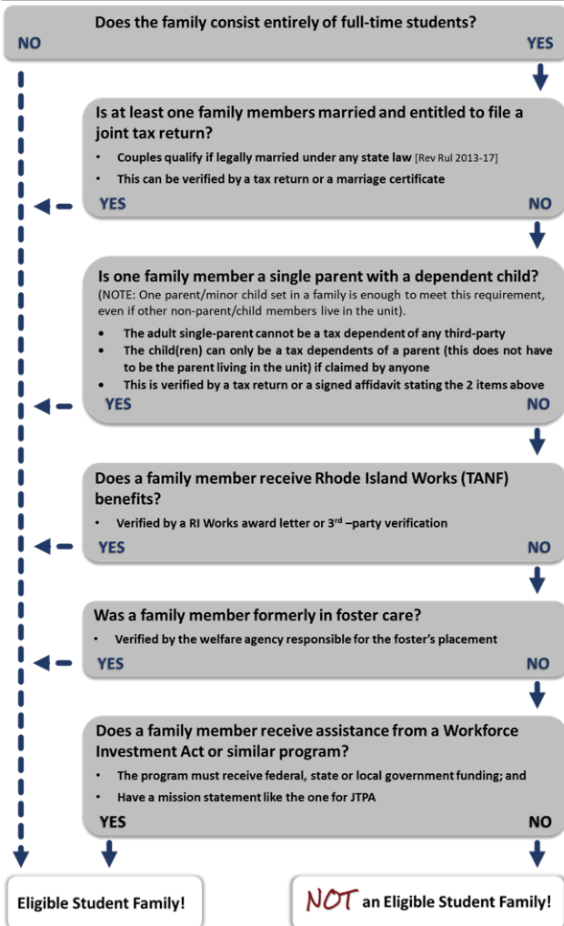
Result of Rule Comparison	Action to Take	EXAMPLES
A. One program has a requirement that the other does not.	Apply the requirement.	HUD PBRA – Citizenship, criminal background, and numerous specific forms. RD – Complex wait list requirements. HUD, RD, or HOME – Conduct an affirmative marketing plan.
B. Both programs have similar requirements and:		
a. The rules have built-in reconciliation provisions.	Apply the reconciled rule.	LIHTC with HUD or RD – Use HUD or RD utility allowances. LIHTC with HOME – Do not use income-based rent for over-income families.
b. One requirement is more restrictive.	Apply the more restrictive rule.	LIHTC with HUD, RD, or HOME – Use lowest applicable Income limits. LIHTC with HUD or RD – Conduct annual income certifications at 100% LIHTC properties. LIHTC with HUD PBRA, HOME, or RD – Apply minimum 1-year lease term. LIHTC with HUD PBRA – Do not charge application fees.
c. The requirements are different and do not reconcile.	Apply both rules.	LIHTC with HUD, RD, or HOME – Apply both student rules.
4. The requirements conflict.	Contact key people to discuss risks and decide on an approach. <ul style="list-style-type: none"> - Owners - Investors - RIHousing & other agencies. 	LIHTC with RD or HUD PBRA – Displacing over-income families per RD rules or per LIHTC rules for existing families at a HUD acquisition/rehab.

Example of Complex Rule Interactions: Student Restrictions

Many affordable housing professionals believe that an owner/agent can always identify the most restrictive requirements when multiple rules apply and then employ that most restrictive rule. Often this may be effective, such as with income limits. If you apply the most restrictive program income limit to a unit, the programs that have higher income limits are not violated by moving in a family that meets the lower income requirement. However, there are limits to the “most restrictive” principle and a more nuanced understanding of multiple program rules is needed. For instance, Chapter 4 discussed the student eligibility rules and included helpful flow charts. Tax-exempt bonds and the LIHTC share one set of student rules. Most other major housing programs have a different set of student eligibility rules, based on Section 8 provisions. These include the Housing Choice Voucher, Section 8 project-based PBRA and

HOME programs. Many Rural Development offices also apply these rules. These student rules provide a good example of why an owner/agent cannot always apply the most restrictive rule when designing multiple program compliance systems. Neither rule is more “restrictive.” Comparison of the rules demonstrates that they are simply different in almost all respects, and **BOTH** student rules must be applied to families in units subject to both types of student rules.

Flow Chart: Tax Credit Student Eligibility



Rule Comparison

← Triggered when all members are students

Triggered when any individual is a student →

← Applies to FT students

Applies to PT or FT students →

← Applies students at any school

Applies to students at institutes of higher learning →

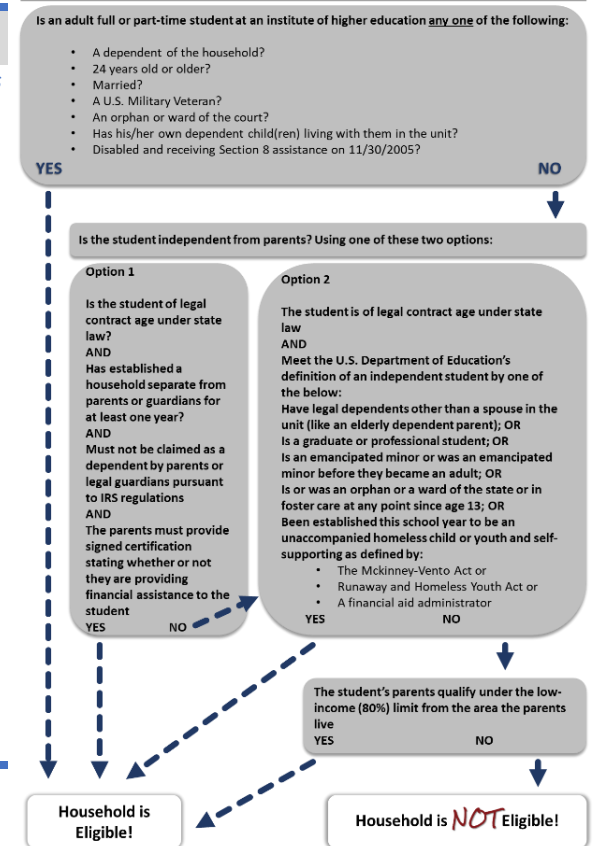
← Applies if attending school any parts of 5 months of a calendar year

Applies to current student status →

← Different exceptions apply →

For instance, marriage and parent-related exceptions are defined differently

Flow Chart: HUD/RD/HOME Student Eligibility



Note: the charts here are for basic comparison purposes only. Larger, more readable student charts are in Chapter 4.

