multifamily program compliance manual



chfa asset management

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Elisabetta Apartments, CHFA Rental Housing Customer, Denver
Upland Townhomes, CHFA Rental Housing Customer, Pueblo
Village on Fields, CHFA Rental Housing Customer, Fort Collins

preface

The CHFA Multifamily Program Compliance Manual ("manual") is a reference guide for compliance with the following multifamily affordable housing programs ("the Programs") that Colorado Housing and Finance Authority offers and administers.

Program	Governing Document	Laws and Regulations
Federal Low Income Housing Tax Credit (Housing Tax Credit or LIHTC)	Land Use Restriction Agreement	26 U.S.C. § 42; 26 C.F.R. § 1.42
Colorado state Housing Tax Credits (state HTC)	Land Use Restriction Agreement	C.R.S. 39-22-2101 et seq. C.R.S. 39-22-5401 et seq. C.R.S. 39-22-5501 et seq.
Tax-exempt Bonds (Private Activity Bonds)	Regulatory Agreement	26 U.S.C. § 142
CHFA Loans	Regulatory Agreement	n/a
Risk Sharing Program	Regulatory Agreement	12 U.S.C. § 1707; 24 C.F.R. § 266
Capital Magnet Fund	Regulatory Agreement	12 C.F.R. § 1807.401
Colorado Healthy Housing Fund	Regulatory Agreement	n/a

The manual serves as a resource to property owners/developers, borrowers, tax credit investors, management companies, and onsite management personnel of multifamily affordable housing projects in meeting the compliance obligations under their agreements. It is designed to help answer questions regarding the procedures, rules, and regulations that govern developments following allocation of tax credits, issuance of tax-exempt bonds, and/or funding of a multifamily mortgage.

While this manual supplements existing laws and rules, it is not a comprehensive guide to the Programs and all of their requirements. It should be used in conjunction with the Land Use Restriction Agreement and/or Regulatory Agreement and with Sections 42 and 142 of the Internal Revenue Code, if applicable. The requirements set forth in the manual are subject to change from time to time.

Compliance monitoring by Colorado Housing and Finance Authority (CHFA) is administered by the Asset Management Division. Questions or concerns regarding CHFA's administration of the Programs should be directed to Manager, Multifamily Program Compliance at 303.297.2432 or toll free at 800.877.2432.



Owners and managers are advised to consider retaining the services of an attorney and/or accountant who specializes in the Housing Tax Credit and Private Activity Bond programs, etc. to counsel them on any complex problems that may arise.



Should a conflict occur between the terms of the Land Use Restriction Agreement and/or Regulatory Agreement and the CHFA Multifamily Program Compliance Manual, the terms of the Land Use Restriction Agreement and/or Regulatory Agreement shall supersede.

updates due to the housing opportunity through modernization act of 2016 (hotma)

Low Income Housing Tax Credit (Housing Tax Credit or LIHTC) regulations require that tenant income is calculated consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937. CHFA monitors Multifamily Loan projects according to the same requirements.

HOTMA Background

In July 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law, intended to streamline processes and reduce administrative burdens on affordable housing providers. Section 102 of the law makes significant changes to how annual income, including income from assets and student financial assistance, is determined for the Section 8 program. These changes apply to the Housing Tax Credit and CHFA Multifamily Loan programs.



Housing Opportunity Through Modernization Act of 2016, Pub. L. No. 114-201, 130 Stat. 782 (2016)

In February 2023, HUD issued the final rule revising HUD regulations to implement HOTMA in the Federal Register. HUD issued further guidance in September 2023 and February 2024 on the implementation of the many program changes related to HOTMA Sections 102 and 104 in the form of a HUD Notice, which is referenced throughout this manual.



Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104, 88 Fed. Reg. 9600 (2023)



HUD Notice H 2023-10, HOTMA Implementation Guidance for Sections 102 and 104 (2023, revised 2024)

HOTMA-related Changes to CHFA Housing Tax Credit and CHFA Multifamily Loan Policies

HOTMA took effect January 1, 2024. While not all provisions of HUD's final HOTMA regulations apply to the Housing Tax Credit and CHFA Multifamily Loan programs, many do apply. Therefore, CHFA has updated relevant sections of this manual to align with HUD's HOTMA regulations.

HOTMA Implementation for Housing Tax Credit and CHFA Multifamily Loan Properties

Implementation of CHFA's updated policies is mandatory for all developments beginning no later than January 1, 2027. CHFA strongly encourages full implementation of all aspects of HOTMA (including all forms and rules) for all Housing Tax Credit and CHFA Loan developments not layered with Section 8, HOME, or comparable programs.

Monitoring of HOTMA in Housing Tax Credit and CHFA Multifamily Loan Compliance Reviews

Prior to January 1, 2027, noncompliance findings will not be issued for HOTMA-related tenant file errors during Program Compliance file reviews. Instead, the Program Compliance Officer will issue observations.

how to use this manual

Program Icons

The CHFA Multifamily Program Compliance Manual includes guidance for developments with Housing Tax Credits and/or multifamily loan financing through CHFA. Many of the rules are the same for the Housing Tax Credit and multifamily loan financing programs. However, there are differences between the Programs and between different types of properties within the Programs. To assist the reader in determining whether specific guidance applies to a particular development, the manual uses the program icons listed below.

Program	Icon(s)
All Programs	ALL PROG
Federal Low Income Housing Tax Credit: Years 1-15	TC Y 1-15
Federal Low Income Housing Tax Credit: Post Year 15	PY 15+
Colorado state Housing Tax Credits	CO HTC
CHFA Multifamily Loan	CHFA LOAN
Colorado Healthy Housing Fund	HHF CO
Capital Magnet Fund	CM FUND
Risk Sharing Program	RS

Tax-exempt Bonds (Private Activity Bonds)

Both Housing Tax Credits and multifamily loan financing may be paired with tax-exempt bond/Private Activity Bond financing. In general, compliance for tax-exempt bonds follows the federal LIHTC program. Instances where tax-exempt bond rules are different from or in addition to LIHTC rules are called out as applicable within each chapter.

At-a-Glance Tables

Each chapter of the manual begins with an At-a-Glance table listing its sections and the following symbols to indicate whether a section applies to a property with the listed program types.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section Headers

Each section header also includes icons indicating the program types to which that section applies.

Section 1 Example

TC Y 1-15 PY 15+ CO HTC CHFA LOAN RS

To identify your property's program type(s), use CHFA's Insight application or contact your Program Compliance Officer.

chapter 1

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO HTC — Colorado state HTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Multifamily Programs Overview

This chapter summarizes the multifamily affordable housing programs that Colorado Housing and Finance Authority (CHFA) offers and administers. Please look at the chart below to see the programs to which each section in this chapter is applicable.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
1.1 Overview	✓							
1.2 Federal Housing Tax Credit Program		✓	✓	✗	✗	✗	✗	✗
1.3 Colorado state Housing Tax Credit Programs		✗	✗	✓	✗	✗	✗	✗
1.4 TCAP and TCEP		⇆	⇆	✗	✗	✗	✗	✗
1.5 Tax-exempt Bond Financing		⇆	⇆	✗	⇆	✗	✗	⇆
1.6 CHFA Loans		✗	✗	✗	✓	✗	✗	✓
1.7 Specialized Multifamily Loan Programs		✗	✗	✗	✓	✗	✗	✗
1.8 Capital Magnet Fund		✗	✗	✗	✗	✗	✓	✗
1.9 Colorado Healthy Housing Fund		✗	✗	✗	✗	✓	✗	✗
1.10 Proposition 123: Colorado Affordable Housing Financing Fund	⇆							

Section 1.1 Overview

ALL PROG

Colorado Housing and Finance Authority (CHFA) offers and administers programs to help develop multifamily affordable housing in Colorado. These include the following, which are described in more detail below.

- Housing Tax Credit programs
    - Federal Low Income Housing Tax Credit (Housing Tax Credit or LIHTC) program
    - Colorado state Housing Tax Credit programs
    - Tax Credit Assistance Program (TCAP) and the Tax Credit Exchange Program (TCEP)
- Tax-exempt bond financing
- Loans
    - CHFA Multifamily Loan programs
        - SIMPLE, SMART, CAPABLE, PAIRABLE, HOF
        - Risk Share – 542(c) Credit-enhanced Loans
    - Specialized Multifamily Loan programs
        - Small-scale Housing Program
        - Middle-income Access Program (MIAP)
        - Colorado Affordable Housing Preservation Fund
    - Capital Magnet Fund
    - Colorado Healthy Housing Fund
- Proposition 123: Colorado Affordable Housing Financing Fund

Section 1.2 Federal Low Income Housing Tax Credit (LIHTC) Program

TC Y 1-15 PY 15+

Congress enacted the Low-income Housing Tax Credit program (the "LIHTC Program" or "Housing Tax Credit Program") through the Tax Reform Act of 1986. The United States Department of Treasury is responsible for the administration of the Housing Tax Credit Program nationwide. The Housing Tax Credit Program is governed by Section 42 of the Internal Revenue Code (the "Code") as amended and by related regulations. Under the Code, each state is required to designate a "housing credit agency" to allocate the credits. The State of Colorado has designated CHFA to allocate federal tax credits and monitor compliance.

The LIHTC is a dollar-for-dollar reduction in tax liability to the owner for the construction or acquisition/rehabilitation of a qualified low-income rental housing development. The amount of credit allocated is based directly on the number and affordability of qualified low-income units that meet federal rent and income-targeting requirements.

The Omnibus Budget Reconciliation Act of 1990 amended the Code to require that state agencies allocating federal tax credits provide a procedure for monitoring developments for noncompliance with the requirements of the LIHTC Program under Section 42(m)(1)(B) of the Code and for notifying the Internal Revenue Service of such noncompliance. To offset the costs of compliance monitoring, CHFA charges a reasonable monitoring fee as allowed by the Code.



26 U.S.C. § 42
26 C.F.R. § 1.42

Land Use Restriction Agreement (LURA)

To receive Housing Tax Credits, a project must have an extended low-income housing commitment (i.e., an agreement between the taxpayer and the housing credit agency) in effect, which is recorded in the real property records of the county where the project is located. In Colorado, this commitment is the Land Use Restriction Agreement (LURA) between the project owner and CHFA. The LURA requires the development to comply with LIHTC Program requirements for the entire Extended Use Period (as defined below).



26 U.S.C. § 42(h)(6)



Each Housing Tax Credit development's LURA is available to review in CHFA's Insight System.

LIHTC Definitions: Extended Use, Credit, Compliance, and Post Year 15 Periods

The Code defines the Credit Period, Compliance Period, and Extended Use Period related to the LIHTC Program. Although not defined by the Code, the affordable housing industry also uses the term "Post Year 15 Period" in relation to the LIHTC Program.

LIHTC developments are subject to Section 42 of the Code throughout the Extended Use Period. CHFA monitors developments with LIHTC for compliance with Section 42 of the Code and the LURA throughout the Extended Use Period.

Type	Definition	Length	Citation
Credit Period	With respect to any building, the period of 10 taxable years beginning with: • the taxable year in which the building is placed in service, or • at the election of the taxpayer, the succeeding taxable year, but only if the building is a qualified low-income building as of the close of the first year of such period	10 years	26 U.S.C. § 42(f)(1)
Compliance Period	With respect to any building, the period of 15 taxable years beginning with the first taxable year of the Credit Period with respect thereto	15 years	26 U.S.C. § 42(i)(1)

Type	Definition	Length	Citation
Extended Use Period	▪ Beginning on the first day in the Compliance Period on which such building is part of a qualified low-income housing project, and ▪ Ending on the later of: ○ the date specified by such agency in such agreement, or ○ the date which is 15 years after the close of the Compliance Period	Minimum of 30 years	26 U.S.C. § 42(h)(6)(D)
Post Year 15 Period	▪ Beginning on the first day of the year beginning after the close of the Compliance Period, and ▪ Ending when the Extended Use Period terminates	Minimum of 15 yrs	n/a

The first year of the Credit Period is determined by the owner and may be found on line 10a of the first IRS Form 8609 completed and filed by the owner with the IRS.

Section 1.3 Colorado state Housing Tax Credit Programs

CHFA is the allocating agency for Colorado's state Housing Tax Credit (state HTC) programs. They include the Colorado state Affordable Housing Tax Credit (AHTC or state credit), Middle-income Housing Tax Credit (MIHTC), and Transit-oriented Communities credit (TOC credit).

Colorado State Affordable Housing Tax Credit

The Colorado state Affordable Housing Tax Credit program is modeled after the federal LIHTC program and includes both the standard state credit and the accelerated state credit. The standard state credit program was originally established in 2001 and later renewed in 2014, 2016, and 2018. In 2019, the program was expanded, authorizing CHFA to allocate $10 million in state AHTC annually from 2020 through 2024. Most recently, in 2022, the Colorado General Assembly approved extending the program through 2031. Established in 2024, the accelerated state credit increases CHFA's state credit allocation authority by varying amounts totaling $136 million over eight years, through 2031. The new credit also increases the pace at which investors may claim the new credit resources.

The Colorado Department of Revenue is responsible for the administration of the AHTC program. The State of Colorado has designated CHFA to allocate the AHTC and monitor compliance. CHFA monitors multifamily projects that receive AHTC for compliance according to the rules and policies of the federal LIHTC program. Under the authorizing legislation, CHFA and the Colorado Department of Revenue may promulgate additional rules for the AHTC program.

C.R.S. 39-22-2101 through 2108

Colorado State AHTC Definitions: Compliance and Credit Periods

The Colorado Revised Statutes define the Credit and Compliance Periods related to the state AHTC program.

Type	Definition	Length	Citation
Credit Period	The period of six taxable years beginning with the taxable year in which a qualified development is placed in service	6 years	C.R.S. 39-22-2101
Compliance Period	The period of 15 years beginning with the first taxable year of the Credit Period	15 years	C.R.S. 39-22-2101

Middle-income Housing Tax Credit

In 2024, to increase housing opportunity, Colorado created the Middle-income Housing Tax Credit (MIHTC) program, which provides a tax credit to qualified Owners of middle-income rental housing to reduce their state tax income obligations. This pilot program will support the development of affordable rental housing serving residents with middle income, earning between 80 percent and 120 percent of the Area Median Income (AMI), and up to 140 percent AMI in rural resort counties. MIHTC is the first of its kind in the nation and authorizes CHFA to competitively award $5 million in 2025-2026 and $10 million in 2027-2029.

The Colorado Department of Revenue is responsible for the administration of the MIHTC program. The State of Colorado has designated CHFA to allocate the MIHTC and monitor compliance. CHFA monitors multifamily projects that receive the MIHTC for compliance according to the rules and policies of the federal LIHTC program. Under the authorizing legislation, CHFA and the Colorado Department of Revenue may promulgate additional rules for the MIHTC program.



C.R.S. 39-22-5401 through 5409

Colorado MIHTC Definitions: Compliance and Credit Periods

The Colorado Revised Statutes define the Credit and Compliance Periods related to the MIHTC program.

Type	Definition	Length	Citation
Credit Period	The period of five taxable years beginning with the taxable year in which a qualified development is placed in service	5 years	C.R.S. 39-22-5402
Compliance Period	The period of 15 years beginning with the first taxable year of the Credit Period	15 years	C.R.S. 39-22-5402

Transit-oriented Communities Credit

In 2024, to increase affordable housing in Transit-oriented Communities, Colorado created the Transit-oriented Communities tax credit (TOC credit), which provides a tax credit to qualified Owners of low-income rental housing within Transit-oriented Communities to reduce their state tax income obligations. This resource will support the development of affordable rental housing in transit areas, and transit centers or Neighborhood Centers within a TOC. CHFA is authorized to allocate the TOC credit as follows: $2 million in 2025-2027; $11 million in 2028; and $13 million in 2029.

The Colorado Department of Revenue is responsible for the administration of the TOC credit program. The State of Colorado has designated CHFA to allocate the TOC credit and monitor compliance. CHFA monitors multifamily projects that receive TOC credits for compliance according to the rules and policies of the federal LIHTC program.



C.R.S. 39-22-5501 through 5508

Colorado TOC Credit Definitions: Compliance and Credit Periods

The Colorado Revised Statutes define the Credit and Compliance Periods related to the TOC credit program.

Type	Definition	Length	Citation
Credit Period	The period of five taxable years beginning with the taxable year in which a qualified development is placed in service	5 years	C.R.S. 39-22-5502
Compliance Period	The period of 15 years beginning with the first taxable year of the Credit Period	15 years	C.R.S. 39-22-5502

Section 1.4 TCAP and TCEP

TC Y 1-15 PY 15+

In 2009, through the American Recovery and Reinvestment Act (ARRA), Congress created two programs, the Tax Credit Assistance Program (TCAP) and the Tax Credit Exchange Program (TCEP), to assist developers holding allocations of federal LIHTC. These programs were created to sustain affordable housing developments by providing gap financing to those projects that were stalled due to the downturn of the LIHTC equity market. Through TCAP and TCEP, CHFA deployed $58 million in gap financing to enable the completion of 23 affordable rental housing projects across the state, with over 1,500 units.

CHFA monitors multifamily projects that received TCAP and TCEP financing for compliance according to the rules and policies of the LIHTC Program. However, owners of projects who received TCAP or TCEP funding are also subject to additional compliance and reporting requirements established in the TCAP written agreement or TCEP sub-award agreement.



American Recovery and Reinvestment Act of 2009
Pub. L. 111-5

Section 1.5 Tax-exempt Bond Financing

TC Y 1-15 PY 15+ CHFA LOAN

As an authorized issuer of tax-exempt bonds, CHFA may issue Private Activity Bonds (qualified residential rental bonds) or other forms of qualified tax-exempt bonds to support affordable rental housing developments. CHFA issues tax-exempt bonds either on a conduit basis (as a Conduit Issuer) or as a Direct Issuer and Lender. Private Activity Bonds issued for qualified residential rental activities may be used to fund a CHFA Loan and/or may be paired with 4 percent federal LIHTC and state HTC.

Due to the tax-exempt status of their financing, tax-exempt bond-financed developments are subject to certain additional Internal Revenue Service requirements, beyond Housing Tax Credit and CHFA Loan program requirements, throughout the Qualified Project Period. See Chapter 13, Tax-exempt Bonds, for detailed information.



26 U.S.C. § 142

CHFA Bond Regulatory Agreement

Bond requirements are outlined in the CHFA Bond Regulatory Agreement executed between the borrower and CHFA at bond closing. Such Regulatory Agreement requires the development to comply with the program requirements for the entire Qualified Project Period.



Each CHFA Bond Regulatory Agreement is available for review in CHFA's Insight System.

Tax-exempt Bond Definition: Qualified Project Period

The Internal Revenue Code defines the Qualified Project Period of a tax-exempt bond-financed affordable rental development as follows.

Type	Definition	Length	Citation
Qualified Project Period	▪ Beginning on the first day on which 10 percent of the residential units in the project are occupied, and ▪ Ending on the latest of: ○ the date which is 15 years after the date on which 50 percent of the residential units in the project are occupied, ○ the first day on which no tax-exempt Private Activity Bond issued with respect to the project is outstanding, or ○ the date on which any assistance provided with respect to the project under Section 8 of the United States Housing Act of 1937 terminates	Minimum of 15 years	26 U.S.C. § 142(d)(2)(A)

Section 1.6 CHFA Loans

CHFA's Community Development Division provides financing for the purchase, rehabilitation, new construction, and refinance of rental housing targeted to low- and moderate-income households across Colorado. CHFA multifamily loans include insured, uninsured, tax-exempt, and taxable financing and may or may not be paired with LIHTC and state HTC. Loans are funded by CHFA's General Fund or with taxable or tax-exempt bonds.

Loan types in CHFA's active multifamily loan portfolio include: SIMPLE, SMART, CAPABLE, PAIRABLE, CMF, and HOF. The SMART, CAPABLE, and PAIRABLE programs are credit-enhanced through Risk Share 542(c) mortgage insurance. CHFA also offers specialized Multifamily Loans including the Small-scale Housing Permanent Loan, Multifamily Collateral Support Program, Middle-income Access Program, and Colorado Affordable Housing Preservation Fund.

With some exceptions as noted in this manual, CHFA monitors multifamily projects that receive CHFA Loan financing for compliance according to the rules and policies of the Housing Tax Credit Program and any additional loan-type program requirements. As noted below, CHFA's agreements with HUD require Asset Management staff to conduct additional monitoring actions in relation to Risk Share-enhanced loans beyond those associated with CHFA's standard program requirements. Please refer to the property's Regulatory Agreement for additional information regarding monitoring and reporting requirements.

CHFA Loan Regulatory Agreement and Loan Agreement

The borrower's obligations related to CHFA multifamily loan financing are documented in the CHFA Loan Regulatory Agreement (and/or sometimes the "Loan Agreement") executed between the borrower and CHFA at loan closing. The agreement(s) requires the development to comply with loan program requirements for the loan term or Qualified Project Period, as defined in the agreement. In certain instances, the CHFA Loan Regulatory Agreement and the CHFA Bond Regulatory Agreement may be combined into one document.



Each CHFA Loan Regulatory Agreement is available to review in CHFA's Insight System.

CHFA Loan Definitions: Qualified Project Period and Loan Term

Depending on the loan type and financing source, regulatory agreements for CHFA multifamily loans remain in effect for the loan term or the Qualified Project Period ("QPP"), as defined in each agreement.



In some cases where the loan term or QPP are not yet complete, a Regulatory Agreement may remain in effect after a loan is paid in full. CHFA will continue to monitor compliance "post-loan payoff" in these cases until the loan term or QPP expires, or until CHFA formally terminates the Regulatory Agreement. For more information, see Chapter 16, Post Loan Payoff.

Type	Definition	Length	Citation
Qualified Project Period (applicable only to CHFA loans financed with tax-exempt bonds)	▪ Beginning on the first day on which 10 percent of the residential units in the project are occupied and ▪ Ending on the latest of: ○ the date which is 15 years after the date on which 50 percent of the residential units in the project are occupied, ○ the first day on which no tax-exempt Private Activity Bond issued with respect to the project is outstanding, or ○ the date on which any assistance provided with respect to the project under Section 8 of the United States Housing Act of 1937 terminates.	Minimum of 15 years	26 U.S.C. § 142(d)(2)(A)
CHFA Loan Term (example)	In effect from the date of the CHFA Regulatory Agreement for the longer of: ▪ the period during which any part of the loan remains unpaid, or ▪ 15 years (may be longer)	Minimum of 15 years	Defined in the "Term of Agreement" or "Term of Restrictions" section of each project's CHFA Regulatory Agreement

Risk Share 542(c) Credit Enhancement

The federal Risk Sharing Program was created under Section 542 of the Housing and Community Development (HCD) Act of 1992 to provide new forms of credit enhancement for multifamily housing loans. In April 1994, CHFA entered into a Risk Sharing Agreement with HUD to originate and service loans under the Section 542(c) Risk Sharing Program, referred to as Section 542(c) or Risk Share-enhanced Loans. In August 2015, CHFA, HUD, and the Federal Financing Bank (FFB) entered into a FFB Risk Sharing Agreement by which FFB acquires a participation interest in the mortgage loan. The Risk Share-enhanced loans made under both agreements are insured through the Federal Housing Administration, and CHFA agrees to share 50 percent of the risk in the event of loan default. Since CHFA is sharing the risk of loss with HUD, the underwriting and servicing of the loans are delegated to CHFA, allowing for a faster HUD approval time for mortgage insurance.

CHFA is responsible for executing and enforcing the Regulatory Agreement with the mortgagor. It is the responsibility of CHFA Asset Management staff to monitor all Risk Share-enhanced loans in accordance with the requirements of the Risk Sharing Agreement between CHFA and HUD, and the FFB Risk Sharing Agreement between CHFA, HUD, and FFB (collectively referred to as the "Agreements"). It is critical that CHFA's Asset Management Division ensure that owners comply with the terms set forth in the CHFA Regulatory Agreement and with other HUD requirements. This manual along with the CHFA Regulatory Agreement will assist borrowers in meeting compliance obligations.

See Chapter 11, Risk Sharing Program, for specific compliance information.

12 U.S.C. § 1707
24 C.F.R. § 266

Section 1.7 Specialized Multifamily Loan Programs

CHFA's specialized multifamily loan programs currently include the Small-scale Housing Permanent Loan, Multifamily Collateral Support Programs, Middle-income Access Program, and Colorado Affordable Housing Preservation Fund.

CHFA monitors multifamily projects that receive specialized loan financing for compliance according to some rules and policies of the Housing Tax Credit Program, with significant exceptions. Please refer to the property's Regulatory Agreement for additional information regarding monitoring and reporting requirements.

Unique compliance requirement summaries specific to each of these programs, as well as the Specialized Multifamily Loan Programs Utility Allowance Policy, are available on CHFA's website.



Specialized Multifamily Loan Programs:
chfainfo.com/rental-housing/asset-management/multifamily-program-compliance

Small-scale Housing Program

The Small-scale Housing Program was created to provide financing for multifamily projects with fewer than 20 units, which are often located outside of major metro areas. CHFA is able to provide permanent loan financing with the Small-scale Housing Permanent Loan, or partner with a bank for collateral shortfalls with the Multifamily Collateral Support Program.

Middle-income Access Program

The Middle-income Access Program (MIAP) addresses the middle income, sometimes referred to as the "missing middle," population with incomes too high for LIHTC units but often overburdened by market rents. Typically, the missing middle is comprised of renters whose income is between 80 percent and 120 percent Area Median Income (AMI).

Colorado Affordable Housing Preservation Fund

CHFA created the Colorado Affordable Housing Preservation Fund (CAHP) to help preserve affordable multifamily rental housing statewide. The CAHP Fund program provides acquisition financing to help developers move quickly to compete with market buyers.

Section 1.8 Capital Magnet Fund

The Capital Magnet Fund (CMF) provides gap financing for construction and preservation of affordable rental properties. CHFA has received four allocations of these federal funds from the Community Development Financial Institution Fund (CDFI Fund), a division of US Treasury. CHFA uses the Capital Magnet Fund in conjunction with 4 and 9 percent LIHTC programs to support the development and preservation of affordable rental properties in Colorado.

CHFA generally monitors multifamily projects that receive CMF financing for compliance according to the rules and policies of the Housing Tax Credit program.



12 C.F.R. § 1807.401

Section 1.9 Colorado Healthy Housing Fund

HHF CO

The Colorado Healthy Housing Fund (CO HHF) was capitalized by The Colorado Health Foundation and is administered by CHFA. The program is designed to provide flexible financing to developments across Colorado that incorporate healthy housing design features to encourage healthy living for its residents. The proceeds can be paired with or without tax credits and target households who earn no more than 60 percent of Area Median Income (AMI). CHFA serves as the lender, servicer, and compliance-monitoring agency.

CHFA monitors multifamily projects that receive CO HHF financing for compliance according to the rules and policies of the Housing Tax Credit program. Please refer to the property's Regulatory Agreement for additional information regarding monitoring and reporting requirements.

Section 1.10 Proposition 123: Colorado Affordable Housing Financing Fund (AHFF)

TC Y 1-15 CHFA LOAN

In November 2022, Colorado voters passed Proposition 123, a ballot measure authorizing the state to retain money from existing state tax revenue to support affordable housing investment. These funds are split 60/40 between the Office of Economic Development and International Trade (OEDIT) and the Department of Local Affairs (DOLA) through its Division of Housing (DOH), respectively. OEDIT manages the Affordable Housing Financing Fund (AHFF), in partnership with CHFA, which serves as Contract Administrator. DOH manages the Affordable Housing Support Fund.

CHFA administers the AHFF to support land banking, equity, and concessionary debt investment that advance affordable housing across the state. Full program guidelines are posted on the website listed below.



Proposition 123 Colorado Affordable Financing Fund: coloradoaffordablehousingfinancingfund.com

Land Banking Program

The Land Banking program provides grants to eligible local or tribal governments and forgivable loans to eligible nonprofits with a demonstrated history of providing affordable housing. These funds must be used to acquire and preserve land for affordable for-sale housing or affordable rental housing. Mixed use may be allowed so long as the predominant use is affordable housing. CHFA Program Compliance does not monitor compliance for the Land Banking program.

Concessionary Debt Program

The Concessionary Debt program provides loan options to for-profit, nonprofit, local governments, and tribal government entities to support affordable housing investment, including:

- Multifamily Finance: Debt financing for the development and preservation of low- and middle-income multifamily rental developments.
- LIHTC Gap Finance: Gap financing in the form of subordinate debt for Low Income Housing Tax Credit projects
- LIHTC Predevelopment Finance: Gap financing in the form of predevelopment loans for LIHTC projects

Equity Program

The Equity program provides below-market-rate equity investments to eligible for-profit and nonprofit entities for the construction or preservation of low- and middle-income multifamily rental developments.

Proposition 123 Compliance Monitoring

CHFA Multifamily Program Compliance monitors developments that receive equity and concessionary debt investment for compliance. The compliance requirements that apply depend on the program type as follows.

Program Type	Compliance Requirements
Concessionary Debt: LIHTC Gap Finance Program	Housing Tax Credit
Concessionary Debt: LIHTC Predevelopment Finance Program	Housing Tax Credit
Concessionary Debt: Multifamily Finance Program	Proposition 123 Equity/Concessionary Debt **not** Paired with Housing Tax Credits - Compliance Monitoring Guidance
Equity Program	Proposition 123 Equity/Concessionary Debt **not** Paired with Housing Tax Credits - Compliance Monitoring Guidance



Proposition 123 Colorado Affordable Financing Fund Program Documents and Compliance Monitoring Guidance: coloradoaffordablehousingfinancingfund.com/about/training/

chapter 2

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO HTC — Colorado state HTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Owner Responsibilities

The following chapter outlines the owner's responsibilities to maintain each project's eligibility for tax credits or CHFA Loan financing. Please look at the chart below to see the programs to which each section in this chapter is applicable.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
2.1 Owner Responsibilities	✓							
2.2 Reporting Responsibilities	✓							
2.3 LIHTC Owner Obligation to Comply with Monitoring Requirements		✓	✓	✗	✗	✗	✗	✗
2.4 Contact Information Updates	✓							
2.5 Physical Compliance of the Development	✓							
2.6 Vacant Units	✓							
2.7 Property Damage	✓							
2.8 Methamphetamine Contamination	✓							
2.9 Program Compliance Online Resources	✓							
2.10 Program Compliance Updates and eNews	✓							
2.11 Program Compliance Training	✓							
2.12 Program Compliance Officer Role	✓							
2.13 Physical Inspection Officer Role	✓							

Section 2.1 Owner Responsibilities

ALL PROG

Tax Credits

In applying for tax credits, the owner provides comprehensive development information with evidence of the project's overall economic feasibility and a commitment to meet requirements that will benefit low-income residents as specified in the Qualified Allocation Plan (the "QAP"). Prior to issuance of a final tax credit allocation on IRS Form 8609, Low Income Housing Credit Allocation Certification, the owner must certify that the total development costs and all requirements of the LIHTC program have been met.

When executing the Land Use Restriction Agreement (LURA), the owner commits to meeting the compliance requirements in CHFA's Program Compliance Manual. Violations of Housing Tax Credit Program requirements may result in a loss of tax credits, disqualification from future CHFA financing, and legal action.

Loan

Similarly, when receiving a multifamily loan financed and/or administered by CHFA, the owner provides comprehensive development information with evidence of the project's overall economic feasibility and a commitment to meet requirements that will benefit low-income residents as specified in the statutory requirements of the Colorado Housing and Finance Authority Act or the requirements of the originating agency.

When executing the Regulatory Agreement, the owner commits to meeting the compliance requirements in the CHFA Program Compliance Manual. Violations of CHFA's loan program requirements may result in a prohibition of any modification to existing financing terms, disqualification from future CHFA financing, and legal action.