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2026

MULTIPLE PROGRAMS GUIDE

A SIDE-BY-SIDE SUMMARY OF SPECIFIC HOUSING PROVISIONS

with **HOTMA and HOME 2025**
Updates Highlighted



LIHTCs | HUD PBRA | Rural Development | HOME | Tax Exempt Bonds

Developed by:



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Note on the National Housing Trust fund | **NHTF provisions are inserted along with similar HOME provisions following in brown**

STUDENT ELIGIBILITY

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>In general, families made up of full-time students of any age do not qualify. There are five exceptions to this general rule. They are for students who are:</p> <ol style="list-style-type: none"> 1) Married and entitled to file a joint tax return 2) Single parents with dependent child(ren) 3) Title IV welfare recipients (TANF or similar program) 4) Former foster care recipients 5) Participants in a Job Training Partnership Act (JTPA) or similar program* <p>*The “Workforce Investment Act” has replaced JTPA.</p>	<p>HUD Section 8 Rule: Any individual who attends an institute of higher learning (full OR part-time) must be one of the following:</p> <ol style="list-style-type: none"> 1) A dependent of the family living with a parent 2) Over age 23 3) A veteran 4) Married 5) A parent with a dependent child in the unit 6) A disabled individual who was receiving assistance prior to 11/30/2005 or 7) Be independent from parents or have parents who are income-eligible. <p>Certain vulnerable youths also count as independent under HUD and DOE rules. Non-Section 8 programs: Each student at an institute of higher learning must meet ALL of the following requirements</p> <ol style="list-style-type: none"> 1) Be of legal contract age under state law 2) Have established a separate household from parents for at least a year OR meet the U.S. Dept. of Education definition of an independent student 3) Not be claimed on a parent's tax return 4) Must disclose if they get financial assistance from parents. 	<p>Similar to the HUD non-Section 8 rule</p>	<p>Same as HUD Section 8 Rule (regardless of commitment date). The NHTF statute and regulation have no student restrictions.</p>	<p>Same as LIHTC. In general, households made up of full-time students of any age do not qualify. Prior to HERA, the only exception that qualified a full-time student household was ‘married, entitled to file a joint tax return’. Per HERA, the same five student exceptions that apply for LIHTC apply to bond qualification.</p>
<p>§42 (i)(3)(D) & 8823 Guide 17-1 & 2 & Exhibit 17-1; 4350.3 Exhibit 5-1 Rev. Rul. 2013-17</p>	<p>4350.3 3-13</p>	<p>HB-2-3560 6.5B</p>	<p>HOME Reg §92.2</p>	<p>§42 (i)(3)(D) §142 (d)(2)(C)</p>

INCOME ELIGIBILITY DETERMINATIONS

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>Income eligibility is determined using the Section 8 method for determining gross annual income found in the Joint HOTMA Notice 2023-10 and the HUD Handbook 4350.3 Chapter 5, as revised extensively by the HOTMA Notice. No deductions to annual income apply to the LIHTC program.</p>	<p>Follow the Joint HOTMA Notice 2023-10 and the HUD Handbook 4350.3, as revised extensively by the HOTMA Notice. Allowances and Deductions apply.</p>	<p>Follow the RD HB-2-3560 chapter 6 (rev 2025). These rules are based on HUD regulations, as revised extensively by HOTMA.</p>	<p>HUD allows PJs to choose from two methods for determining income, these will be stated in the HOME regulatory agreement and may include:</p> <ul style="list-style-type: none"> 1040 tax return definition Section 8 method from the 4350.3 Chapter 5, as revised extensively by HOTMA * <p>The 2013 regulation change eliminated the Census Long Form as an option. The PJ may allow other program determinations of income. If these are Part 5 based, the project must use Part 5 income for all units.</p> <p>*The most widely used and the only option available to LIHTC properties.</p> <p>NHTF allows for the same two options as post-2013 HOME. Subsidy program determinations must be used.</p>	<p>Income eligibility is determined using the Section 8 method for determining annual income found in the Joint HOTMA Notice 2023-10 and the HUD Handbook 4350.3 Chapter 5, as revised extensively by the HOTMA Notice. The LURA will determine what method is used to verify income (see verification).</p>
<p>IRS Notice 88-80, Treas. Reg. 1.42-5(b)(1)(vii), 8823 Guide Chapter 4, Joint HOTMA Notice 2023-10</p>	<p>4350.3 chapter 5 and Exhibits 5-1 & 5-2, Joint HOTMA Notice 2023-10</p>	<p>HB-2-3560, Chapter 6 [rev 2025]</p>	<p>HOME Guide 3.2 D Home Reg § 92.203(C) & (D) (2024) NHTF 24 CFR 93.151 (b), HOTMA Joint Implementation Notice 2023-10</p>	<p>§ 142 (d)(2)(B), Joint HOTMA Notice 2023-10</p>

CHILDREN | ADOPTED OR UNBORN

LIHTC	HUD PBRA	RD	HOME	BOND
<p>Children in the process of adoption and unborn children are included when counting family members. Pregnancy is verified by self-affidavit by family.</p>	<p>Children in the process of adoption and unborn children are included when counting family members. Pregnancy is verified by self-affidavit by family.</p>	<p>Children in the process of adoption and unborn children are included when counting family members.</p>	<p>Older guidance indicated that children in the process of adoption and unborn children were not included when counting family members. This guidance is no longer available and appears to have been rescinded. It is HIGHLY suggested that the property's PJ be consulted to determine if they still employ this policy. Many PJs use the widely accepted policy for other HUD programs to include these children.</p>	<p>Children in the process of adoption and unborn children are included when counting family members.</p>
<p>8823 Guide 4-3 4350.3 Appendix 3, Page 20</p>	<p>4350.3 Appendix 3, Page 20</p>	<p>HB-2-3560 6.5B Attachment 6-H, page 10</p>	<p>4350.3 Appendix 3, Page 20</p>	

INCOME LIMITS

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>HUD-published Multifamily Tax Subsidy Program (MTSP) income limits are used. 20-80% MTSP limits apply, depending on the minimum set-aside selected for a project. Income limits are property-specific, and HERA designates a “hold harmless provision” for a specific property, a provision that allows the income limits to never go below the highest limit that has applied to the area since the project was placed in service. Families must qualify based on gross annual income.</p>	<p>Income limits based on area median income (AMI) are used and vary based on which HUD program and the county location or MSA. Limits may go up or down in any given year. Families must qualify based on gross annual income. For Section 8: the very low-income 50% AMI limits generally apply, but 40% of new move-ins must be at the extremely low-income (30% AMI) limits.</p>	<p>RD multifamily program income limits based on area median income (AMI) are used based on which RD program and the county location or MSA. Limits may go up or down in any given year. Applicants are given priority based on whether they are very low (50% AMI), low (80%), or moderate (low limit + \$5,500) income. Families must qualify based on adjusted income.</p>	<p>HUD HOME income limits based on area median income (AMI) are used. HOME limits are county or MSA-specific and may go up or down any given year. The HUD very low (50% AMI) limits apply to Low HOME units. High HOME limits are the HUD low-income (80%) limits. NHTF income limits are HUD’s extremely low-income limits, which are the higher of the 30% limits or the poverty level for an area. Unlike Section 8 ELI, the NHTF limits are NOT capped at the very low (50%) limits.</p>	<p>HUD-published Multifamily Tax Subsidy Program (MTSP) income limits are used. 50 or 60% MTSP limits apply, depending on the minimum set-aside selected for a project. Income limits are property-specific, and HERA designates a “hold harmless provision” for a specific property, a provision that allows the income limits to never go below the highest limit that has applied to the area since the project was placed in service. Families must qualify based on gross annual income.</p>
<p>Treas. Reg. 1.42-5(b)(1)(vii), 8823 Guide 4-2</p>	<p>4350.3 3-6</p>	<p>HB-2-3560 6.3</p>	<p>HOME Guide 3.2 A HTF 24 CFR 93.302 (a)&(b)</p>	<p>§ 142 (d)(2)(B)</p>

CERTIFICATION FORM

LIHTC	HUD PBRA	RD	HOME	BOND
<p>Tenant Income Certification or "TIC" is commonly used.</p>	<p>Form HUD 50059.</p>	<p>Form RD-3560-8.</p>	<p>No specific form is required. PJs commonly allow tax credit TICS.</p>	<p>Tenant Income Certification (TIC) or Certificate of Tenant Eligibility (CTE) forms are commonly required by bond monitors.</p>
	<p>4350.3 5-31 B</p>	<p>HB-2-3560 6.9A</p>		