Section 2.2 Reporting Responsibilities

ALL PROG

Throughout all phases of development, lease-up, and operation, it is the owner's responsibility to notify and provide certain information to CHFA, including:

- the placed-in-service date for each building;
- the first year of the Credit Period;
- the date the development achieves full occupancy;
- material changes in ownership or management;
- significant physical damage to the development;
- any litigation to which the owner was a party on health and/or safety matters of past or present households;
- any litigation to which the owner was a party that would materially impact the owner's ability to comply with the terms of the LURA or Regulatory Agreement;
- submissions; and
- other information requested by CHFA.

All documentation must be submitted within the requested timeframe.



Placed-in-Service and Credit Period dates are not applicable to the Loan program.

CHFA Post-construction Energy Use Intensity Reporting

CHFA requires all buildings awarded Housing Tax Credits in or after 2020, once constructed, to annually assess and report energy performance using the free ENERGY STAR Portfolio Manager tool. This includes reporting the building's 1-100 ENERGY STAR score and 1-100 WATER score and sharing the property's information with CHFA by connecting to CHFA's user account (multifamilyenergyusereporting@chfainfo.com). For full instructions on how to connect and share your property data with CHFA, please refer to the How to Share Properties with Other Portfolio Manager Users guide.



ENERGY STAR Portfolio Manager:
portfoliomanager.energystar.gov/pm/login



Explanations of the data and information needed to complete this reporting are located on the ENERGY STAR website.
energystar.gov/buildings/benchmark



For technical assistance on property set-up, required data, etc., please contact the ENERGY STAR Help Center.
energystar.my.site.com/PortfolioManager/s/contactsupport

State of Colorado Energy Use Reporting

CHFA's requirement builds on a recently enacted Colorado statute regarding the energy performance of buildings. The statute requires owners of commercial, multifamily, and public buildings 50,000 square feet or larger to annually benchmark their whole-building energy use and meet set building performance targets. Together, these buildings must reduce sector-wide emissions by 7 percent by 2026 and 20 percent by 2030 from 2021 levels.

Building owners are required to submit an annual benchmarking report on June 1st every year. Owners of buildings constructed after 2021 must begin complying with the annual benchmarking requirements in the year following the receipt of a certificate of occupancy.



C.R.S. 25-7-142

Section 2.3 LIHTC Owner Obligation to Comply with Monitoring Requirements

TC Y 1-15 PY 15+

In the LURA, the Housing Tax Credit property owner acknowledges that CHFA is required to monitor the compliance of the owner and the development with the requirements of applicable laws, regulations, and this manual.

In addition to its specific agreements and undertakings in the LURA, the owner shall take or cause to be taken all other and further actions CHFA determines in its sole discretion (i) are not required under the LURA (either explicitly or implicitly) but (ii) are necessary to satisfy the monitoring requirements of the tax credit program. Such actions shall be designated in writing by CHFA to the owner not less than 60 days (or such other period as may be required by law) prior to the date by which such actions must first be taken.

Section 2.4 Contact Information Updates

ALL PROG

To alert CHFA of contact information updates for the property manager, management agent, or ownership entity, owners must submit a Notification of Change in Contact Information form to the Program Compliance Officer (PCO) who monitors the property with 30 days of the change.



Notification of Change in Contact Information: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 2.5 Physical Compliance of the Development

ALL PROG

The owner is also responsible for ensuring that the development is:

- suitable for occupancy;
- compliant with local health, safety, and building codes;
- compliant with local and federal regulations; and
- compliant with the terms of the LURA, Regulatory Agreement, and CHFA's policies.



For LIHTC and CHFA Loan properties, CHFA uses HUD's National Standards for Physical Inspection of Real Estate (NSPIRE) to assess physical compliance.

Section 2.6 Vacant Units

ALL PROG

Owners of all Housing Tax Credit and CHFA Loan developments must make and maintain vacant units as suitable for occupancy within a reasonable timeframe. Vacant units that are not made ready for occupancy in a reasonable time are noncompliant.

Guidelines for a Reasonable Amount of Time to Make Units Ready

Unit Condition	Reasonable Timeframe
Normal wear and tear	30 days
Unusual repair or replacement due to tenant or other damage	60 days
Remediation required due to methamphetamine or asbestos contamination, or other environmental hazards	Three months for basic remediation Six months for extensive remediation

Annual Owner Certification of Units Not Suitable for Occupancy

As part of the owner's annual reporting obligation stated in the LURA and/or CHFA Regulatory Agreement, the owner is required to certify on the Owner Certification of Continuing Program Compliance whether any units were unsuitable for occupancy (i.e., not fully "made ready" or "rent ready") over 30 days and whether each building in the project is and has been suitable for occupancy.

IRS Reporting of Vacant LIHTC Units Not Suitable for Occupancy

For LIHTC properties within the 15-year Compliance Period, all vacant units not made suitable for occupancy in a reasonable timeframe are out of compliance and are reported on IRS Form 8823, line 11c.



For additional guidance on the tax credit implications of vacant-unit noncompliance, consult a tax attorney or accountant.

Section 2.7 Property Damage

ALL PROG

Tax Credit: Casualty Loss

Casualty loss is defined by the IRS as "damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual." The IRS requires casualty loss that renders a LIHTC unit, building, or common area unsuitable for occupancy to be reported as noncompliance with UPCS or local inspection standards.



IRS 8823 Guide, Chapter 6

Below are some examples of casualty loss and a summary of the owner and CHFA's reporting obligations. Any loss that causes a unit, common area, etc., to be unsuitable for occupancy must be reported to the PCO. If an owner fails to report a casualty loss to CHFA within 10 days, CHFA may report the incident as a noncompliance to the IRS using Form 8823.

Examples

- Floods, wildfires, earthquakes, tornados
- Methamphetamine contamination, kitchen fires, vandalism

Casualty Loss Reporting: Years 1-15

Reporting	Due
Owner who experiences a loss of unit(s), common areas, etc., for any length of time must inform CHFA of the loss in writing.	Within 10 days of the loss
Owner must submit a plan to CHFA that sets a timeframe for reconstruction or replacement of property.	Within 30 days of the loss
CHFA must report the loss and replacement of the property to the IRS. If the areas have not been fully restored, CHFA will attach a copy of the owner's plan and timeframe for replacement to the uncorrected IRS Form 8823 report.	No later than 45 days after the end of the time allowed the building owner to correct the condition(s) that caused noncompliance.
Owner must inform CHFA when all property has been restored and made available for occupancy/use by residents.	Within 10 days of restoration
Once all units have been restored and available for occupancy, CHFA will file a corrected IRS Form 8823 to show the units are back in compliance.	Within 30 days of restoration notice

Casualty Loss Reporting: Post Year 15

Reporting	Due
Owner who experiences a loss of unit(s), common areas, etc., for any length of time must inform CHFA of the loss in writing.	Within 10 days of the loss
Owner must submit a plan to CHFA that sets a timeframe for reconstruction or replacement of property.	Within 30 days of the loss
Owner must inform CHFA when all property has been restored and made available for occupancy/use by residents.	Within 10 days of restoration

Loan: Hazard Insurance Claims

All property owners with a CHFA Loan are required to maintain hazard insurance and to list CHFA as a co-insured party. CHFA's approval is required before hazard insurance claim payments may be deposited.

Hazard Insurance Claim Reporting

When an owner files a hazard insurance claim, they must notify the PCO within 10 days and provide a description of the reason for the claim, i.e., hail damage, water penetration, fire damage, etc. The Asset Management Division then reviews and processes claim requests according to CHFA's internal Hazard Insurance Claim policy.

Once CHFA receives notice of a claim, the PCO and CHFA Construction Services will work with the owner to coordinate an inspection, process the insurance adjustment check(s), and disburse payments to the owner and/or contractor(s).



Please note that even if an insurance claim is not filed, the owner is required to notify the PCO of any significant damage to a property.

Information to Include in Casualty Loss and Hazard Insurance Claim Reporting

When submitting notice of either a casualty loss or a hazard insurance claim, please include all the following.

- Unit, Building Number, and/or location of out of service area(s)
- Date the loss/damage occurred
- Description of cause of the loss and nature of damage
- Estimated date repairs/reconstruction will begin
- Estimated date repairs/reconstruction will be complete
- Whether a hazard insurance claim is being filed (loan only)
    - Copy of insurance adjuster's report or the date it is expected, if not yet completed
- If it has been over 10 days since the loss/damage, an explanation of why the loss was not reported to CHFA

Annual Owner Certification of Unsuitable Units, Casualty Loss, and Hazard Claims

As part of the owner's annual reporting obligation stated in the LURA and/or CHFA Regulatory Agreement, the owner is required to certify on the Owner Certification of Continuing Program Compliance whether the property had the following (including details).

- Any units unsuitable for occupancy (i.e., not fully "made ready" or "rent ready") over 30 days (all properties)
- Any casualty losses (Housing Tax Credit only)
- Any hazard insurance claims (CHFA Loan only)

Section 2.8 Methamphetamine Contamination

ALL PROG

For all Housing Tax Credit and CHFA Loan program units that are not habitable for occupancy due to methamphetamine contamination, CHFA requires the property owner to:

- Comply with all state and local laws relating to methamphetamine testing and clean-up, including hiring a certified third-party consultant;
- Follow all recommendations of such third-party consultant (any variations from those recommendations must be approved by the local authority); and

- Provide CHFA with the following.
    - Certification that the property owner followed the above noted provisions prior to opening the unit for occupancy
    - A post-decontamination report clearing the impacted unit (or link to online report)



Owner Certification of Methamphetamine Decontamination: chfainfo.com/rental-housing/asset-management/compliance-forms#

Tax Credit: Casualty Loss Due to Methamphetamine Contamination

When contamination renders a LIHTC unit, common area, etc., unsuitable for occupancy, it must be reported to the PCO within 10 days. See Section 2.7, Property Damage, for more information.

Colorado Department of Public Health and Environment: Guidance and Resources

The Colorado Department of Public Health and Environment provides online guidance regarding the environmental clean-up of methamphetamine-affected properties, including the following.

- Certified third-party consultant lists
- State regulations and policies
- Training information
- Frequently asked questions
- Instructions on how to submit assessment and decontamination reports



Colorado Department of Public Health and Environment: colorado.gov/pacific/cdphe/methlabcleanup

Section 2.9 Program Compliance Online Resources

ALL PROG

My Account Tools

On the My Account Tools page on CHFA's website, the CHFA Asset Management Division provides online resources and tools for Housing Tax Credit and CHFA Loan development owners and management, including:

- forms frequently requested by owners and management agents,
- what to expect from a review,
- file requirements checklist, and
- links to other CHFA systems and resources, including NextGen, Insight, chfa**reach**, eNews, and Colorado Housing Search.



My Account Tools: chfainfo.com/rental-housing/asset-management/my-account

CHFA Insight

Owners are required to upload most annual submissions and management review documentation in CHFA's secure Insight system. Owners can also use Insight to access Housing Tax Credit and multifamily loan information and to view and download property documents and reports. Available information includes:

- property details, including program types and next scheduled compliance review;
- CHFA staff assigned to the property;
- LURAs and Regulatory Agreements;
- IRS forms 8609 and 8038;
- previous program compliance review reports;
- previous annual submissions; and
- CHFA Loan and reserve account balances and payment/deposit information and history.

The owner/agent must have an Insight username and password to use this online system.



To register for an Insight account, go to the Insight login page and click the request a new user account link.

Note: It may take up to one week to process the enrollment request.

Section 2.10 Program Compliance Updates and eNews

ALL PROG

The IRS, HUD, and CHFA make changes to program regulations, household qualification requirements, and procedures from time to time. Changes may also be made temporarily during extraordinary circumstances.Look for important program updates on CHFA's website and in CHFA's Multifamily Program Compliance eNews.

CHFA eNews

Owners and agents are encouraged to sign up for CHFA's Multifamily Program Compliance eNews at chfainfo.com/arh/asset/Pages/mfpc-enews.aspx. Topics include regulation changes, new rent and income limits, policy and procedure updates, annual submissions reminders, compliance form updates, and training opportunities.

Section 2.11 Program Compliance Training

ALL PROG

chfa**reach** Training

It is critical that all corporate and onsite staff involved in program compliance attend CHFA's Colorado-specific program compliance training at least every other year to keep abreast of changes in laws, regulations, and CHFA policies. CHFA offers our basic and advanced state-specific Housing Tax Credit classes through the chfa**reach** training program.

With more than 120 training events per year, the chfa**reach** program also covers an array of housing issues relevant to owners, managers, and onsite staff. Other topics include Section 8 compliance, Fair Housing, green initiatives, resident services, facility maintenance, and professional development. A schedule of chfa**reach** classes and membership information may be found at chfainfo.com/rental-housing/chfareach.



All Housing Tax Credit owner and management representatives, onsite staff, and any other staff involved in qualifying households are required to complete a compliance training conducted or approved by CHFA prior to the release of IRS Form 8609 for Federal Credits or the Allocation Certificate for State Credits.

Section 2.12 Program Compliance Officer Role

ALL PROG

Each development is assigned a Program Compliance Officer (PCO) who is the primary contact for information and questions about compliance. PCOs are responsible for monitoring each owner's compliance with the LURA and/or CHFA Regulatory Agreement. PCO monitoring responsibilities and activities include the following.

- Conducting management reviews and follow-up reviews as necessary to verify that the owner and the development are compliant with the applicable program requirements
- Reporting noncompliance to the Internal Revenue Service, Colorado Department of Revenue, or HUD when applicable

- Monitoring replacement reserve and other restricted accounts required by the Regulatory Agreement
- Ensuring timely receipt and accurate completion of all required reporting
- Following up with owners and management to respond to inquiries received from applicants and residents
- Conducting compliance trainings for owners and management
- Providing issue-specific technical assistance to owners and management



When required for compliance monitoring purposes, the owner will submit documentation either through CHFA's secure Insight system, when applicable, or directly to the PCO.



To find your PCO, search on CHFA's website by city and property name: chfainfo.com/rental-housing/asset-management/welcome-chfa-asset-management#FindOfficer

Section 2.13 Physical Inspection Officer Role

ALL PROG

Each multifamily development is assigned a Physical Inspection Officer (PIO) who is responsible for conducting all physical inspections in accordance with applicable program regulations and the LURA and/or CHFA Regulatory Agreement. PIO monitoring responsibilities and activities include the following.

- Conducting physical inspections and follow-up inspections as necessary to verify that the owner and the development are compliant with the applicable program requirements
- Following up with owners and management to respond to inquiries received from residents
- Conducting physical inspection trainings for owners and management
- Providing issue-specific technical assistance to owners and management



To find your PIO, use CHFA's Insight application or contact your Program Compliance Officer.

chapter 3

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO HTC — Colorado state HTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Required Submissions

The following chapter outlines the document and fee submission requirements associated with CHFA's multifamily programs. These requirements apply throughout the Extended Use Period, Qualified Project Period, and/or loan term and are also specified in each project's Land Use Restriction Agreement (LURA), CHFA Regulatory Agreement, or Loan Agreement. Please refer to the project's specific governing documents to determine the requirements particular to the project in question.

Please look at the chart below to see the programs to which each section in this chapter is applicable.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
3.1 CHFA Insight	✓							
3.2 Annual Owner Certification Forms	✓							
3.3 Occupancy and Demographic Reporting (NextGen)	✓							
3.4 Audited Financial Statements		✗	✗	✗	✓	✓	✓	✓
3.5 Annual Operating Budget		✗	✗	✗	✗	✗	✗	✓
3.6 Affirmative Fair Housing Marketing Plan		✗	✗	✗	✗	✗	✗	✓
3.7 IRS Form 8703		⇆	⇆	✗	⇆	✗	✗	⇆
3.8 Average Income Reporting		⇆	✗	✗	✗	✗	✗	✗
3.9 Utility Allowance Schedule	✓							
3.10 Submissions Summary	✓							
3.11 TCAP and TCEP Submissions		⇆	⇆	✗	✗	✗	✗	✗

Section 3.1 CHFA Insight

ALL PROG

As explained below, all submissions, except the tenant certifications entered into NextGen, must be either uploaded to or completed directly within CHFA's secure Insight system. For detailed instructions, refer to CHFA's Insight Quick Step User Guide. The owner/agent must have an Insight username and password to use this submission process.

See Section 3.9, Submissions Summary, for a complete overview of submissions and due dates.



Insight Quick Step User Guide: chfainfo.com/rental-housing/asset-management/welcome-chfa-asset-management



To register for an Insight account, go to the Insight login page and click the request a new user account link.

Section 3.2 Annual Owner Certification Forms

ALL PROG

Annual Owner Certifications (AOCs) of Continuing Program Compliance for the previous calendar year are required for the Housing Tax Credit and CHFA Loan programs. The certifications are due no sooner than January 1st and no later than February 15th.

Unlike other submissions that are uploaded by the owner into CHFA's secure Insight system, CHFA now requires that AOCs be completed and submitted directly within Insight. This process requires owner registration to electronically submit and sign within the Insight system.

If they do not already have a unique Insight user account, all property owners responsible for signing annual owner certifications should register for their unique user account in Insight by November 30th.



To register for an Insight account, go to the Insight login page and click the request a new user account link.

How to Complete the Annual Owner Certification

Insight Quick Step User Guide

CHFA's Insight Quick Step User Guide provides step-by-step instructions on how to complete the AOC. Along with other topics, the guide covers how to register, logging in, and submitting the AOC. See Section 5 of the User Guide for details.

Insight Quick Step User Guide: chfainfo.com/rental-housing/asset-management/welcome-chfa-asset-management

Property Information Required to Complete the AOC

Some questions in the AOC require research into the property during the reporting year. Please look up and have the following information on hand before you begin completing and submitting the AOC.

If answers to any questions are incomplete or inaccurate, the certification will be returned to the contacts who submitted the form for correction.

Property Type	Property Information to Look Up Before Completing the AOC

All Properties	▪ Were annual recertifications completed for all low-income households during the reporting year, as required by CHFA?
	  ○ If not, a brief explanation is required.
	▪ Is the property 100 percent affordable or mixed-income with market-rate units?
	▪ List of unit numbers that were uninhabitable over 30 days during the reporting year.
	  ○ The AOC requires make-ready dates and brief explanations for each unit.
	▪ Is the property's NextGen occupancy and demographics data current through the previous month?
	  ○ If not, a brief explanation is required.
	  ○ N/A if the project uses TRACS or is otherwise exempt
	▪ If the property uses a utility allowance schedule, was it updated during the reporting year?
	▪ Current contact information for Owner, Management Agent, Site Manager, Accounting

Housing Tax Credits	▪ Ownership Entity Name and Tax ID ▪ Casualty losses: List of units and dates ○ This includes casualty losses for which an IRS Form 8823 was already filed. ▪ Compliance with additional programs, as applicable, including tax-exempt bond financing (conduit or direct), qualified nonprofit material participation, Average Income, and Colorado state Affordable Housing Tax Credits
CHFA Multifamily Loans	▪ Hazard insurance claims: dates and causes ▪ Compliance with additional programs, as applicable, including tax-exempt bond financing (conduit or direct) and 501(c)(3) tax-exempt bond financing

- See Section 1.3, Colorado state Housing Tax Credit programs, for more information on state HTC.
- See Chapter 13, Tax-exempt Bonds, for more information on tax-exempt PAB financing by CHFA.

Annual Owner Certification of Unsuitable Units, Casualty Loss, and Hazard Claims

As part of the owner's annual reporting obligation stated in the LURA and/or CHFA Regulatory Agreement, the owner is required to certify on the Owner Certification of Continuing Program Compliance whether the property had the following.

- any units unsuitable for occupancy (i.e., not fully "made ready" or "rent ready") over 30 days (all properties)
- any casualty losses and whether (Housing Tax Credit only)
- any hazard insurance claims (CHFA Loan only)

How to Download the Completed AOC

Once accepted by CHFA, copies of signed/submitted AOCs are available in Insight through the property's home screen in the Documents section (not the AOC section). See Section 4 of the User Guide for details.

Who Can Complete and/or Sign the Annual Owner Certification

The management agent may complete the AOC and enter all required information. However, owner certifications must be signed by an ownership entity representative and may not be signed by the management agent.

Contact Role	Permitted Actions in Insight
Management Agent	▪ Answer all questions, add supporting information/comments to each question, when applicable, and add contact information ▪ Submit for Owner Certification
Owner	▪ Answer all questions, add supporting information/comments to each question, when applicable, and add contact information ▪ Submit for Owner Certification (if the owner makes changes) ▪ Agree to electronic form and esignature disclosures ▪ Sign and date the AOC ▪ Submit for Compliance Review

Owner Certification Noncompliance

Failure to submit an accurate and complete annual owner certification is considered noncompliance and can result in a Not in Good Standing designation with CHFA programs and/or other consequences as specified in Chapter 17, Noncompliance. For LIHTC developments, noncompliance with annual owner certification requirements is reported on IRS Form 8823, line 11d.



26 C.F.R. § 1.42-5(c)

Section 3.3 Occupancy and Demographic Reporting (NextGen)

ALL PROG

Owners of all Housing Tax Credit and CHFA Loan developments must enter and submit accurate occupancy and demographic information via NextGen once a property begins leasing units. Required data can be found on each household's Tenant Income Certification (TIC) form and Supplementary Demographic Information form. Before entering data for new developments, owners must first set up all the property's units in NextGen, including their unit number, square footage and unit type.

The NextGen requirement applies to Section 8 RAD properties with Housing Tax Credit and/or CHFA Loans. These properties are not part of CHFA's PBCA contract and are monitored directly by HUD for compliance with Section 8 requirements (not by CHFA).



Most project-based Section 8 properties that are part of CHFA's PBCA contract with HUD and enter occupancy data in TRACS are not required to enter data directly into NextGen.



To register, obtain instructions, and input data go to chfainfo.com/rental-housing/asset-management/nextgen.

Annual NextGen Requirement

All NextGen records for the previous calendar year must be entered, reviewed, and finalized by February 15th.

Monthly NextGen Requirement

Move-in, move-outs, transfers, and recertifications must be entered in the system monthly, preferably by the 10th, but no later than the end of the month following the certification date. CHFA reviews this data for compliance with the occupancy restrictions of the LURA and Regulatory Agreement.

Basic Annual Recertifications in NextGen

For developments conducting basic annual recertifications instead of full annual recertifications, only limited data is required to be entered in NextGen. Specifically, only tenant rent, utility allowance, non-optional charges, rental assistance, and any change in the AMI designation need to be entered. See Section 7.4, Annual Recertification, on how and when to complete a basic annual recertification.

Section 3.4 Audited Financial Statements

All projects with permanent multifamily loans through CHFA must upload audited financial statements to Insight within 90 days [1] following the project's fiscal year end. If the auditor has noted any findings in the statements, the owner must provide an explanation of them and their plan to resolve them.

The audit must state specifically how much surplus cash remained at the end of the fiscal year. Failure to submit this information will result in the denial of the borrower's request for owner distributions of surplus cash.



The audit must reflect the financial standing of the CHFA-financed project independently from the partnership and/or owner entity.

Audit Format

Loan Type	Format
542(c) Risk Share-enhanced Loans	In accordance with the HUD requirements as stated in: ▪ IG 2000.04 – Rev.2, CHG 7, Chapter 3, and ▪ HUD Handbooks 4370.1 and 4370.2
All Other CHFA Loans	In accordance with Generally Accepted Accounting Principles (GAAP)

Audit Confirmation Requests

All auditor requests related to financial audits for CHFA multifamily loans, including reserve balances and loan history, should be emailed to CHFA Commercial Loan Servicing at DL-AM-Commercial_Loan_Servicing@chfainfo.com.

Waiver for Small Multifamily Housing Projects

HUD makes an exception to the financial reporting requirements for small multifamily housing projects. Specifically, a project for which the owner receives less than $500,000 in combined federal financial assistance is permitted to submit an owner-certified financial statement instead of audited financial statements.

Combined federal financial assistance means assistance that non-federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance.

Owners may contact their Program Compliance Officer (PCO) to determine if a project is eligible for this waiver.

[1] Although some Regulatory Agreements and/or loan agreements may indicate a required submission date of 60 days after the end of the fiscal year, 24 C.F.R. 5.801, Uniform Financial Reporting Standards (UFRS), supersedes this requirement by giving all developments 90 days to submit their FYE Audited Financial Statements.

HUD Notice H 2013-23

Developments with New Loans

Permanent loans closing in the last quarter of their fiscal year are not required to complete an annual audit for that year. Instead, CHFA requires that:

- the last three months of the fiscal year be audited with the following fiscal year; and
- end-of-the-year internal financial statements or a financial compilation generated by the owner for the partial year are uploaded to CHFA in Insight within 90 days following the fiscal year end.

Examples:

- A project that has a fiscal year end of December 31st, and the loan closes after October 1st.
- A project that has a fiscal year end of June 30th, and the loan closes after April 1st.

Section 3.5 Annual Operating Budget RS

CHFA requires annual operating budgets only for developments with 542(c) Risk Share-enhanced loans. Owners of developments with 542(c) Risk Share-enhanced loans are required to upload a proposed operating budget to CHFA's Insight system no less than 60 days prior to the beginning of each fiscal year of the project.

The proposed operating budget should include anticipated income of the project and detailed expenses. Likewise, it should take the following into consideration: administrative expenses, administrative fees, management fees, operating expenses, maintenance, services (if applicable), utilities, hazard insurance, taxes and assessments, loan principal and interest, other costs payable pursuant to the financing documents, deposits to a replacement reserve fund, and deposits to any other reserves required by CHFA pursuant to the Regulatory Agreement, Loan Agreement, or other financing documents.

For confirmation of your project's loan type, see CHFA's Insight system or contact your PCO.

Section 3.6 Affirmative Fair Housing Marketing Plan RS

All developments with 542(c) Risk Share-enhanced loans must have an Affirmative Fair Housing Marketing Plan (AFHMP) current within five years and approved by CHFA or HUD. See Chapter 11, Risk Sharing Program, for more information.

For confirmation of your project's loan type, see CHFA's Insight system or contact your PCO.

Section 3.7 IRS Form 8703

TC Y 1-15 PY 15+ CHFA LOAN

Properties financed with Housing Tax Credit and/or CHFA Loans may receive tax-exempt Private Activity Bond (PAB) financing issued by CHFA. Owners of such properties are required by the IRS to make annual certifications on IRS Form 8703, Annual Certification of a Residential Rental Project, beginning with the calendar year in which the project achieves 10 percent occupancy, and throughout the Qualified Project Period as defined under Section 142(d) of the Code. Failure to file Form 8703 during the Qualified Project Period subjects the project owner to an IRS penalty. Depending on the timeline of a project, the requirement to file IRS Form 8703 may occur prior to permanent loan conversion.

For developments with CHFA-issued PAB financing:

- Annually by March 31st during the Qualified Project Period, the project owner is required to submit to the IRS Form 8703 for the previous calendar year.
    - The form certifies whether the project continues to meet the requirements of Section 142(d) of the Code.
- Annually by April 30th, as long as CHFA-issued tax-exempt bonds remain outstanding, the owner is required to upload a copy of the IRS Form 8703 to CHFA's Insight system.



To determine if your project has tax-exempt bonds issued by CHFA, see CHFA's Insight system or contact your PCO.



26 U.S.C. § 142(d)(7)



Properties that receive PAB financing issued by another entity and not CHFA are not required to submit a copy of IRS Form 8703 to CHFA.

Information for IRS Form 8703 - Part III: Issuer and Description of Bonds

Part III of the IRS Form 8703 requires the following pieces of information that may be found on the IRS Form 8038, Information Return for Tax-exempt Private Activity Bond Issues, filed at bond closing.

- Name of issuer
- Issuer's EIN
- Name of bond issue
- Date of bond issue
- CUSIP number
- Issue price
- Final maturity date

Each CHFA PAB-financed development's IRS Form 8038 is available to review in CHFA's Insight System.

Section 3.8 Average Income Reporting

TC Y 1-15

Along with standard Housing Tax Credit submissions, projects that elect Average Income as the minimum set-aside are subject to additional reporting requirements established by the IRS. CHFA's Average Income Compliance Monitoring Policy explains the requirements in full. They include submitting a spreadsheet to the property's Program Compliance Officer via email by February 15th using CHFA's Average Income Qualified Groups Report. The spreadsheet will report the following as of December 31st of the previous calendar year.

- Average Income Test qualified group of units
- Applicable Fraction qualified group of units
- Units that were redesignated during the year and the reason for the redesignation
- Owner's average income designation calculation for each qualified group

CHFA's Average Income Compliance Monitoring Policy: chfainfo.com/rental-housing/asset-management/lihtc-program-compliance

26 C.F.R. § 1.42-19 and 19T

NextGen occupancy data must be current and accurate to prepare a complete average income report.

Section 3.9 Utility Allowance Schedule

ALL PROG

For Housing Tax Credit and CHFA Multifamily Loan properties where residents pay for their own utilities, a utility allowance is required and must be reviewed and updated by the owner/agent each calendar year. This includes utilities where the resident pays the utility provider directly and those where the owner pays the provider and bills the actual charges back to residents through a sub-metering arrangement.

A copy of the schedule for the current calendar year must be uploaded to Insight annually by February 15.



The uploaded utility allowance schedule must be the full original schedule with all applicable utilities marked and total utility allowance per bedroom size listed.



Summaries of schedules and schedules that do not mark applicable utilities and/or are missing unit size totals will not be accepted.

CHFA's Utility Allowance Policies explain IRS and CHFA requirements in detail, including allowable sources, annual updates, rent changes, etc.



Utility Allowance Policy for Housing Tax Credit and Multifamily Loan Developments: chfainfo.com/rental-housing/asset-management/lihtc-program-compliance



Utility Allowance Policy for Specialized Multifamily Loan Program Developments: chfainfo.com/rental-housing/asset-management/multifamily-program-compliance

Ratio Utility Billing System (RUBS)

A RUBS is a system in which the owner pays for the property's utilities and bills each household for their estimated portion of the cost. The estimate of each unit's monthly consumption is made using a formula based on number of household members, unit square footage, etc. IRS regulations do not prohibit the use of RUBS for Housing Tax Credit properties. However, Colorado House Bill 25-1090: Protections Against Deceptive Pricing Practices, effective January 1, 2026, now prohibits the use of RUBS by landlords. Therefore, any Colorado rental properties currently using RUBS must modify their practices as of the end of 2025 to comply with this new Colorado state law. Please consult your legal counsel with any questions on the law.



C.R.S. § 6-1-737

Utility Allowance Schedules for Specialized Multifamily Loan Programs

For CHFA's specialized multifamily loan programs, which include Small-scale Permanent Loans, Middle-income Loans, and Preservation Fund Loans, utility allowance requirements are set for each project. Owners of developments with this type of loan financing should refer to their project's regulatory agreement for the gross rent definition applicable to that property to determine whether a utility allowance must be included. If a utility allowance is not required in gross rent for a particular property, this annual submission requirement does not apply.

Section 3.10 Submissions Summary

ALL PROG



CHFA encourages owner and management agents to set recurring annual reminders regarding the applicable submission dates noted below.