ZERO INCOME HOUSEHOLDS | UNSECURED INCOME

LIHTC	HUD PBRA	RD	HOME	BOND
<p>HUD allows zero-income families but makes provisions for interim certifications when income changes. The tax credit certification must establish a family's income for the next 12-month period with no interim certifications. This difference in program regulations creates a "gray" area that is open to interpretation between the programs, state agencies, and project owners. Some agencies require that future, unsecured income be counted based on the family's income history. While some require that only imminent and verifiable income be counted. The 8823 Guide opts for using a 12-month history for zero or sporadic-income families and thus unknown and unverifiable income is not included on the certification. Check with the state HFA.</p>	<p>HUD allows zero-income families and unsecured income is not counted. Changes to this status must be reported immediately and an interim certification conducted.</p>	<p>RD does not consider zero-income families to qualify. Basic expenses that the family must meet are verified and counted as income. A zero-income checklist must be completed to determine cash and non-cash contributions to the family that will be used to meet the expenses.</p>	<p>HOME guidance allows zero-income families but does require that the past 12-month average income (if any) be included on the certification.</p>	<p>The bond regulations do not speak to this issue. Typically, it is handled per the tax credit program approach.</p>
8823 Guide 4-33	4350.3 5-5A, Appendix 3, page 22, Joint HOTMA Notice 2023-10 J.8	HB-2-3560 6.9A4, Attachment 6B	HOME GUIDE 6.2 E	

EMPLOYMENT INCOME VERIFICATIONS WITH A RANGE OF HOURS, WAGES, ETC.

LIHTC	HUD PBRA	RD	HOME	BOND
<p>HUD uses "average hours" when determining employment income (for example, 35 hours for 30-40 hours listed on a verification). By regulation, tax credit income is counted consistent with the Section 8 program. However, it has generally been accepted as best practice by some state agencies that the tax credit program should use the more conservative approach of using the HIGHEST in a range (for example, 40 for the 36-40 hours). Some states apply the HUD method, however. The IRS has not addressed this issue.</p>	<p>HUD uses "average hours" when determining employment income (for example, 35 hours for 30-40 hours listed on a verification).</p>	<p>RD does not directly address this issue. Typically, the HUD approach is used (for example, 35 hours for 30-40 hours listed on a verification).</p>	<p>HOME uses the HUD method to calculate employment income (that is "average hours", for example, 38 hours for 36-40 hours listed on a verification).</p>	<p>Bond technically uses the HUD "average hours" calculation for employment income. Typically, the best practices accepted by many bond issuers implement the more conservative approach of using the HIGHEST amount listed as a range on the employment verification (for example, 40 hours used for 36-40 hours listed on a verification).</p>
	4350.3 Appendix 6-C		HOME Technical Guide page 6	

VERIFICATION OF ASSETS | IMPUTING INCOME FROM ASSETS

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>If the family's assets are \$50,000, as adjusted, or less, assets may be verified via self-affidavit. Family assets that have a total cash value of more than \$50,000, as adjusted, must be 3rd-party verified. Imputed income from assets using the HUD passbook rate is calculated on individual assets that cannot otherwise have income calculated if assets exceed \$50,000, as adjusted.</p>	<p>If the family's assets are \$50,000, as adjusted, or less, assets may be verified via self-affidavit at move in and other years, as long as assets are 3rd-party verified at least once every third year thereafter. Imputed income from assets using the HUD passbook rate is calculated on individual assets that cannot otherwise have income calculated if assets exceed \$50,000, as adjusted.</p>	<p>Assets are 3rd-party verified. Imputed income from assets using the HUD passbook rate is calculated on individual assets that cannot otherwise have income calculated if assets exceed the asset threshold (\$50,000, as adjusted).</p>	<p>If the family's assets are \$50,000, as adjusted, or less, assets may be verified via self-affidavit at move in and other years. Income self-certification or a determination of a PHA voucher provider for rental assistance may be used for all years, if applicable and per PJ policy. Imputed income from assets using the HUD passbook rate is calculated on individual assets that cannot otherwise have income calculated if assets exceed \$50,000, as adjusted. NHTF allows the same verification methodology and cycle as HOME. Subsidy program determinations must be used.</p>	<p>The bond regulations do not specifically address asset verification requirements. The project LURA may have specific requirements or allow self-affidavits to be used when household assets are \$5,000 or less, or \$50,000, as adjusted, or less. This is not specifically allowed on a federal level like it is for the LIHTC program.</p>
<p>8823 Guide 4-7, 4350.3 5-18 B, Rev. Proc. 94-65, Joint HOTMA Notice 2023-10 F.5</p>	<p>4350.3 5-13, Appendix 3, 24 CFR § 5.659, Joint HOTMA Notice 2023-10 F.5</p>	<p>HB-2-3560 6.10E and 6.11A</p>	<p>HOME Guide 3.2 E 2 & 5, F3, Attachment 3-5 HOME Technical Guide 15, 24 CFR 92.203(e)(1) and 92.203(e) NHTF 24 CFR 93.151(d)</p>	

PHA OR OTHER MEANS TEST PROGRAM INCOME VERIFICATION

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>Check with state HFA. IRS rules allow the use of determinations of income from a PHA voucher issuer. Other means tested program determinations may also be allowed.</p>	<p>An owner/ agent may accept a PHA determination of family income. Other means tested program determinations are also allowed.</p>	<p>Using other program determinations of income is not allowed.</p>	<p>Subsidy program determinations may be required or allowed to be used for certifications for families receiving tenant or project-based rental assistance, as dictated by PJ policy. Other means tested program determinations may also be allowed by PJ policy (see "recertifications"). NHTF rules require the use of PBRA and TBRA subsidy program determinations of income.</p>	<p>Since HOTMA, the HUD allowance is likely allowed for bond purposes by bond issuers.</p>
<p>IRS Reg 1.42-(b)(1)(vii), Joint HOTMA Notice 2023-10 J.8</p>	<p>Joint HOTMA Notice 2023-10 J.8</p>	<p>Unnumbered Letter/HOTMA FAQ dated 8/19/2024</p>	<p>HOME Guide 3.2 D 3 & F 3 HOME reg 92.203(a)(1) NHTF 24 CFR 93.151(d) and 93.302(e)</p>	<p>IRC 142(d)(2)(B)(i)</p>

VERIFICATION METHODS (GENERAL)

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>The regulation requires a review of income documentation, such as W-2s or tax returns. Further informal IRS guidance provides more detailed verification rules. The below HOTMA verification options are generally applied to tax credit properties, in the order of preference:</p> <ol style="list-style-type: none"> 1) Work Number or other Upfront Income Verification database (UIV). 2) 3rd-party verification provided by the household. 3) 3rd-party verification provided by the 3rd party. 4) Family self-certification. <p>Verifications are good for 120 days from receipt (or a state may apply HUD's 120 + 120-day standard). Income determinations from PHAs and other means tested programs may be used.</p>	<p>There are 4 basic types of verification available for HUD in order of preference:</p> <ol style="list-style-type: none"> 1. UIV – Upfront Income Verification with the mandatory use of EIV after move-in and optional use of UIV non-EIV verification, such as the Work Number 2. 3rd-party verification provided by the household. 3. 3rd-party verification provided by the 3rd party. 4. Family self-certification. <p>Verifications are good for 120 days from receipt and must be no more than 120 days old at the time of receipt. Fixed income sources must be verified every 3 years with letters covering the benefit year (even if older than 120 days at the time of receipt). COLAs can be applied in other years. Income determinations from PHAs and other means tested programs may be used.</p>	<p>The below verification options are generally applied to RD properties:</p> <ol style="list-style-type: none"> 1) A 3rd-party verification form from the 3rd party. 2) Documentation provided by the household. May be used if direct 3rd- party verification is not immediately available. 3) Family self-certification <p>Verifications are good for 120 days from receipt.</p>	<p>At move-in and every 6th year of the HOME period of affordability, “source documents” must be used. These are written documents generated by a 3rd party that verifies the income sources that the applicant reports. At least 2 months of history must be covered by the documentation. For other years, self-certification is acceptable. Verification from local PHAs or project-based rental assistance may be used for all years a family receives assistance. Income determinations from other means tested programs may be used. Verifications are good for 6 months. NHTF allows the same verification methods and cycles as HOME.</p>	<p>The bond regulations do not specifically address verification requirements . Many bond issuers follow HUD and/or LIHTC rules The project LURA may have specific requirements and verification lifespans.</p>
<p>8823 Guide 4-21, 4350.3 5-16 B, Joint HOTMA Notice 2023-10 J.5</p>	<p>4350.3 5-13 A, 5-16 B, Appendix 3, HUD MF Notice H-2016-09, Joint HOTMA Notice 2023-10 J.5</p>	<p>HB-2-3560 6.11B & Attachment 6-H</p>	<p>HOME Guide 3.2 D 3 & E 3 & 5; 24 CFR 92.203(a) NHTF 24 CFR 93.151 (d) and 93.302 (e)</p>	

HOUSEHOLD FILE RECORD RETENTION

LIHTC	HUD PBRA	RD	HOME	BOND
Files for households that qualified units in the 1 st year of the credit period are vitally important for the audit of any year's records. They must be retained for a total minimum of 21 years after the first-year credits are claimed. Files for households qualified in years 2-15 must be kept for a minimum of 6 years beyond the deadline for filing the tax returns for a year.	Applications must be kept for 3 years after denial. EIV reports and other forms and verifications that go into tenant files must be retained in the tenant file for the term of tenancy plus three years. EIV Master Binders keep 3 years of information.	Tenant certification forms and supporting documentation must be retained in the tenant file for the longer of 3 years or until the next Agency monitoring visit or compliance review.	Individual tenant income, rent, and inspection information must be kept for the most recent 5 years throughout the period of affordability, until 5 years after the end of the affordability period.	Records should generally be kept for as long as the bonds are outstanding, plus 3 years after the final redemption date of the bonds.
Treas. Reg. 1.42-5 (b)	HUD 4350.3 4-22; 5-23; 9-14	RD HB-2-3560 6-11E and Attachment 6-J	HOME Guide Exhibit 6-1, 6.2 C 7 & 24	1.148-5(d)(6)(iii)(E) of the arbitrage regulations

ADDING FAMILY MEMBERS | INTERIM INCOME INCREASES

LIHTC	HUD PBRA	RD	HOME	BOND
No Interim Certifications are required. Individuals added to an existing family during a certification year are income-certified individually and their income is added to the most recent TIC. The total family income is then checked to determine eligibility. This may trigger the AUR rule. The family is considered the same family so long as one original member remains. Some HFAs do not allow additional family members to be added during the Initial six months or first certification year. *See "Increase in Income and Determining Eligibility" for more information.	Adding family members triggers an interim or non-interim certification. Increases of income do not require a family to move out.	Adding family members triggers a new certification. If this increases the family's income to more than the moderate-income limit, (low (80% AMI) limit + \$5,500) the family may be required to move out.	No Interim certifications are required. Increases of income do not require a family to move out. *See "Increase in Income and Determining Eligibility" for more information.	No Interim certifications are required. The regulations do not discuss adding family members. The regulatory agreement may discuss this. Increases of income do not require a family to move out. *See "Increase in Income and Determining Eligibility" for more information.
8823 Guide 4-4	4350.3 7-10	HB-2-3560 6.28 B, 6.30	HOME Guide 3.5 & 6	

RECERTIFICATION

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>Projects that are less than 100% tax credit must recertify each family's income and student status annually. 100% tax credit projects must recertify student status annually. Typically, recertifications are due on the original certification anniversary date. A few states require one full income recertification.</p>	<p>Recertifications are due on the certification anniversary date. Interim certifications must be conducted when family unearned income increases or decreases by 10% of adjusted income. Generally, increases in earned income are not adjusted until the next annual examination. Interim recertification is not required in the last 3 months of the certification year. It is only required that household composition or income items that have changed since the annual certification must be re-verified. Fixed-source income must be verified at least every 3 years.</p>	<p>Recertifications are due on the certification anniversary date. If certain income and family changes occur (including increases of \$100 per month or decreases of \$50), a new certification is done, and all items are 3rd-party verified. Recertification must then be completed no later than a year from the anniversary of the new certification.</p>	<p>HOME families must be certified at move-in and every 6th year of the affordability period, with some annual recertification requirements in years 2-5. The HOME program does not mandate dates for the annual cycle, allowing all recertifications to be conducted at the same time for a year. There are no provisions for interim certifications. Families with tenant- or project-based income may use the income determinations of the rental assistance program and its cycle. NHTF applies the same recertification standards as HOME. Subsidy determinations must be used.</p>	<p>Projects that are less than 100% bond must recertify each family's income and student status annually. Like the tax credit program, 100% projects need to recertify student status each year.</p>
<p>§142(d)(3)(A) (see §42(g)(4)), Treas. Reg. 1.42-(b)(1)(vi), 8823 Guide Chap 5</p>	<p>4350.3 chapter 7, 7-11 A 4, Joint HOTMA Notice 2023-10 Attach C</p>	<p>HB-2-3560 6.26</p>	<p>HOME Guide 3.2 F 6, 24 CFR 92.203(a) NHTF 24 CFR 93.151 (d) and 93.302 (e)</p>	<p>§142(d)(3)(A)</p>

DEDUCTIONS AND ALLOWANCES

LIHTC	HUD PBRA	RD	HOME	BOND
<p>Deductions and allowances are not used. Rent is not based on income.</p>	<p>HUD has 5 types of deductions and allowances used to determine adjusted income and rent. Open to all applicable families are:</p> <ol style="list-style-type: none"> 1) Dependent deduction applicable to the year 2) Childcare expenses and 3) Disability assistance expenses <p>Available to families where the head or co-head is elderly or disabled are:</p> <ol style="list-style-type: none"> 4) Health and Medical expenses and <ol style="list-style-type: none"> 1) Elderly household deduction applicable to the year 	<p>RD uses the 5 HUD deductions and allowances.</p>	<p>HOME uses HUD's 5 deductions and allowances for over-income families at non-LIHTC projects paying rent based on their income.</p>	<p>Deductions and allowances are not used. Rent is not based on income.</p>
	<p>4350.3 Chapter 5 section 2, Joint HOTMA Notice 2023-10 Attach C</p>	<p>HB-2 3560 6.9C</p>	<p>HOME Guide Attachment 3-4</p>	