Type	Due	Notes	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
Occupancy and Demographic Reporting (NextGen)	Annual: February 15 Monthly: Last day of the month for the previous month		✓	✓	✓	✓	✓	✓	✓
Utility Allowance Schedule for the current calendar year	February 15	Must be the original schedule with all applicable utilities marked and total allowance per bedroom size listed.	✓	✓	✓	✓	✓	✓	✓
Housing Tax Credit Owner Certification of Continuing Program Compliance	February 15 (no sooner than January 1)	Use for Housing Tax Credit (both Years 1-15 and Post Year 15), TCAP, and TCEP	✓	✓	✗	✗	✗	✗	✗
Owner Certification of Continuing Loan Compliance	February 15 (no sooner than January 1)		✗	✗	✗	✓	✓	✓	✓
First-year IRS Form 8609, Low-Income Housing Credit Allocation and Certification	Within 90 days of filing with the IRS	Part II must be completed by the owner in full, as filed with the IRS.	✓	✗	✗	✗	✗	✗	✗
First-year Colorado Housing Tax Credit Allocation Certificate	Within 90 days of filing with the Colorado Department of Revenue		✗	✗	✓	✗	✗	✗	✗
Post Year 15 Housing Tax Credit Compliance Monitoring Fees	February 15		✗	✓	✗	✗	✗	✗	✗

Type	Due	Notes	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
IRS Form 8703 - Annual Certification of a Residential Rental Project	CHFA: April 30 IRS: March 31	**Housing Tax Credit:** Applicable if CHFA served as a conduit issuer of PAB/tax-exempt financing. **Loan:** Applicable if CHFA served as the issuer of PAB/tax-exempt financing and lender.	⇆	⇆	✗	⇆	✗	✗	✗
Operating Budget	60 days before the development's fiscal year end		✗	✗	✗	✗	✗	✗	✓
Audited Financial Statements	90 days after the development's fiscal year end		✗	✗	✗	✓	✓	✓	✓
Affirmative Fair Housing Marketing Plan	Plan must be reviewed by the owner/agent every five years and, if applicable, approved by CHFA or HUD.	See Chapter 11, Risk Sharing Program, for detailed requirements.	✗	✗	✗	✗	✗	✗	✓
Average Income Qualified Group and Income Designation Reporting	February 15	The PCO will contact the owner directly to provide a template for the required reporting.	⇆	✗	✗	✗	✗	✗	✗

Section 3.11 TCAP and TCEP Submissions

TC Y 1-15 PY 15+

In addition to standard Housing Tax Credit reporting requirements, multifamily projects that received funding through the Tax Credit Assistance Program (TCAP) or the Tax Credit Exchange Program (TCEP) are subject to additional reporting requirements established in the TCAP written agreement or TCEP sub-award agreement, as noted in Section 1.4, TCAP and TCEP.

Below is a summary of those additional reporting requirements, as amended by CHFA from time to time, due in CHFA's Insight system unless noted otherwise. For any questions regarding TCAP and TCEP reporting, contact CHFA's Multifamily Asset Manager.

Reporting	Due
Asset Management Fee	After the anniversary month of the agreement Mail to the attention of CHFA's Multifamily Asset Manager.
Annual Operating Budget	90 days prior to the development's fiscal year end
Audited Financial Statements	90 days after the development's fiscal year end
Quarterly Financial Statements (including balance sheet, income statement, and budget variance report)	Due within 30 days of the close of each quarter
Housing Tax Credit Owner Certification of Continuing Program Compliance	February 15 A separate TCAP/TCEP Owner Certification is not required.

chapter 4

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO HTC — Colorado state HTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Program Compliance

This chapter outlines the requirements properties must meet to maintain eligibility for tax credits, tax-exempt bonds, and/or CHFA Loan financing. Properties that do not consistently meet these requirements during the Compliance Period, Qualified Project Period, and/or loan term may be subject to the applicable penalties outlined in Chapter 17, Noncompliance.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
4.1 Income Limits and Maximum Rents	✓							
4.2 Rent Restrictions	✓							
4.3 Fees	✓							
4.4 Utility Allowances	✓							
4.5 Overcharged Gross Rent	✓							
4.6 Minimum Set-aside Election		✓	✓	✗	⇆	✗	✗	✗
4.7 Applicable Fraction		✓	✓	✗	✗	✗	✗	✗
4.8 Good Cause Eviction and Rent Increase Protection		✓	✓	✗	✗	✗	✗	✗
4.9 Affordable Housing Lease Addendum	✓							
4.10 Lease Non-renewal	✓							
4.11 HUD Section 8 Vouchers	✓							
4.12 Violence Against Women Act (VAWA)	✓							
4.13 Non-transient Occupancy	✓							
4.14 General Public Use		✓	✓	✗	✗	✗	✗	✗
4.15 Vacant Unit Rule		✓	✓	✗	✗	✗	✗	✗
4.16 Owner-occupied Buildings with Four or Fewer Units		✓	✓	✗	✗	✗	✗	✗
4.17 LIHTC Record Retention Requirements		✓	✓	✗	✗	✗	✗	✗
4.18 Employee Units	✓							
4.19 Housing for Older Persons	✓							
4.20 Additional Requirements for CHFA Loans		✗	✗	✗	✓	✓	✓	✓

Section 4.1 Income Limits and Maximum Rents

ALL PROG

Units set aside as low-income under the Housing Tax Credit and CHFA Loan programs must be both income- and rent-restricted as required by their Land Use Restriction Agreement (LURA), CHFA Regulatory Agreement, or CHFA Loan Agreement. The Housing Tax Credit and CHFA Loan programs follow the Multifamily Tax Subsidy Projects (MTSP) Income Limits issued by HUD. When HUD posts income limits each year, typically in the first quarter, CHFA publishes updated Colorado tables showing income limits and maximum rents from 20 percent to 120 percent of Area Median Income (AMI).

In general, for a unit to be eligible for Housing Tax Credit and/or CHFA Loan program financing:

- the household's annual income at move-in must fall within the applicable income limit for the household's AMI designation, number of household members, and county; and
- the household's gross rent must fall at all times within the applicable maximum rent for the unit's AMI designation, number of bedrooms, and county.



CHFA's income limit and maximum rent tables: chfainfo.com/rental-housing/asset-management/rent-income-limits

Annual Changes in Income Limits and Maximum Rents

As noted above, HUD publishes updated income limits each year, typically in the first quarter. IRS Revenue Ruling 94-57 allows LIHTC project owners to rely on the previous year's income limits until 45 days after HUD has released new income limits, or until the effective date, whichever is later. CHFA applies the same timeframe to multifamily developments financed with CHFA Loans.

Protection from Decreases

The IRS allows two types of protection from decreases in income limits and maximum rents: HERA special limits (applicable to some LIHTC projects) and the Hold Harmless Rule (applicable to all Housing Tax Credit and CHFA Loan developments). To identify the correct limits for your project, you must know its placed-in-service (PIS) date.

Hold Harmless Rule

Once a project is placed in service, if the limits for the county in which it is located go down from one year to the next, the project is **not** required to implement the new limits and may continue to use the higher limits already in place. To be "held harmless," a project must have placed in service prior to the implementation cutoff date of the new limits.



CHFA extends the Hold Harmless protection to all multifamily developments financed with CHFA Loans, regardless of whether they were also financed with Housing Tax Credits.



26 U.S.C. § 142(d)(2)(B) and (E)

HERA Special Limits

As part of the Housing and Economic Recovery Act of 2008 (HERA), HUD began publishing a second set of income limits referred to as "HERA Special" in addition to the regular income limits. HERA Special limits are redetermined each year based on specific tests and formulas and apply only to LIHTC projects in certain counties as determined by HUD. To apply HERA Special limits, a LIHTC project must have placed in service as of December 31, 2008.



HERA Special limits do not apply to LIHTC projects that placed in service after December 31, 2008, or to other projects that were not financed with LIHTC (e.g., properties with only CHFA Loans).

Section 4.2 Rent Restrictions

ALL PROG

Units set aside as low-income must be rent-restricted as required by their LURA, CHFA Regulatory Agreement, or CHFA Loan Agreement. A unit is considered to be rent-restricted if the "gross rent" (see below) paid by the household does not exceed 30 percent of the applicable income limit.



26 U.S.C. § 42(g)(2)



Maximum rents for the Housing Tax Credit and CHFA Loan programs are based on the unit's AMI designation and size. Maximum rents are not based on household income.

Gross Rent

"Gross rent" is defined as resident-paid rent plus a utility allowance, if applicable, and any non-optional fees. A utility allowance is used to account for any utilities a resident is required to pay other than telephone, cable, or internet charged by the owner (unless the telephone, cable, or internet fee is not optional). Gross rent must not exceed the applicable maximum rent as listed on the income and rent table in effect for the property as of the date of certification.



CHFA Utility Allowance Policy for Housing Tax Credit and Multifamily Loan Developments: chfainfo.com/rental-housing/asset-management/lihtc-program-compliance.

The following are excluded from the gross rent calculation:

- Housing assistance payments to the owner by HUD under Section 8 of the United States Housing Act of 1937 or any comparable rental assistance program

- Rental assistance payments to the owner by USDA Rural Development associated with loans made under Section 515 of the Housing Act of 1949
- Fees for supportive services (any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent)



26 U.S.C. § 42(g)(2)
26 C.F.R. § 1.42-10 and 1.42-11(a)

Gross Rent Floor

Internal Revenue Procedure 1994-57 allows a LIHTC property owner to establish minimum rent amounts that will not be affected by fluctuations in income and rent limits. In other words, developments will never have to charge gross rents that fall below their established gross rent floor amounts. To establish the gross rent floor, the owner makes an irrevocable election at either the placed-in-service date or the allocation date. If no election is made, the default is based on the placed-in-service date.



The gross rent floor does not apply to the CHFA Loan programs.

Tenant Rent Increases

Tenant rent increases during the lease term are not permitted by CHFA for Housing Tax Credit and CHFA Loan properties. Owners may increase tenant rent only at lease renewal and in accordance with Colorado state and local law. When permitted, changes in rent should be documented with either a lease addendum or a letter to the tenant stating the new amount and effective date that is signed by the owner and tenant.

Noncompliance with CHFA's policy may result in a Not in Good Standing designation with CHFA programs and/or other consequences as specified in Chapter 17, Noncompliance.



An exception is permitted when a mid-lease rent increase is required by the Section 8, USDA Rural Development, or similar rental assistance programs.

Section 4.3 Fees

ALL PROG

The table below includes examples of fees that are and are not permitted by the Housing Tax Credit and CHFA Loan programs. Any allowed fees that must be paid as a condition to live at the property must be included in the gross rent calculation. In addition, any allowed fees charged to the household must be reasonable and in line with those charged by similar properties.



If there is any question about whether a specific fee is allowed, contact your Program Compliance Officer.

Type	Allowed	Include in Gross Rent	Additional Requirements
Application Fee	✓	✗	Charges must not exceed the actual expected out-of- pocket costs for checking tenant qualifications such as rental history, credit history, and criminal history.
Third-party Income and Asset Verification Fees (e.g. the Work Number, banks)	✗	✗	
Third-party Consultant Fees	✗	✗	Fees to review files, approve tenant certifications, etc.
Security Deposit	✓	✗	
Early Lease Termination Fee	⇆	✗	Permitted only when household moves out of the community
Holding Deposit	⇆	✗	▪ Permitted only at the time the owner offers a specific unit to an applicant. ▪ The applicant must agree in writing to the owner's written policy regarding holding deposits.
Pet Deposits, Rents, and Fees	✓	✗	
Service and Companion Animal Deposit, Rents, or Fees	✗	✗	
Parking, Carport, or Garage Fees (if optional)	✓	✗	
Storage Fees (if optional)	✓	✗	
Cable (if optional)	✓	✗	
Air Conditioning (if optional)	✓	✗	
Month-to-month Lease Fee	✓	✓	

Type	Allowed	Include in Gross Rent	Additional Requirements
Mandatory Renters' Insurance or Liability Insurance	✓	✓	▪ Owner is required to obtain a copy of the policy or monthly insurance statement at move-in and at all annual recertifications. ▪ Failure to include the actual premium in gross rent may result in a unit paying over the maximum rent and noncompliance.
Waiting List Fees and Deposits	✗	✗	
Fees for Rent Payments Made by Check, Money Order, or Cashier's Check.	✗	✗	
Fees to Make Rent Payments Electronically/Online (if optional)	✓	✗	Optional fee may not exceed the out-of- pocket cost incurred by the owner.
Unit Transfer Fees	✗	✗	
Utility Transfer Fees	✗	✗	
Fees for Preparing a Unit for Occupancy	✗	✗	▪ Owners are responsible for physically maintaining units in a manner suitable for occupancy. ▪ However, owners are permitted to charge tenants for tenant-caused damage that is beyond normal wear and tear.
Fees Not Allowed Under the Terms of the Project's Agreement(S)	✗	✗	Refer to each project's LURA, Regulatory Agreement, and/or Loan Agreement.
Fees Not Permitted by CHFA's Qualified Allocation Plan (QAP)	✗	✗	Applies to Housing Tax Credit properties only

LIHTC: Fees for Facilities and Resident Services

Refundable deposits to reserve common area facilities such as a community kitchen, community recreation room, etc., are permitted. However, fees to use common area facilities or services may be charged to LIHTC residents in addition to gross rent only if all three of the following statements are true.

- The cost of the facilities or services are not included in the project's eligible basis,
- the facilities or services are optional**,** and
- there is a reasonable alternative to using these facilities or services.



For example, if an owner offers washers and dryers in the units for an additional fee, the cost of the washers and dryers must not be included in Eligible Basis and an alternative, such as laundry facilities at the building, must be provided.



26 C.F.R. § 1.42-11



This rule regarding fees for facilities and services does not apply to CHFA Loan programs.

Noncompliant Fees

For all properties, a unit is out of compliance if the owner charges a fee that is not permitted. CHFA requires owners to cease charging noncompliant fees immediately, to notify households of the change, and to refund noncompliant fees to the household.

For LIHTC properties, CHFA is required to report noncompliant fees to the IRS using IRS Form 8823, line 11g. CHFA will also report to the IRS when the noncompliance is corrected. Per the IRS, an owner cannot avoid tax credit penalties by refunding noncompliant fees.



IRS 8823 Guide, Chapter 11

Section 4.4 Utility Allowances

ALL PROG

As noted above, gross rent is defined as resident-paid rent plus a utility allowance, if applicable, and any non-optional fees. The utility allowance is used to account for any utility fees a resident is required to pay directly either to the utility company or to the owner. A utility allowance is not required for telephone, cable, or internet fees charged by the owner, unless that fee is not optional.

Only certain sources of utility allowances are allowed for Housing Tax Credit and CHFA Loan properties and depend upon each project's type. CHFA does not prepare or publish utility allowances. Please refer to CHFA's Utility Allowance Policy to learn about which utility allowances are allowed for different project types. The policy is based on the applicable federal statute and regulations, and various guidance published by the IRS. To review the policy's detailed information on requirements for allowable sources, annual updates, resident notification requirements, CHFA approvals, implementation timeframes (including the 90-day waiting period), and noncompliance, use the link below.

For LIHTC properties, CHFA is required to report noncompliance with utility allowance requirements to the IRS using IRS Form 8823, line 11m. CHFA will also report to the IRS when the noncompliance is corrected.



CHFA's Utility Allowance Policy for Housing Tax Credit and Multifamily Loan Developments: chfainfo.com/rental-housing/asset-management/lihtc-program-compliance.



26 U.S.C. § 42(g)(2)(B)
26 C.F.R. § 1.42-10
IRS 8823 Guide, Chapter 18

Section 4.5 Overcharged Gross Rent

ALL PROG

Gross rent may not exceed the maximum rent limit for a unit's AMI designation and size. A unit is out of compliance if the owner charges excess gross rent. CHFA requires owners to correct noncompliant gross rents immediately and to refund excess rent charges to the household.



Chargebacks of any rent concessions that raise the gross rent above the maximum rent for any given month will cause a unit to be out of compliance.

Federally Assisted Units with Gross Rent in Excess of Maximum Rent

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

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

If at any time the entire rental subsidy is revoked, the owner must lower the tenant rent to ensure that gross rent does not exceed the LIHTC/CHFA Loan program rent limit.



If household receives Section 8 or a comparable subsidy, their lease must include language stating that, in the event of a termination of the rental assistance, the owner will not charge a gross rent amount in excess of the Housing Tax Credit/CHFA Loan program maximum rent.



26 U.S.C. § 42(g)(2)(B) and (E)

LIHTC Units Charged Gross Rent in Excess of Maximum Rent

Per the IRS, once a LIHTC unit is determined to be out of compliance with the maximum rent, the unit is out of compliance for the rest of the owner's tax year. While noncompliant gross rent is corrected when the gross rent is lowered so as not to exceed the maximum rent, the unit does not come back into compliance until the first day of the owner's next tax year.