EFFECTIVE DATES OF CERTIFICATIONS

LIHTC	HUD PBRA	RD	HOME	BOND
<p>The effective date for move-in is the actual date of move-in.</p> <p>The effective date for in-place residents at Acq/Rehab properties is the date of acquisition (for households certified within 120 days of the acquisition date). After the 120 days, the effective date is the date of the last signature on the certification.</p> <p>The effective date of recertification is the anniversary of the effective date of the original tenant income certification (for less than 100% LIHTC projects where recertification is required).</p>	<p>The move-in date is the date of move-in.</p> <p>The effective date of the initial certification where an in-place resident gets rental assistance is the date that subsidy is assigned to the tenant.</p> <p>Interim Certifications with a rent increase reported in a timely manner is the first of the month after the end of a 30-day notice.</p> <p>The effective date of interim certifications with rent decreases or when income increases are not reported timely is the 1st of the month after the income is verified.</p> <p>The annual recertification effective date is the first of the month on the anniversary of the original move-in certification.</p> <p>HUD may approve alternative anniversary dates.</p>	<p>The effective date of all RD certifications will always be the 1st of the month. The effective date of a move-in cert is the 1st of the month. If the tenant did not move-in on the 1st, the effective date is the 1st of the next month after move-in.</p> <p>The effective date of recertification is the anniversary date of the last certification.</p>	<p>Effective dates are not discussed.</p> <p>Initial income certification must be completed 6 months prior to move-in.</p> <p>Annual recertification is necessary but does not have to be on the anniversary date of the last certification.</p>	<p>Effective dates are not discussed. Typically, the LIHTC rules are followed.</p>
8823 Guide 4-22, 4-25, 5-1	4350.3 7-5, 7-13, 7-5 C	HB-2-3560 6.26A	HOME Guide 3.2 E 1, 6	

MINIMUM REQUIRED PERIOD IN THE PROGRAM

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>The tax credit period in the program is generally accelerated to 10 years with a 15-year compliance period. State Housing Finance Agencies (HFAs) also include an extended use period, which can vary, though it is a 30-year minimum total, including the compliance period.</p>	<p>Program type, financing, and other regulations establish the required period in the program.</p>	<p>Program type, financing, and other regulations establish the required period in the program.</p>	<p>The HOME agreement establishes the parameters of the program. The period of affordability in the HOME program is set by regulations and can vary depending on the type of HOME project and the average HOME unit investment. It is 20 years for most properties.</p> <p>NHTF has a minimum affordability period of 30 years. Grantees may impose a longer period.</p>	<p>The bond-qualified project period begins once 10% of the units in a property are occupied and ends the latest of a) 15 years after 50% of the units are occupied, b) the day no tax-exempt bond is outstanding, or c) the day Section 8 assistance, if any, terminates.</p>
§42(i)(1), (f)(1), (h)(6)(D), 8823 Guide chapter 16			HOME Guide 7.1, 24 CFR 92.252(d) NHTF 24 CFR 93.302 (d)(1)	§142(d)(2)(A)

INCREASES OF INCOME AND DETERMINING ELIGIBILITY

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>For less than 100% tax credit properties, family income that is over 140% of the current income limit at recertification is "over-income". Over-income families continue to qualify as Tax Credit families if the next available unit of the same or smaller size IN THE BUILDING is rented to a qualified tax credit household. This continues until the applicable fraction is restored not counting the over-income families. Once the applicable fraction is restored, the family may be raised to market rent but cannot be required to vacate the unit. This is often called either:</p> <ul style="list-style-type: none"> • the AUR "Available Unit Rule," • the NAUR "Next Available Unit Rule," or • the "140% rule" 	<p>Rent increases up to the maximum rent. Families that are at the maximum rent and not receiving RA are NOT required to move out of the unit.</p>	<p>Rents increase up to the maximum rent. Families that exceed the moderate-income limits must vacate the unit. Overage (the amount of the tenant's rent that exceeds Basic Rent up to Note Rent) must be paid to RD.</p>	<p>Income and subsequent rent increases may result in re-classification from LOW to HIGH HOME rents. Rents switch to 30% of adjusted income once the family's income exceeds the 80% limit. LOW HOME families that exceed the HOME 50% limits and HIGH HOME families that exceed the HOME 80% limits are "over-income". Resulting actions are then determined by the program and depend on whether the project is "fixed" or "floating" HOME. Families at the maximum rent are not required to move out of the unit. For projects that have tax credit funding also, rent for over-income families is not based on adjusted income but may be raised to tax credit limits. NHTF units that exceed the NHTF limits are in temporary non-compliance and the next available comparable unit must be rented to an NHTF-eligible tenant for floating NHTF units. If fixed NHTF, the unit(s) will need to be re-occupied with an NHTF-eligible family once the over-income family chooses to vacate.</p>	<p>For less than 100% bond properties, family income that is over 140% of the current income limit at recertification is "over-income". Over-income families continue to qualify as bond families if the next available unit of the same or smaller size IN THE PROJECT is rented to a bond household. NOTE: For bond/tax credit projects, this rule becomes a BUILDING rule to conform to the tax credit regulations.</p>
<p>§42(g)(2)(D)(ii), Treas. Reg. §1.42-15, 8823 Guide Chapter 14</p>	<p>4350.3 chapter 8</p>	<p>HB-2-3560 6.28</p>	<p>HOME Guide 3.5 & 6, Attachment 3-4 & Attachment 3-5 §92.252(a)(2)(ii) (2013) NHTF 24 CFR 93.302 (f)</p>	<p>§142(d)(3)(B) & (C)</p>

UNIT TRANSFERS

LIHTC	HUD PBRA	RD	HOME	BOND
<p>For less than 100% tax credit properties, families with income above the 140% limit at recertification may only transfer to units in the same building. At 100% tax credit properties and for families with income below the 140% limit, transfers can take place between buildings in the project without the family qualifying under current income limits. See IRS form 8609 to determine which buildings are in a project. Transfers between units cause the units to switch status, especially for purposes of initial tax credit rent up.</p>	<p>Transfers are allowed between buildings within a project. Households that overcrowd or under occupy a unit may be required to move to an appropriately sized unit (if that unit is available) or stay and pay contract rent. The effective date of the recertification after the transfer is the anniversary date of their original move-in date to the property.</p>	<p>Transfers are allowed between buildings in a project. Households that overcrowd or under occupy a unit may be required to move to an appropriately sized unit (if that unit is available). If an appropriate unit is not available, the tenancy may be terminated. Recertification is completed at transfer, and the transfer date becomes the new anniversary date.</p>	<p>HUD guidance does not discuss unit transfers for HOME or the NHTF. Generally, families must re-qualify at transfer for the new unit. "Floating" HOME units can switch their designation. "Fixed" HOME units do not switch.</p>	<p>Bond rules do not discuss unit transfers.</p>
<p>Treas. Reg. 1.42-15(d), Rev. Rul. 2004-82, Q&A #8, 8825 Guide 4-24</p>	<p>4350.3 chapter 7 section 3</p>	<p>HB-2-3560 6.21, 6.30A</p>		