CHFA is required to report overcharged gross rent to the IRS using IRS Form 8823, line 11g. CHFA will also report to the IRS when the noncompliance is corrected.

As noted above, CHFA requires owners to refund excess rent charges to the household. Nevertheless, per the IRS, an owner cannot avoid tax credit penalties by providing the refund.



IRS 8823 Guide, Chapter 11

Section 4.6 Minimum Set-aside Election

TC Y 1-15 PY 15+ CHFA LOAN

LIHTC Developments

The Internal Revenue Code mandates that to be eligible for LIHTC, a project must meet one of three minimum set-aside thresholds.

- 20 percent of units at 50 percent Area Median Income (AMI)
- 40 percent of units at 60 percent AMI
- Average Income Test: 40 percent of units at an average of 60 percent AMI

Owners choose which set-aside to meet for each project during the tax credit application process. Once a property places in service, the owner makes an irrevocable election of the minimum set-aside threshold on IRS Form 8609 Part II, First-Year Certification.

CHFA Program Compliance staff monitor compliance with the minimum set-aside through periodic reviews of occupancy and demographic data (via NextGen or TRACS) and regular onsite or electronic compliance reviews. Noncompliance is reported on IRS Form 8823, line 11f.



26 U.S.C. § 42(g)(1)(A)-(C)

Average Income Test

Beginning in 2019, owners of new LIHTC developments in Colorado may elect Average Income Test as the minimum set-aside. Such developments must follow CHFA's Compliance Monitoring guidance specific to the Average Income Test. This guidance identifies additional restrictions, reporting requirements, and monitoring responsibilities. In addition, training specific to Average Income Test compliance is required for all onsite and corporate staff involved in compliance and tenant file preparation.



CHFA Average Income Test Compliance Monitoring Guidance: chfainfo.com/rental-housing/asset-management/lihtc-program-compliance

CHFA Loans Financed with Tax-exempt Bonds

The Internal Revenue Code also mandates that to be eligible for tax-exempt bond financing, a project must meet one of two minimum set-aside thresholds.

- 20 percent of units at 50 percent AMI
- 40 percent of units at 60 percent AMI

The minimum set-aside election and any additional restrictions are determined at bond closing. The election is made on IRS Form 8038, Information Return for Tax-exempt Private Activity Bond Issues, and is also outlined in the occupancy requirements indicated in the project's Regulatory Agreement.

CHFA Program Compliance staff monitor compliance with the minimum set-aside through periodic reviews of occupancy and demographic data (via NextGen or TRACS) and regular onsite or electronic compliance reviews.



26 U.S.C. § 142(d)

Section 4.7 Applicable Fraction

TC Y 1-15 PY 15+

Under the LIHTC program, the amount of tax credits an owner may claim each year is directly related to the number of qualified low-income units at the project. An annual credit amount is determined for each building based on the low-income percentage or "applicable fraction" for each building. The required applicable fraction is established in the first

year of the project and remains the same for the life of the project. That actual applicable fraction at any given time is defined as the lesser of:

- the unit fraction (percentage of low-income units); or
- the floor space fraction (percentage of low-income square footage).

If the actual fraction decreases below the required fraction for any reason, the building may be subject to a loss or recapture of credits. The owner's property manager and onsite staff must be aware of the applicable fraction prior to initial lease-up and must continue to monitor the actual fraction for each building. Noncompliance is reported on IRS Form 8823, line 11e.



The required applicable fraction of each LIHTC building is listed in the property's LURA.



26 U.S.C. § 42(c)(1)(B)-(D)

Section 4.8 Good Cause Eviction and Rent Increase Protection

TC Y 1-15 PY 15+

"Good cause" for eviction or termination of tenancy is determined by applicable state and local law. The owner should specify what "good cause" is in the lease.

If a LIHTC property's Extended Use Period is terminated early due to foreclosure or deed-in-lieu of foreclosure, the property owner is prohibited from the following two actions for three years following the termination of the Extended Use Period. In a 2004 revenue ruling, the IRS clarified that these two actions must be prohibited during the entire Extended Use Period.

- Evicting an existing household from a LIHTC unit or terminating their tenancy within the lease term other than for "good cause"
- Increasing the gross rent of an existing household in a LIHTC unit in a manner not permitted by IRC Section 42



For questions as to what constitutes good cause under Colorado state law, consult legal counsel.



26 U.S.C. § 42(h)(6)(E)(ii)
IRS Revenue Ruling 2004-82
IRS 8823 Guide, Chapter 26

Section 4.9 Affordable Housing Lease Addendum

ALL PROG

CHFA's Affordable Housing Lease Addendum or an acceptable substitute is required as part of the initial lease packet and whenever a new lease is executed at renewal for existing households. Acceptable substitutes for CHFA's addendum include an owner-prepared form or language within the lease, either of which must contain the same language as the CHFA-provided addendum.

CHFA Affordable Housing Lease Addendum: chfainfo.com/rental-housing/asset-management/compliance-forms#

If a lease is automatically renewed, a new lease addendum is not required, because the original lease addendum is tied to the original lease that remains in effect.

For non-bond-financed developments using Project-based Section 8 or USDA Rural Development model leases (which include similar language), a separate CHFA Affordable Housing Lease Addendum is not required.

Section 4.10 Lease Non-renewal

ALL PROG

While not expressly prohibited by the Housing Tax Credit and CHFA Loan programs, lease non-renewal may be prohibited under Colorado state law. An owner who elects not to renew a lease must ensure they are following state and federal fair housing statutes and provide households with adequate notice as required under Colorado state law. CHFA recommends consulting with legal counsel for guidance.

IRS 8823 Guide, Chapter 26

Section 4.11 HUD Section 8 Vouchers

ALL PROG

Owners of Housing Tax Credit and CHFA Loan developments are prohibited from refusing to lease to applicants with Section 8 vouchers simply because they are holders of certificates or vouchers.

If minimum income standards are used as part of the applicant screening criteria for a development (for example, an applicant is required to have income that is three times the rent), for voucher applicants, the total tenant payment, rather than the contract rent, must be compared to the income standard.

26 U.S.C. § 42(h)(6)(B)(iv)

Section 4.12 Violence Against Women Act (VAWA)

ALL PROG

The federal Violence Against Women Act (VAWA), enacted in 1994, is legislation designed to improve criminal justice and community-based responses to domestic violence, dating violence, sexual assault, and stalking in the United States. The 2013 VAWA reauthorization expanded the housing protections from VAWA 2005 to include LIHTC developments.



Violence Against Women Reauthorization Act of 2013
Public Law 113-4

Under VAWA, the LIHTC Program is required to provide a safe place in affordable housing for victims of violence. The law makes clear that a domestic violence incident does not constitute good cause for eviction of the victim if the victim otherwise meets tenant occupancy rules.

To the extent permitted under the applicable Regulatory Agreement and loan documentation, CHFA encourages all multifamily developments financed with CHFA Loans, regardless of whether they have LIHTC or are project-based Section 8, to implement the same protections to victims of domestic violence as those required for developments that fall under VAWA.



Find helpful resources on HUD's VAWA webpage:
hud.gov/VAWA

Required VAWA-related Practices and Documents for LIHTC Developments

The IRS has not issued implementing guidance regarding VAWA. Until such guidance may be issued, as of 2021, CHFA has implemented the following required management practices and documents (see table below) for LIHTC developments in Colorado.

- Prepare a property-specific Emergency Transfer Plan.
- Allow bifurcation of leases to evict the perpetrator and continue housing the victim.
- Train property and compliance staff regarding VAWA requirements on a regular basis and whenever HUD issues updated guidance.
    - Many trainings are available online, including through chfa**reach** at chfainfo.com/rental-housing/chfareach.
- Monitor HUD's website on a quarterly basis for updated VAWA guidance and trainings.

Form Number	Form Title	Notes
HUD-5380	Notice of Occupancy Rights Under the Violent Against Women Act	▪ Provided at move-in ▪ Provided whenever an applicant is rejected ▪ File must contain an acknowledgement confirming this form was provided or made available to residents. ▪ Recommended to post in public areas and on the owner's/agent's website
HUD-5381	Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking	▪ Owner must prepare a property-specific Emergency Transfer Plan ▪ Must be available upon request
HUD-5382	Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation	▪ Used to report domestic violence ▪ Provided at move-in ▪ Provided if applicant is rejected ▪ File must contain an acknowledgement confirming this form was provided or made available to residents. ▪ Recommended to post in public areas and on the owner's/agent's website
HUD-5383	Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking	▪ Must be available upon request
HUD-91067	Lease Addendum (informs households they are protected by VAWA)	▪ Must be signed at move-in ▪ A new addendum must be signed if the lease is amended or a new lease is executed.



The forms above are available at:
hud.gov/VAWA#VAWA-Forms

HUD's detailed H 2017-05 Notice to multifamily owners and agents with guidance on VAWA and how to implement the associated forms is available at:
hud.gov/sites/documents/17-05hsgn.pdf



For LIHTC developments that comply with Section 8, USDA Rural Development, HOME, or other federal program-specific requirements related to VAWA, separate LIHTC forms are not required.

Section 4.13 Non-transient Occupancy

ALL PROG

Housing Tax Credit and CHFA Loan program units may not be used on a transient basis. A unit is considered non-transient and compliant with this rule when the initial lease term is six months or longer. After the initial six-month term, renewal lease terms may be month-to-month.

Units with Initial Lease Terms of Less Than Six Months

Units with initial lease terms of less than six months are not considered low-income and are noncompliant, with the following two exceptions.

- The units are in a building that is used exclusively to facilitate the transition of formerly homeless individuals (within the meaning of Section 103 of the Stewart B. McKinney Homeless Assistance Act).
- A property is designated as Single Room Occupancy (SRO).

If a unit falls under one of these two exceptions, the initial lease term may be less than six months.



26 U.S.C. § 42(i)(3)(B)

Section 4.14 General Public Use

TC Y 1-15 PY 15+

To be eligible for tax credits, LIHTC units must be offered for use by the general public. Low-income units are not offered to the general public if they are provided solely for a member of a social organization or provided by an employer for its employees. Since 2008, Congress makes an exception to allow for occupancy restrictions or preferences that favor residents:

- with special needs;
- who are involved in artistic or literary activities; or
- who are members of a specified group under a federal program, a state program, or a policy that supports housing for such a specified group.

This rule affects any LIHTC building placed in service at any time.



The General Public Use Rule does not apply to developments that do not have LIHTC or tax-exempt bond financing.



26 C.F.R. § 1.42-9
26 U.S.C. § 42(g)(9)

Section 4.15 Vacant Unit Rule

TC Y 1-15 PY 15+

If a low-income unit in a LIHTC project becomes vacant during the year, the owner must make reasonable attempts to rent that low-income unit, or the next available unit of comparable or smaller size, to income-qualifying tenants before any other units in the project are rented to tenants that do not income-qualify. Owners must also attempt to make the unit ready for occupancy within a reasonable time (see Section 2.6, Vacant Units).

The Vacant Unit Rule uses the same definitions of "comparable unit" and "available unit" as the Next Available Unit Rule (see Section 7.5, Next Available Unit Rule).

Attempts to lease the tax credit units must be documented and the documentation kept on file in accordance with the LIHTC record retention requirements outlined in Section 4.17 later in this chapter. Violations of the Vacant Unit Rule are reported on IRS Form 8823, line 11j.



26 C.F.R. § 1.42-5(c)(1)(ix)
IRS 8823 Guide, Chapter 15



The Vacant Unit Rule does not apply to developments that do not have LIHTC or tax-exempt bond financing.

Section 4.16 Owner-occupied Buildings with Four or Fewer Units

TC Y 1-15 PY 15+

LIHTC buildings with four or fewer units occupied by the owner of the building, or any person related to an owner of the building, are ineligible for tax credits. The IRS allows an exception to this rule for acquisition/rehabilitation projects that follow a development plan of action sponsored by a state or local government or by a qualified nonprofit organization. For such projects, the applicable fraction of the building cannot exceed 80 percent of the unit fraction.



26 U.S.C. § 42(i)(3)(C) and (E)
26 U.S.C. § 42(h)(5)(C)

Section 4.17 LIHTC Record Retention Requirements

TC Y 1-15 PY 15+

Information to Be Retained

Per Treasury Department regulations, LIHTC owners are required to retain records for each qualified low-income building in the development that show:

- total number of residential rental units;
- number of bedrooms per unit;
- square footage of each unit;
- percentage of low-income units;
- rent charged for each unit;
- amount of the utility allowance for each unit;
- method of determination of utility allowance;
- number of occupants in each low-income unit;
- low-income unit vacancies and information that shows when and to whom the next available units were rented;
- annual income certification for each unit;
- documentation to support eligibility of low-income residents;
- eligible basis and qualified basis of the building at the end of the first year of the Credit Period; and
- character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) of the Code (e.g., resident facilities that are available on a comparable basis to all residents and for which no separate fee is charged for the use of the facilities, or facilities reasonably required by the development).



26 C.F.R. § 1.42-5(b)(1)

Minimum Record Retention Period

Records for the first year of a LIHTC development's Credit Period must be retained for a minimum of 21 years, which is equivalent to six years after the due date (with extensions) for filing the federal income tax return for the last year of the 15-year Compliance Period of the building.

Owners are required to retain all other records, including resident files, for each building for a minimum of six years after the due date (with extensions) for filing the federal income tax return each year.

Resident file retention is based on the year the resident moved out of the unit.



26 C.F.R. § 1.42-5(b)(2)

Record Retention Method

The IRS allows records to be kept electronically, provided they remain retrievable throughout the required record retention period. The project owner's electronic storage policy must adhere to all applicable IRS regulations and guidance, including the following.

- IRS Revenue Procedure 97-22
- IRS Revenue Procedure 98-25
- IRS 8823 Audit Technique Guide



IRS Revenue Ruling 2004-82

Section 4.18 Employee Units

ALL PROG

All Developments

Adding an employee unit

For Housing Tax Credit and CHFA Loan developments already in service, CHFA will review requests to add units to be occupied by full-time resident managers or other full-time onsite employees who are necessary for the operation of the project on a case-by-case basis. All such requests must be submitted in writing to the Program Compliance Officer (PCO). For mixed-income developments, if an employee unit is approved, it must be taken from the property's market-rate units to maintain the required number and/or fraction of affordable units.

Employees of the owner or management agent who occupy affordable units

When an owner leases a Housing Tax Credit or CHFA Loan unit (i.e., not an "employee unit") to an employee, the employee must be certified as an eligible household, including all standard verification and certification documentation. When the owner/agent lowers the tenant rent payment as a form of in-kind salary or benefit, the value of the foregone rent must be third-party verified and included in total household income.

Housing Tax Credit Developments

For LIHTC developments, units approved to be occupied by full-time resident managers or other full-time onsite employees that are necessary for the operation of the project are treated as part of the residential rental property. Such units are included in a building's eligible basis but are not considered residential rental units and are not included in the building's applicable fraction. The owner of a project with an employee unit may choose to require the employee to pay rent and utilities.

If the owner determines that such a unit approved to be occupied by a full-time onsite employee is no longer needed for the property, the owner must convert the unit to a LIHTC unit and lease it to a qualified household.



IRS Revenue Ruling 92-61
IRS PMTA Memo 2014-22

Section 4.19 Housing for Older Persons

ALL PROG

Some developments financed with Housing Tax Credit and/or CHFA Loan programs are designed to serve primarily senior or elderly residents. Under federal fair housing law, ‘‘housing for older persons’’ generally means housing that meets one of the following criteria.

- Intended for, and solely occupied by, persons 62 years of age or older
- Intended and operated for occupancy by persons 55 years of age or older, and at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older

The Housing Tax Credit and CHFA Loan programs do not specify requirements regarding housing for older persons. The owner shall determine which of the two “housing for older persons” criteria will be applied.

In operating such housing, owners and agents must adhere to federal and state fair housing laws and HUD guidance. CHFA cannot advise on how to comply with Fair Housing requirements and advises owners and agents to seek the advice of their legal counsel.



42 U.S.C. § 3607(b)(2)

Section 4.20 Additional Requirements for CHFA Loans

CHFA LOAN HHF CO CM FUND RS

For developments with CHFA Loans, the Regulatory Agreement, LURA, and/or Loan Agreement state the specific requirements that the owner must adhere to in connection with all phases of operation of the project, and the owner and any subsequent purchaser of the project will comply with the following requirements.

- Rent-restricted units should be representative of each type of unit found in the project and must be intermingled with all other units in the project. All residents in such units shall enjoy access to all common facilities of said project.
- All resident lists, files, applications, and waiting lists relating to the project shall be kept separate and identifiable from any other business unrelated to the project. This information shall be maintained in reasonable condition for audit and examination during business hours by representatives of CHFA or HUD, as applicable.
- All resident leases shall be expressly subordinate to the mortgage and shall contain clauses, among others, wherein the resident:
    - certifies the accuracy of the statements made in the application and Tenant Income Certification (TIC);
    - agrees that the family income, family composition, and other eligibility requirements at the time the lease is executed shall be deemed substantial and material obligations of tenancy. The resident also agrees to comply promptly with all requests for information with respect thereto from the owner. The failure or refusal to comply with this request for information shall be deemed a violation of a substantial obligation of tenancy; and

- agrees that his or her lease may be terminated if any noncompliance by such tenant would adversely affect the federal tax-exempt status of interest bonds issued to provide funds to make the loan (if applicable).



CHFA's Affordable Housing Lease Addendum satisfies the above lease requirement: chfainfo.com/rental-housing/asset-management/compliance-forms#

chapter 5

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO HTC — Colorado state HTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Determining Family Members and Household Income

Low-income units must be occupied by income-qualified households. This chapter outlines the process for determining household members and for identifying and verifying their countable income.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
5.1 Determining Family Members	✓							
5.2 Temporarily Absent Family Members	✓							
5.3 Permanently Confined Family Members	✓							
5.4 Live-in Aides	✓							
5.5 Citizenship Status	✓							
5.6 Qualification of Households at Move-in	✓							
5.7 Annual Household Income Definition	✓							
5.8 Whose Income is Included and Excluded	✓							
5.9 What is Included and Excluded from Income	✓							
5.10 Verifying Income	✓							
5.11 Employment Income	✓							
5.12 Business and Self-employment Income	✓							
5.13 Alimony	✓							
5.14 Child Support	✓							
5.15 Public Assistance	✓							
5.16 Social Security Benefits	✓							
5.17 Unemployment	✓							
5.18 Seasonal Employment	✓							
5.19 Retirement Account Income	✓							
5.20 Student Financial Assistance	✓							
5.21 Nonrecurring Income	✓							
5.22 Household Assistance								
5.23 Zero- or Extremely Low-income	✓							
5.24 Basic Allowance for Housing	✓							
5.25 Real Estate Rental Income	✓							

Section 5.1 Determining Family Members

ALL PROG

Residents in low-income units must be income qualified. For the purpose of determining income eligibility, we look at the income and income from assets of the "family" who is going to occupy the unit. "Family" is a term specifically defined by HUD. When there are persons living in the unit who are not counted as family members, their income and assets are not included in the family's income certification.

Who to Include and Exclude as Family Members

Include	Exclude
All adults and children who will live in the unit full-time, other than those specifically excluded	Foster adults
The following persons who do not reside in the unit full-time. ▪ Children absent due to temporary placement in a foster home ▪ Children in joint custody arrangements who are present in the household 50 percent or more of the time ▪ Children who are away at school, but who live with family during school breaks ▪ Unborn children of pregnant women ▪ Children being adopted ▪ Military member on active duty who is head, co-head, or spouse ▪ Temporarily absent family members who are still considered household members (see Section 5.2) ▪ Permanently confined family members - only if decided by the family to include (see Section 5.3)	Foster children Live-in Aides (See Section 5.4, Live-in Aides) Guests Co-signers/guarantors of the household's lease



Definitions of foster adults and foster children are set by state law.



For persons living in the unit who are excluded as family members, do not list them and do not count any of their income or assets on the Tenant Income Certification (TIC).



24 C.F.R. § 5.603

HUD Notice H 2023-10, HOTMA Implementation Guidance: Section E.2

Section 5.2 Temporarily Absent Family Members

ALL PROG

You must count income of all family members approved as household members even if some are temporarily absent. It is up to the owner and the family to determine what timeframe is "temporary." If it is determined that a family member is only absent from the home temporarily, their entire income must be counted as if they were living in the unit. Examples of people who may be considered temporarily absent are:

- family members employed a great distance away, and
- individuals in a hospital or rehabilitation facility for periods of limited or fixed duration.

Section 5.3 Permanently Confined Family Members

ALL PROG

For persons permanently confined to a hospital or nursing home, the family decides if they will be included as a household member. The family's decision determines if that person's income will be counted. If such a person is included as a household member, their income must be verified and included, and they may not be designated as head, co-head, or spouse.

Section 5.4 Live-in Aides

ALL PROG

Live-in Aide Definition

A live-in aide is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities and who:

- is determined to be essential to the care and well-being of the person(s),
- is not obligated for the support of the person(s), and
- would not be living in the unit except to provide the necessary supportive services.



HUD 4350.3, Paragraph 3-6(E)(3)(A)

Verification of the Need for a Live-in Aide

Per HUD guidelines, if a resident requires a live-in aide, the owner must obtain verification of the need for a live-in aide directly from a resident's physician, psychiatrist, or other knowledgeable health care provider.

Live-in Aide File Documentation

Live-in aides may occupy a household but are not considered household members for the Housing Tax Credit and CHFA Loan programs. Therefore, a live-in aide should not be income-qualified or certified, is not a party to the lease, and must

not be included on or sign the Tenant Income Certification (TIC). Live-in aides may be listed elsewhere in the file (such as a lease addendum) as persons approved to be in the unit.



If the owner's compliance software requires a live-in aide to be listed on the TIC, management should ensure they are clearly designated as a non-family member and ensure they are not included in the family member count or in household income.

Section 5.5 Citizenship Status

ALL PROG

The Housing Tax Credit and CHFA Loan programs have no citizenship requirements. Documentation of citizenship or legal residency is not required to occupy a LIHTC or CHFA Loan unit.

Section 5.6 Qualification of Households at Move-in

ALL PROG

At move-in, a family's annual income must not exceed the applicable income limit designated for the family's size in accordance with the affordability requirements outlined in the project's Land Use Restriction Agreement (LURA) or CHFA Regulatory Agreement.

Families must be qualified for low-income units prior to moving in or taking possession of the unit.



For LIHTC developments, a certification that takes place after move-in may impact the owner's ability to claim tax credits for the unit.

Section 5.7 Annual Household Income Definition

ALL PROG

Federal Guidance on Determining Annual Household Income

Housing Tax Credit regulations require that tenant income is calculated consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937. CHFA monitors CHFA Loan projects according to the same requirements. Therefore, we refer to HUD Handbook 4350.3, Chapter 5, and HUD's HOTMA regulations for guidance in determining how to identify and calculate income.



26 C.F.R. § 1.42-5(b)(1)(vii)

Annual Household Income Definition

Annual household income is the gross income a family anticipates it will receive in the 12-month period following the effective date of the income certification. This includes the following.

- All amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, co-head, or spouse of the head of household
- Unearned income received by or on behalf of each dependent who is under 18 years of age
- Income from assets
    - All actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded
    - Imputed income from net family assets only when net family assets exceed the applicable HUD threshold, and actual asset income cannot be calculated. See Section 6.6, Calculating Income from Assets, for detailed information.



24 C.F.R. § 5.609(a) and (b)



Calculations for all sources of income and income from assets must be documented in the file.

Income which a Family is Legally Entitled to but Does Not Fully Receive

HOTMA regulations emphasize that annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child-support or alimony income must be based on payments actually received, not the amounts to which the family is entitled by court or agency orders. See Sections 5.13, Alimony and 5.14, Child Support, for more information.



Owners of Housing Tax Credit and CHFA Loan developments are no longer permitted to use the more conservative approach of including full court-ordered support amounts when the full amount is not actually received.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.1

Exclusions from Annual Household Income

Annual income does not include nonrecurring income and all other amounts specifically excluded in HUD’s regulations at 24 C.F.R. § 5.609(b), any Federal Register notice on mandatory exclusions issued by HUD, or in IRS regulations.



Owners and agents must ensure their interview guides, applications, questionnaires, and verification forms collect all information necessary to identify all income sources and determine if an income source must be excluded.



For a complete list of income exclusions, see 24 C.F.R. § 5.609(b).

HUD Notice H 2023-10, HOTMA Implementation Guidance: Attachment G

Verification of Excluded Income

Owners may rely on an applicant's self-certification, including the application or questionnaire, as verification of income that is entirely excluded. Third-party verification of excluded income is not required. However, if necessary, owners may third-party verify an income source to confirm whether it qualifies for exclusion.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section J.7



Income that is only partially excluded (for example: earnings in excess of $480, as adjusted, for dependent full-time students) must still be third-party verified.

Excluded Income for VASH Voucher Recipients as of October 24, 2024

In September 2024, the IRS released Revenue Procedure 2024-38 in response to a Notice published by HUD in the Federal Register titled "Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program" and called the HUD–VASH Notice. In the notice, HUD establishes new requirements for determining income for eligibility for HUD–VASH voucher recipients. Specifically, HUD states that for VASH voucher recipients, owners must exclude all VA service-connected disability benefits received by the applicant.

IRS Revenue Procedure 2024-38 applies this exclusion to all developments with Housing Tax Credits and Private Activity Bonds, beginning with resident certifications effective on or after October 24, 2024. CHFA applies this same guidance to developments with CHFA multifamily loans.



Rev. Proc. 24-38
89 F.R. 65769 (HUD–VASH Notice)

Annual Household Income – Annual Adjustments for Inflation

Every year HUD will publish inflation adjustments to the items below that are related to annual income, no later than September 1st. The revised amounts will be effective on January 1st of the following year.

- Income exclusion for earned income of dependent full-time students
- Income exclusion for adoption assistance payments



Be sure to set a recurring calendar reminder to look for HUD's inflation adjustments on income exclusions every year by September 1st: huduser.gov/portal/datasets/inflationary-adjustments-notifications.html

Section 5.8 Whose Income is Included and Excluded

ALL PROG

Included

Income Must Be Included for:
All adult family members 18 years and older This includes family members who are day laborers, independent contractors, and seasonal workers
Emancipated minors (either married or emancipated from the family)
Family members, including children and students, who receive unearned income
Temporarily absent family members
Full-time students who are head, co-head, or spouse
Full-time students who are age 18 and older, and not head, co-head, or spouse: include all unearned income and only the first $480/year, as adjusted, of earned income
Full-time students under age 18 (include only unearned income)
Active military members who are head, co-head, or spouse

Excluded

Income Is Excluded for:
Family members under the age of 18 who receive earned income
Nonfamily members: foster children, foster adults, live-in aides, guests, guarantors, and lease co-signers
Active military members who are **not** head, co-head, or spouse
Full-time students who are age 18 and older, and not head, co-head, or spouse and receive earned income: exclude all but the first $480/year, as adjusted

Section 5.9 What Is Included and Excluded From Income

ALL PROG

Included

Types Included in Income
Gross employment income of adult household members, such as wages, salaries, overtime, shift differential, commissions, fees, tips, and bonuses
Net self-employment and business income of adult household members
Gross unearned income of all household members (including children and students), such as Social Security, SSI, SSDI, TANF, OAP, and AND
Regular payments or distributions received from annuities, insurance policies, retirement funds, pensions, disability benefits, and death benefits
Net income of any kind from personal property
Net income from real estate rentals Includes mortgage payments in lieu of rent made by a rental property occupant on behalf of an affordable housing resident who owns real estate
Recurring monetary assistance, bill payments, and certain in-kind contributions (see Section 5.22, Household Assistance) This includes regular contributions from friends and family, charitable organizations, or another outside source not living in the unit. These contributions can be for general support, rent, utilities, phone bills, car payments, insurance, etc.
Net student financial assistance from certain sources for all Housing Tax Credit and CHFA Loan households (see Section 8.1, Student Financial Assistance Income)
The first $480/year, as adjusted, of earned income for full-time students who are age 18 years and older and who are not the head, co-head, or spouse
Military basic housing allowance if located outside of a QMI (see Section 5.24, Basic Allowance for Housing)
In-kind rent or rent discounts provided to property employees occupying affordable units
Child support and alimony actually received by the family

Excluded

Types Excluded from Income
Employment income of children under 18 years of age
Any income of a live-in aide, foster child, foster adult, guarantor, or lease co-signor
SNAP, Meals on Wheels, and other programs providing food for those in need
Groceries provided by persons not living in the unit
Grants or other reimbursement received for medical expenses
Recurring monetary contributions that are paid by persons not living in the unit directly to a childcare provider
Nonrecurring income (including one-time gifts) (see Section 5.21, Nonrecurring Income)
Certain student financial assistance (see Section 8.1, Student Financial Assistance Income)
Earned income in excess of $480/year, as adjusted, for full-time students 18 years or older who are not the head, co-head, or spouse
Loan proceeds of any kind, including personal and student loans
Military hostile fire pay
Military basic housing allowance only if located inside a QMI area (See Section 5.24, Basic Allowance for Housing)

Included

Types Included in Income
Income from real property and non-necessary personal property assets (see Section 6.6, Calculating Income from Assets)
Some distributions of income earned on trusts (See Section 6.10, Trusts)
The first $480/year, as adjusted, of adoption assistance payments for a child
All other sources of income not otherwise excluded by IRS or HUD regulations

Excluded

Types Excluded from Income
Reverse mortgage payments
All trust principal distributions and some trust earned income distributions (See Section 6.10, Trusts)
Adoption assistance payments for a child in excess of $480/year, as adjusted
Deferred payments from Social Security, VA, or other sources that are received in lump sum amounts
Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation
Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments
Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty, that resulted in a family member becoming disabled
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 IRS or other Federal law.
Civil rights settlements or judgments, including settlements or judgments for back pay
Income earned on amounts placed in a family's Family Self-sufficiency Account
Veteran aid and attendance payments
Achieving a Better Life Experience (ABLE) Accounts – both income-generated from and distributions from such accounts
All other types of income excluded by 24 C.F.R. § 5.609(b)



When wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, owners must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

24 C.F.R. § 5.609(b)

HUD Notice H 2023-10, HOTMA Implementation Guidance: Attachment G

Section 5.10 Verifying Income

ALL PROG

CHFA's Policy on Verifying Income

At move-in and for all full annual recertifications, owners must verify all sources of income indicated in the household's qualifying paperwork. For the Housing Tax Credit and CHFA Loan programs, CHFA requires third-party documentation according to the Section 8 verification hierarchy updated by HOTMA regulations.

All attempts to obtain the most acceptable forms of verification must be documented before the owner may use a less acceptable form of verification. The hierarchy summary table below describes verification types from most acceptable to least acceptable. A description of each verification method and additional guidance follows the table.

Acceptable forms of verification for specific income types are noted as applicable throughout the remainder of Chapter 5.

Follow up with employers, residents, etc., and clarification records are required when verified income documentation is incomplete, inconsistent, or raises red flags.

Income Verification Hierarchy

Income Verification Technique	Order of Acceptability	Additional Information
Upfront Income Verification (UIV) using other services These include independent third-party systems like The Work Number, web-based state benefits systems, etc.	Highest	Exception: Using The Work Number or a similar verification service is not required if it charges a fee.
Tenant-provided verification (written, third-party verification documents from the source)	High	▪ Pay stubs or payroll summary report ▪ SSA benefit letter ▪ VA or other pension letter

Income Verification Technique	Order of Acceptability	Additional Information
		▪ Child support payment stubs ▪ Public assistance benefit letters or printouts ▪ Unemployment benefit statements ▪ Annuity statement ▪ Bank statements to verify assets
Written, third-party verification form	Medium	Verification form received in writing directly from the third-party source of income
Oral third-party verification	Medium	Verification form completed by management with the third-party source of income by phone or in person
Self-certification by the applicant/resident	Low	Only to be used as a last resort when unable to obtain the third-party verifications listed above



Third-party verification documents may be obtained directly from the third party or through the family.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Sections J.5, J.5.a, and Table J2

Income Verification Explanations

Upfront Income Verification (UIV) Using Enterprise Income Verification (EIV) System

Not permitted for Housing Tax Credit and CHFA Loan Move-in Certifications

For properties with Section 8 housing assistance payment contracts, HUD requires owners to verify many income types using the online EIV system. Although this is the highest level of verification for HUD programs, because CHFA Program Compliance Officers are not authorized by HUD to review EIV reports, EIV reports may not be used as third-party verification for the Housing Tax Credit and CHFA Loan programs.