SUBSIDY AND RENT LIMITS

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>Section 8 RA and RA from similar programs are exempt when determining family income. Family rent may exceed the tax credit max rents for families receiving assistance and whose income has increased. Tenant rents may also exceed the tax credit limit for families receiving RD assistance for which RD "overage" is paid.</p>	<p>N/A</p>	<p>Rental assistance, if available at a property, pays rent up to basic rent. When tenant rent exceeds basic rent, overage is paid to RD equal to the difference between the tenant rent for a unit and the basic rent.</p>	<p>Pre-2025: Include any subsidy when determining compliance with HOME rent requirements. There is an exception for project-based subsidy in LOW HOME units where tenants pay 30% of their income toward rent. For these units, the full subsidy program rents may be collected.</p> <p>HOME 2025: project- or tenant-based subsidy program rents dictate allowable HOME rents for families receiving rental assistance.</p> <p>For NHTF units with PROJECT-based federal or state subsidy, maximum rents are the rents allowable under the subsidy program.</p>	<p>The bond program does not impose rent requirements. The bond agreement may have some project-specific requirements.</p>
<p>§42(g)(2)(B)(i) & (iv), 8823 Guide 11-5 & 6</p>		<p>HB-2-3560 7.2, 7.4, 7.11A-C</p>	<p>HOME Guide 3.3 C NHTF CFR 24 93.302 (b)(ii)(2)</p>	

UTILITY ALLOWANCES

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>Projects with RD or HUD funding use the UA for those programs. There are 5 additional choices for other properties:</p> <ol style="list-style-type: none"> 1) Local PHA-published UAs 2) Estimate from a Utility Company 3) Estimate from an HFA 4) HUD Utility Schedule Model (HUSM) 5) Engineer Model <p>For non-RD/HUD-regulated buildings, the UA for voucher-holding families is the PHA-published UA that their rent calculation is based on.</p> <p>Note: many, but not all, states consider HOME to be a HUD-regulated program.</p>	<p>UA for a property is calculated based on actual consumption at a property every 3rd year and adjusted by a HUD-published rate the other years.</p>	<p>UA for a property is calculated based on RD policy. If there is more than a 15% rate increase, owners should collect a “significant sampling” of tenant data. If any increase is 15% or less, “a sampling” is required. Each state Agency may set further policies.</p>	<p>The PJ establishes a UA. From 2013 to 2025 UAs provided by Public Housing Authorities were not acceptable. UAs were required to be:</p> <ol style="list-style-type: none"> 1) Calculated based on actual project consumption; or 2) Use the HUD Utility Schedule Model (HUSM) <p>HOME 2025 reestablished the PHA estimate options. All LIHTC and the Section 8 options are acceptable.</p> <p>For the NHTF, the grantee must establish UAs each year.</p>	<p>The bond program does not impose rent limits; thus, a UA is irrelevant. The bond agreement may impose further rent restrictions.</p>
<p>Treas. Reg. 1.42-10, 8823 Guide Chapter 18</p>	<p>MF Notice H-2015-4</p>	<p>7 CFR 3560.202 HB-2-3560 4.26/ 4-29; 7.3 / 7-3</p>	<p>HOME Guide 3.3 D; 24 CFR 92.252 (d) (2013) CPD HOME FAQ 11-13, Homefires Vol. 13 No. 2 NHTF 24 CFR 93.302 (c)</p>	

RENT LIMITS

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>Rent limits are calculated based on income limits. There is a gross rent “floor,” established at the date of allocation or placed in service date so that the rents do not have to fall below the “floor” for a project, even if the HUD published Income Limits go down from year to year. Rent limits are calculated imputing 1.5 persons per bedroom.</p>	<p>Market (or contract) rents are calculated for a specific property and will be spelled out in regulatory and HAP agreements.</p>	<p>Basic and market rents are calculated for a specific property during the annual budget process and will be spelled out in regulatory and other agreements.</p>	<p>HUD publishes the HOME high and low rent limits. Rents do not decrease below the originally approved HOME rents. HOME regulation requires that PJs approve all rents annually at each HOME project that they monitor.</p> <p>For the NHTF the grantee must approve rent each year.</p>	<p>The bond program does not have rent limits. Specific bond agreements may impose limits.</p>
<p>§ 42 (g)(2)(C), Rev Proc 94-57, 8823 Guide 11-2 Example 1</p>			<p>HOME Guide 3.3 §92.2 52(f)(2) (2013) NHTF 24 CFR 93.302 (a) - (c)</p>	

LEGAL AUTHORITY AND PROGRAM GUIDANCE

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>Legal Code: Internal Revenue Code §42, Treasury Regulation 1.42, Revenue Rulings, Revenue Procedures, and IRS Notices. Although not regulatory, “The Guide for Completing Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition” AKA “The 8823 Guide” and IRS Newsletters provide additional guidance. Private Letter Rulings indicate IRS thinking but cannot be cited as precedent for any, but the individual cases involved.</p>	<p>HUD Handbook 4350.3 “Occupancy Requirements of Subsidized Multifamily Housing Programs” as amended by the Joint HOTMA Notice 2023-10. Additional MF Housing Notices provide updates. HUD also has an RHIP Listserv where guidance and announcements are often first published.</p>	<p>HB-2-3560 “Multi-Family Housing Asset Management Handbook,” RD also provides updates through Administrative Notice (AN) and Unnumbered Letters (UL).</p>	<p>24 CFR Part 92 regulation, “Compliance in HOME Rental Projects: A Guide for Property Owners” AKA the “HOME Guide.” A HOME Technical Guide and Online Calculator provide income calculation guidance. The NHTF regulations are at 24 CFR Part 93</p>	<p>Internal Revenue Code §142, Revenue Rulings, Revenue Procedures, and IRS Notices.</p>
<p>www.irs.gov</p>	<p>www.hud.gov</p>	<p>www.rd.usda.gov</p>	<p>www.hudexchange.info</p>	<p>www.irs.gov</p>

VACANCIES

LIHTC	HUD PBRA	RD	HOME	BOND
<p>Vacant units are considered tax credit units if: A) the unit was previously occupied by a qualified household; B) the unit was ready to lease in a reasonable amount of time, and C) the owner/manager can prove that the unit was marketed before any non-tax credit units of the same or smaller size were leased. (Vacant Unit Rule, or VUR)</p>	<p>Vacant units do not impact program compliance unless vacant units are excessive in quantity or duration. Vacancy claims can be made to HUD to recoup lost rent.</p>	<p>Vacant units do not impact program compliance unless vacant units are excessive in quantity or duration. Rental Assistance that remains unused after 6 months may be removed from a property by RD.</p>	<p>A few short-term vacant units do not impact program compliance. NOTE: HOME units that are not leased within 6 months of project completion could become an issue. Within 18 months HOME funds must be paid back on those units that were not leased to HOME-qualified families.</p>	<p>Vacant units are considered bond units if the unit was previously occupied by a qualified household. When the next family leases the unit, qualification is determined for that household.</p>
<p>Treas. Reg. 1.42-5(c)(1)(ix), Rev. Rul. 2004-82, Q&A #9, 8823 Guide Chapter 15</p>		<p>HB-2-3560 9.15</p>	<p>§92.525 (2013)</p>	<p>IRS Reg. 103.8 (b)(5)(ii)</p>

MINIMUM SET-ASIDE AND REQUIRED NUMBER OF UNITS IN PROGRAM

LIHTC	HUD PBRA	RD	HOME	BOND
<p>Typically, properties have a 20-50 or 40-60 minimum set-aside. The first number designates the minimum percentage of units at the property that must be designated "LIHTC" units. The second number represents the MTSP income and rent limit for those units. LIHTCs are claimed based on the actual percentage of LIHTC units to all the units in a building; this is called the "applicable fraction." Starting for new set-aside elections in 2018, the 40-60 set-aside option includes an "Income Average Test" version where units may be set aside at 20 to 80% MTSP set-asides (in whole 10% increments), as long as these average 60%. NOTE: New York City adds minimum set-aside options of 25-50 and 25-60 (Average). State agencies can determine additional set-asides.</p>	<p>This is based on the HUD program type and the regulatory agreement in place for the property.</p>	<p>This is based on the RD program type and the regulatory agreement in place for the property.</p>	<p>The HOME units in a property are determined by the amount of HOME funding given to the property in proportion to the total cost to build. These are designated "low" and "high" HOME units. Typically, 20% of units must be "low" HOME units with a 50% income and rent limit. The remainder of the HOME units are "high" HOME with an 80% rent and income limit.</p>	<p>Typically, properties have a 20-50 or 40-60 minimum set-aside. The first number designates the minimum percentage of units at the property that must be designated "bond" units. The second number represents the MTSP income and rent limit for those units. The bond units must meet the minimum set-aside at the property, but do not need to exceed the minimum. During lease-up once a property reaches 10% occupancy the minimum set-aside must be maintained among the occupied units. This may cause a hold on leasing to non-bond households until the bond minimum set-aside is reached. NOTE: New York City adds a third minimum set-aside of 25-60. State agencies can determine additional set-asides.</p>
<p>§42(g)(1), 8823 Guide chapter 10, IRS form 8609(s) line 10C shows the designation</p>			<p>HOME Guide 1.8</p>	<p>§142(d)(1) Rev. Proc. 04-39</p>

APPLICATION, SCREENING, AND MONTHLY FEES

LIHTC	HUD PBRA	RD	HOME	BOND
<p>Applicants can be charged a fee for the actual average out-of-pocket costs to run the checks. Non-optional monthly fees must be added when determining gross rent compliance.</p>	<p>Applicants must NOT be charged for the costs of screening. Monthly fees must be approved by HUD.</p>	<p>Fees to applicants are discouraged but allowed and limited to the actual cost of the screening. Monthly fees must be approved by RD.</p>	<p>Application, screening, and other fees must be approved by the Participating Jurisdiction (PJ). Any allowed monthly fees must be deducted from the HOME rent limit to determine the maximum rent charged for a unit. Fees that are not customary in rental housing are prohibited. Reasonable application fees may be charged or fees for services or meals, as long as the services are voluntary.</p>	<p>Application fees and costs to screen applicants are not addressed.</p>
<p>8823 Guide 11-2 to 11-3</p>	<p>4350.3 4-7 A-C, E 2</p>	<p>HB-2-3560 6.16B</p>	<p>Home Guide 3.3 D 4 HOME Regs § 92.214(b) (2013) HTF: 24 CFR 93.204(b)</p>	

INITIAL LEASE AND LEASE TERM

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
Other than in SRO or transitional housing projects, families must not be “transient.” This generally means that the initial lease term must be at least 6 months. Termination or non-renewal must be for good cause under state law.	The initial lease term must be 12 months. The HUD lease must be used. Termination or non-renewal must be for good cause.	The initial lease term must be 12 months or the end of the HAP contract, if sooner. The lease is developed by the owner and must be certified by the owner’s attorney and approved by RD. Termination or non-renewal must be for good cause.	The initial lease term is typically 12 months unless a lesser term is agreed upon, which can’t be less than 30 days, except in cases of threat to the tenants, employees, or property. The lease is developed by the owner avoiding 9 prohibited clauses. The lease must be approved by the PJ. Termination or non-renewal must be for good cause. NHTF has the same initial term and prohibited lease terms as apply to HOME. Termination of tenancy must be for cause and in a timeframe dictated by local law.	The bond program leaves the lease and initial lease term up to other program funding unless the bond agreement mandates some lease requirements. The minimum term is generally at least 31 days.
§ 42(i)(3)(B)(i) & “Blue Book” 8823 Guide chapter 20; § 42 (i)(3)(B)(iv)	4350.3 chapter 6, Appendix 4 A-G	HB-2-3560 6.23 and Attachment 6-E & 6-F	HOME Guide 4.3 B, Attachment 4-1 24, CFR 92.253 (b) (2013) NHTF 24 CFR 93.303 (a) - (c)	Bond Agreement

CRIMINAL BACKGROUND CHECKS

LIHTC	HUD PBRA	RD	HOME	BOND
Owners may screen for criminal background.	Owners are required to screen for criminal and drug-related criminal activity. Applicants must be screened for lifetime sex offender registration and those registered are prohibited entry.	Owners may screen for criminal background. Owners may deny admission for criminal activity. If rejected for occupancy, the letter must outline the reason.	Owners may screen for criminal background. Applicants rejected must receive a written explanation.	Criminal background checks are not addressed.
8823 Guide 11-2 to 11-3	4350.3 4-7 A-C, E 2	HB-2-3560 6.17	HOME Guide Exhibit 4-1	

RELEASE OF INFORMATION FORMS

LIHTC	HUD PBRA	RD	HOME	BOND
No specific form is required.	HUD uses forms 9887 and 9887-A. Individual verification forms must be signed, not just a blanket release. These are signed once by all adults.	The owner is required to develop a Release of Information form. No specific form is required.	No specific form is required.	No specific form is required.
	4350.3 3-11, Joint HOTMA Notice 2023-10 J.1	HB-2-3560 6.11A		

CITIZENSHIP REQUIREMENTS

LIHTC	HUD PBRA	RD	HOME	BOND
The Internal Revenue Service (IRS) does not establish citizenship requirements. The HFA or the owner may establish non-citizen restrictions.	Only U.S. citizens or eligible non-citizens may receive assistance. Non-citizens must provide documentation that is verified through the Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services' SAVE system. Families that consist of non-eligible and eligible members will have their assistance pro-rated.	Only U.S. citizens or eligible non-citizens may receive benefits. RD guidance on how to establish this is delayed indefinitely and still pending.	The multi-family HOME program does not have established citizenship requirements.	The bond program does not have established citizenship requirements.
8823 Guide 13-2	4350.3 3-5 F, 3-12, Exhibit 3-5	§3560.152 (a)(1) & HB-2-3560 Attachment 6-E page 2		

RACE / ETHNICITY REPORTING REQUIREMENTS

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
Race and ethnicity data collection and reporting procedures are established by the State Housing Finance Agency (HFA). The HFA is required to report this data to HUD.	Applicants have the option to report their race and ethnicity using the form HUD-27061-H, though this is NOT a required form. Management must NOT complete the form on the applicant's behalf. Race and ethnicity data is NOT placed on the waiting list.	Application forms and waiting lists must include race and ethnicity data. If the applicant will not supply the data, management is required to complete the race and ethnicity information based on observation.	The PJ must establish race and ethnicity data collection and reporting procedures. The PJ must review the data collected each year. As affirmative marketing rules apply, NHTF would require monitoring of race and ethnicity.	The bond program does not have race and ethnicity data collection or reporting procedures.
The Housing and Economic Recovery Act of 2008 (HERA) section 2835	4350.3 2-11 A, 4-14 A 4, Exhibit 4- 3, 4-16 D 4	HB-2-3560 6.16A, Exhibit 6-5	HOME Guide 4.2 B 5 HTF 24 CFR 93.350	

AFFIRMATIVE FAIR HOUSING MARKETING

LIHTC	HUD PBRA	RD	HOME (HTF)	BOND
The Internal Revenue Service (IRS) and tax code do not require affirmative marketing. Some state agencies have AFHMP requirements.	HUD requires an Affirmative Fair Housing Marketing Plan (AFHMP) on HUD form 935.2A. This is updated by the owner/manager at least every 5 years and must be approved by HUD or the Contract Administrator (CA).	RD requires an Affirmative Fair Housing Marketing Plan (AFHMP) on HUD form 935.2A. This must be approved by RD and updated every 5 years.	The PJ must establish affirmative marketing procedures. The PJ is responsible for making sure that the established affirmative marketing plan is followed by the site. Grantees must establish and monitor affirmative marketing plans for NHTF properties.	The Internal Revenue Service (IRS) does not address affirmative marketing.
	HUD.gov form 935.2A	HB-2-3560 6.34, §3560.104(b), HUD.gov Form 935.2A	HOME 4. 2 B HTF 24 CFR 93.350	

ONLINE SYSTEM USED BY PROGRAM

LIHTC	HUD PBRA	RD	HOME	BOND
The Internal Revenue Service (IRS) does not have an online system. Individual State Housing Finance Agencies (HFAs) may have a unique online system.	HUD has Tenant Rental Assistance Certification (TRACS) and Enterprise Income Verification (EIV).	Management Agent Interactive Network (MINC).	The Participating Jurisdiction (PJ) uses the Integrated Disbursement and Information System (IDIS) to report to HUD.	The IRS does not have an online system.

INSPECTIONS | FILE REVIEW AND PHYSICAL

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
<p>Inspections are done on a minimum 3-year cycle. At least one aspect of ALL buildings is inspected (such as the building exterior or HVAC). The number of files and units inspected is the lower of 20% or the number listed on a chart published in IRS regs (based on HUD REAC standards). NSPIRE (National Standards for the Physical Inspection of Real Estate) or local standards are used for the Physical Review.</p> <p>NOTE: Section 504 is not applicable to tax credit funding where other federal funding is not involved. Fair Housing standards apply.</p>	<p>MORs (Management Occupancy Reviews) are performed on a risk-based cycle of 1-3 years. REAC Physical inspections use UPCS and are conducted on a 1 to 3-year schedule based on the previous REAC score:</p> <ul style="list-style-type: none"> >89 = 3-year schedule 80-89 = 2-year schedule <80 = 1-year schedule <p>NSPIRE (National Standards for the Physical Inspection of Real Estate) is the protocol used for the Physical Review. Section 504 and Fair Housing standards apply for a review of accessibility.</p>	<p>Annual Physical Inspections: 5% of occupied units (minimum of 2) and 5% of vacant units (minimum of 2). Tri-annual Supervisory Visits review units based on size:</p> <ul style="list-style-type: none"> 1-5 units = all units inspected 6-30 units = 6 inspected 31-74 units = 10 inspected >74 units = 15 inspected <p>Vacant units = 5% inspected (minimum of 2 units)</p> <p>RD 3560-11 is the form used for Physical reviews. Section 504 and Fair Housing standards apply for a review of accessibility.</p>	<p>Reviews are based on the total number of HOME units, with a 3-year inspection cycle. The inspector selects a sampling set in HOME regulations, with a minimum of 4 HOME units. The PJ must choose between local and state codes or NSPIRE* for the physical reviews. Section 504 and Fair Housing standards apply for a review of accessibility.</p> <p>*NSPIRE gradually replaced UPCS and HQS in 2023-2026. Other program NSPIRE inspections, may be used by HOME PJ. Further guidance is forthcoming.</p> <p>NHTF tri-annual inspections are based on a sample, as set forth by HUD notice. For projects with 1-4 NHTF units, all the NHTF units are inspected. NHTF properties must meet the HUD NSPIRE standard and Section 504.</p>	<p>No inspection schedule is required by the tax code. NOTE: Section 504 does not apply to bond funding. Fair Housing standards apply.</p>
Treas. Reg. §1.42-5(c)(1)(vi) & (2) 8823 Guide 6-1 & Exhibit 6-1	4350.1 chapter 5, see also www.hud.gov for further REAC and NSPIRE information. HUD Final Rule "Streamlining MORs for Sec. 8 Housing Assistance Programs" 6-26-22 - effective 9-26-2022.	HB-2-3560 9.9F, 9.10F, RD 3560-11	HOME Guide Exhibit 6-1, 6.2 C 7; HOME Guide Exhibit 5- 1 24 CFR 92.504 (d) (2013) NHTF 24 CFR 93.301 (e) and 404 (d)	

ADMINISTERING AGENCY

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
The Internal Revenue Service (IRS) and State Housing Finance Agencies (HFAs). NOTE: Each state has an HFA; however, they are not all specifically called Housing Finance Agencies.	Housing and Urban Development (HUD) Multi-family Division and Contract Administrators (CAs) which are contracted by HUD.	Rural Development (RD) / Rural Housing Services (RHS) under the United States Department of Agriculture (USDA).	Housing and Urban Development (HUD) under the Office of Community Planning and Development (CPD). CPD appoints Participating Jurisdictions (PJs) that commit the HOME funds to owners and monitor compliance. HUD CPD. CPD appoints state Grantees that commit the NHTF funds to owners and monitor compliance.	The Internal Revenue Service (IRS) and bond issuers.
IRS.gov and individual state HFA websites	HUD.gov and individual CA websites	RD.USDA.gov	HUD.gov and individual PJ and Grantee websites NHTF 24 CFR 93.100 and 92.404	IRS.gov

REPORTING REQUIREMENTS

LIHTC	HUD PBRA	RD	HOME	BOND
IRS form 8609 must be filed with the IRS, the first year of the credit period. Form 8609A is filed other years of the compliance period. An annual owner certification of program compliance must be submitted to the state HFA.	Reporting and HAP processing are submitted monthly through TRACS.	Reporting and RA processing are submitted to RD monthly through MINC by the 10 th of the month.	Annual occupancy and other reports are submitted to the PJ.	Form 8703 must be filed with the IRA annually.

VIOLENCE AGAINST WOMEN ACT (VAWA)

LIHTC	HUD PBRA	RD	HOME (NHTF)	BOND
VAWA applies to tax credit properties since 2013. The IRS is unlikely to issue guidance. HUD guidance may be used as a model and state HFAs often issue guidance based on the HUD model. A lease addendum is not required by law, but a state agency may require one.	Applies since 2005 to Section 8 and since 2013 for most other HUD programs. HUD has issued a sample notice of rights (Form HUD-5380), victim cert. (5382), a model emergency transfer plan (5381), and a model emergency transfer request (5383). A lease addendum (91067) is required.	The VAWA statute covered RD in 2013. In 2017 RD adopted the HUD 2016 VAWA Rule and forms. The 2023 VAWA reauthorization covered RD vouchers.	HUD 2016 guidance applies to HOME. The PJ must develop a VAWA lease addendum. The HUD 2016 guidance applies to NHTF. The VAWA statute explicitly includes NHTF starting with the 2022 VAWA reauthorization. The grantee must develop a VAWA lease addendum.	VAWA does not apply.
	Fed Reg Vol 81 No. 221 Wed Nov 16, 2016	HB-2-3560 Attachment 6-K	Fed Reg Vol 81 No. 221 Wed Nov 16, 2016 NHTF 24 CFR 93.356	