EIV reports may not be kept in file used for Housing Tax Credit or CHFA Loan program compliance, unless they are removed ahead of a CHFA program compliance review.

Exception for Mixed-income Full Annual Recertifications

For mixed-income developments that complete a full annual recertification, management at project-based Section 8 properties may use CHFA's Summary of EIV Third-party Verification for Annual Recertifications form to summarize EIV reports instead of obtaining separate third-party income verifications.



Summary of EIV Third-party Verification for Annual Recertifications: chfainfo.com/rental-housing/asset-management/compliance-forms#

Upfront Income Verification (UIV) Using Other Services

The most acceptable income verification method for the Housing Tax Credit and CHFA Loan programs is Upfront Income Verification (UIV). UIV is verification through an independent source that systematically and uniformly maintains income information in an automated computerized form for many individuals. If an income source uses a UIV service as their verification system, owners are required to use it, unless the service charges a fee.



If an income source uses a fee-based service and the owner elects not to pay the fee, this must be documented in the file before moving on to use tenant-provided documents as verification.

Tenant-provided Verification Documents

If the file contains documentation showing UIV verification is either not available for the income source or charges a fee, documents submitted by the applicant are the next most acceptable method to document income. The documents must be generated by a third-party source within 120 days of the date they are received by the owner.

Examples include: SSA benefit letters, Veterans Administration (VA) and other pension letters, pay stubs, payroll summary reports, child support payment stubs, public assistance benefit letters or printouts, unemployment benefit statements, annuity statements, and bank statements to verify assets.



Since these benefits typically do not change more than annually, Social Security, VA, and other pension letters, and annuity statements do not have to be dated within 120 days and may be dated up to one year prior to the certification effective date.

Third-party Verification Forms

If the file contains documentation showing UIV verification is unavailable and the tenant is unable to provide third-party verification documents, a verification form is the next most acceptable method to document income. Before the form is processed, the resident must sign the form to indicate their consent to release income information.

Types of Third-party Verification Forms

Both a written and verbal verification form are equally acceptable. The written method does not need to be attempted before obtaining a verbal verification.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section J.5.a

Written Third-party Verification Form

With the written form method, the owner/agent sends the form directly to the verifying agency or person for the income source (e.g., the Department of Human Services or an employer) via fax, mail, or email, and receives it back directly from them. The resident may not handle the form. In rare cases where the contact person for the source of income does not follow the form's instruction and gives the form to the resident to return, the owner must call them to verify all information is still accurate.

To obtain the third-party written verification, complete the following steps. While it is no longer required to document how income verifications are received, CHFA still recommends doing so.

- Document why tenant-provided documents could not be obtained.
- Have the resident sign a release form authorizing third-party disclosure of the applicant's income.
- Email, mail, fax, or hand deliver the form directly to the appropriate third-party contact. Note: The appropriate contact information must be confirmed by management (not the resident).
- Request that the third-party email, mail, fax, or hand deliver the form directly back to you. Forms may not be hand carried by the resident to or from the verifier.
- To document receipt from the verifier, the form or document should contain a return fax line, the email from the verifier, the envelope from the verifier, or a clarification record indicating the date received in person and from whom.

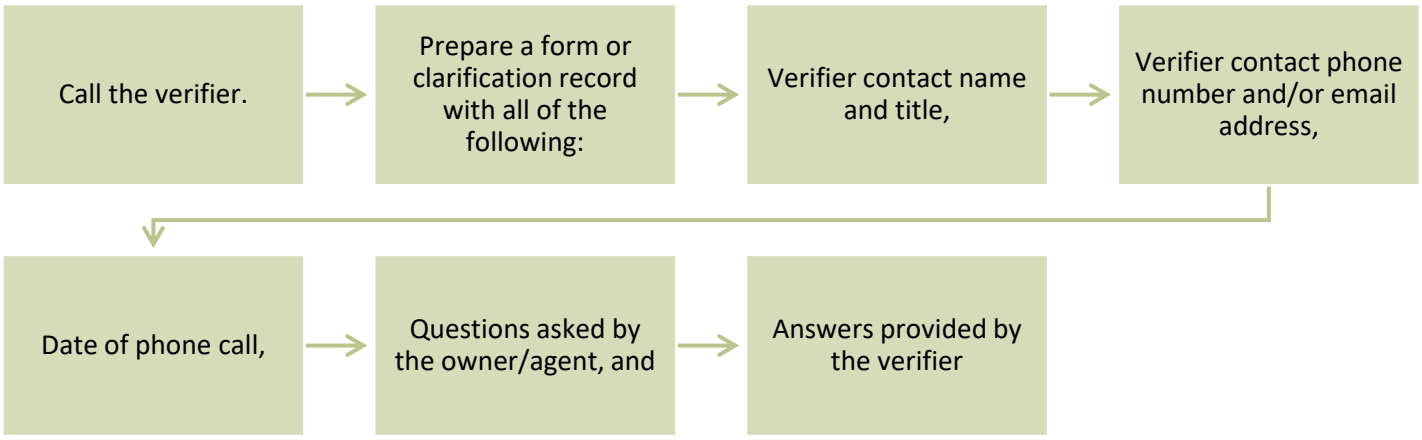


Sample Clarification Record: chfainfo.com/rental-housing/asset-management/compliance-forms#

Verbal Third-party Verification Form

To complete a verbal verification form, the owner/agent contacts the verifying agency or person for the income source via telephone or in-person visit. During the call or visit, the owner asks all necessary questions to collect the same information provided on a written verification form, then documents the responses either on the form itself or in a clarification record. In addition, the owner must document the name of the person providing the information, the person's title and phone number, and the date of the phone call or visit.

To obtain the third-party verbal verification, complete the following steps.



Self-certification of Income

As a last resort, only when the file contains documentation showing how all third-party verification methods explained above were attempted and why they were unsuccessful, the owner may use the resident's self-certification.

To complete a self-certification, the tenant submits a signed and dated statement of reported income. CHFA does not require that a self-certification be notarized. However, it is recommended to include language on any self-certification form to ensure the certifier understands the consequences of knowingly providing false information.

Documenting Income Calculations

- Legible calculations for all sources of income, including income from assets, must be attached to each verification in the file. This can include copies of calculator tapes, calculation forms/spreadsheets, or handwritten calculations.
- In addition, when a household has more than one source of income and income from assets, the file must contain a comprehensive income summary page that lists each income source with its amount of annual income as well as the total combined household annual income from all sources.



Calculations for each income source as well as total combined household income must match the amounts listed on the Tenant Income Certification (TIC).

Documentation of Attempts to Obtain Most Acceptable Verifications

If the most acceptable verification types cannot be obtained, the file must contain documentation showing how and when the owner/agent made the attempts to obtain that documentation before relying on less acceptable types.

Documentation examples include the following.

- Clarification record explaining why a UIV system was not used
- Clarification record explaining why the resident did not provide verification documents
- Copies of fax attempts or emails sent to the income source for a written verification
- Call log showing the dates when management called the income source to request verbal verification

How Long Are Income Verifications Valid?

Income verifications that are subject to change throughout the year are valid for 120 days from the date of the document or the date the document was signed by the person verifying the information. Once the 120-day period has expired, the documentation is no longer considered reliable and new verifications must be obtained.



Information that changes no more than once per year, such as Social Security benefits, pensions, annuities, and other lifetime benefits, may be dated up to one year (365 days) prior to, instead of within 120 days of, the certification effective date.

Consistent Treatment of Applicants/Residents

To ensure households are treated fairly, owners must conduct income verifications and calculations in the same manner for all applicants and residents. For example, if two applicants both work for employers that use The Work Number UIV service, the owner may not verify with The Work Number for one applicant and pay stubs for the other applicant. Or, if two applicants have the same type of income, income must be calculated the same way.



Additional verification may be collected when necessary to document the reason for inconsistent information or other items that need clarification in a particular tenant file.

Public Housing Authority Income Verification for Households with Housing Choice Vouchers (HCV)

When a household has an HCV, you may obtain third-party written verification from the voucher administrator (e.g., public housing authority) that verifies their income and income from assets in lieu of obtaining separate third-party income verifications. The verification must be completed using CHFA's Public Housing Authority Statement of Income and Assistance.



Public Housing Authority Statement of Income and Assistance:
chfainfo.com/rental-housing/asset-management/compliance-forms#

If the PHA's information is different than information provided by the resident on the application, questionnaire, etc., the owner must clarify all inconsistencies.

Other Means Tested Public Assistance Income Verification ("Safe Harbor")

Owners may determine a family's total annual income, including income from assets, based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested federal public assistance programs.

- Temporary Assistance for Needy Families (TANF)
- Medicaid
- Supplemental Nutrition Assistance Program (SNAP)
- Earned Income Tax Credit
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC)
- Supplemental Security Income
- Other programs administered by the HUD Secretary
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding
- Other federal benefit determinations made by other means-tested federal programs that the HUD Secretary determines to have comparable reliability and announces through a Federal Register notice

26 C.F.R. 5.609(c)(3)

HUD Notice H 2023-10, HOTMA Implementation Guidance: Section J.4

If the Safe Harbor income determination's information is different than information provided by the resident on the application, questionnaire, etc., the owner must clarify all inconsistencies.

Safe Harbor Verification

If an owner elects to use one of the above, they must obtain the income information using a third-party verification. The third-party verification must state the family size, must be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the unit, except for household members), and must state the amount of the family's annual income. The annual income does not need to be broken down by family member or income type. Annual income includes income earned from assets. Therefore, when using Safe Harbor to verify a family's income, owners will not separately verify a family's net family assets or the income earned from those assets.

The Safe Harbor verification may be in the form of an award letter from the relevant federal program and must show that the family's income determination was made in the previous 12 months. See Section J.4 of HUD's Notice at the reference above for clarification on acceptable verification dates.



Because Safe Harbor covers total family income from all sources, owners are not permitted to mix and match Safe Harbor income determinations and other income verifications.

Owner's Policy on Safe Harbor Income Determination

Owners are not required to accept or use determinations of income from other federal means-tested forms of assistance. Nevertheless, they must document in a written policy whether and when they will accept Safe Harbor income determinations, including which programs from which they will accept income determinations.

Income Verification Using Income Tax Returns

CHFA does not permit the use of income tax returns as verification of income at move-in.

However, for mixed-income developments conducting full annual recertifications, if the file contains documentation showing UIV verification is unavailable and the tenant is unable to provide verification documents, income tax returns are an acceptable method to document income.



Income tax returns will only be accepted if they have the corresponding official tax forms and schedules attached and include a third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

Section 5.11 Employment Income

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Employment income includes wages, salaries, overtime pay, shift differential pay, commissions, fees, tips, and bonuses. Employees may work full-time or part-time and may also be classified as day laborers or seasonal workers.

Employment-related Definitions

Employee

Generally, an individual who performs services for a business, if the business can control how the worker is paid, what work will be done, and how it will be done.

Day Laborer

An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

Seasonal Worker

An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.



24 C.F.R. § 5.603(b)

Verifying Employment Income

Owners are responsible for obtaining third-party verification of employment income according to the Section 8 verification hierarchy updated by HOTMA regulations. The hierarchy lays out the most acceptable to the least acceptable methods. See summary table below that describes verification types from most acceptable to least acceptable. A description of each verification technique and additional guidance follows the table.



Third-party verification may be obtained directly from the third party or through the family.

Employment Verification Hierarchy

Employment Verification Technique	Order of Acceptability	Additional Information
Upfront Income Verification using independent third-party systems like The Work Number.	Highest	Exception: Using The Work Number or a similar verification service is not required if it charges a fee.
Tenant-provided verification (written, third-party verification from the source)	High	▪ Minimum of two current and consecutive pay stubs, or ▪ Payroll summary report ▪ Employer hire letter for new employment prior to first two pay checks
Written, third-party verification form	Medium	Verification of Employment form received directly from the employer
Oral third-party verification	Medium	Verbal Verification of Employment form completed by management with the employer by phone or in person

Employment Verification Technique	Order of Acceptability	Additional Information
Self-certification by the applicant/resident	Low	Only to be used as a last resort when unable to obtain the third-party verifications listed above



HUD Notice H 2023-10, HOTMA Implementation Guidance: Sections J.5, J.5.a, and Table J2

Employment Verification Explanations

Upfront Income Verification (UIV) Using Enterprise Income Verification (EIV) System

Not permitted at Move-in for Housing Tax Credit and CHFA Loan programs

For properties with Section 8 housing assistance payment contracts, HUD requires owners to verify many income types using the online EIV system as the highest level of verification. However, because CHFA Program Compliance Officers are not authorized by HUD to review EIV reports, EIV reports may not be used as third-party verification for the Housing Tax Credit and CHFA Loan programs.



EIV reports may not be kept in file used for Housing Tax Credit or CHFA Loan program compliance, unless they are removed ahead of a CHFA program compliance review.

Exception for Mixed-income Full Annual Recertifications

For mixed-income developments that complete a full annual recertification, management at project-based Section 8 properties may use CHFA's Summary of EIV Third-party Verification for Annual Recertifications form to summarize EIV reports instead of obtaining separate third-party income verifications.



Summary of EIV Third-party Verification for Annual Recertifications:
chfainfo.com/rental-housing/asset-management/compliance-forms#

Upfront Income Verification (UIV) Using Other Services (The Work Number, etc.)

The most acceptable income verification method is Upfront Income Verification (UIV). UIV is verification through an independent source that systematically and uniformly maintains income information in an automated computerized form for a number of individuals. If an applicant/resident's employer uses The Work Number or a similar UIV service as their employment verification system, owners are required to use it, unless the service charges a fee.



If a resident's employer uses The Work Number or a similar fee-based service and the owner elects not to pay the fee, this must be documented in the file before moving on to using pay stubs as verification.

Tenant-provided Verification

If the file contains documentation showing UIV verification is either not available for the applicant's employer or charges a fee, verification submitted by the applicant is the next most acceptable method to document employment income. The verification must be generated by a third-party source within 120 days of the date it is received by the owner. This could include either paycheck stubs or a payroll summary report.

Paycheck Stubs and Payroll Summary Reports

Pay stubs and payroll summary reports are acceptable only if:

- the paycheck stubs are consecutive,
- the paycheck stubs or payroll summary report covers at least the two most recent pay periods prior to the date of certification,
- the paycheck stubs or payroll summary report are complete and unaltered, and
- efforts to obtain UIV verification first are documented.



When using pay stubs, owners must collect the same number for all applicants. If only two pay stubs are collected from one applicant, only two pay stubs may be collected from all applicants, unless there is a valid reason.



Additional verification may be collected when necessary to document the reason for inconsistent information or other items that need clarification.

Using Online Account or Mobile Phone Payroll App Screenshots of Pay Stubs

If the applicant is unable to provide hard copy pay stubs, screenshots of the resident's online account or mobile phone payroll app may only be used if the following conditions are met:

- the screenshot must show the resident's name on the account or pay stubs, and
- the pay stubs must be clearly dated and contain all of the same information required for hard copy pay stubs, including pay period start and end dates and gross earnings per pay period.

Third-party Verification of Employment Form (VOE)

If the file contains documentation showing UIV verification is unavailable and the tenant is unable to provide pay stubs or a payroll summary, a Verification of Employment (VOE) is the next most acceptable method to document employment income. Before the VOE is processed, the resident must sign the form to indicate their consent to release employment information.

The employment verification form must request basic income information, including base pay, frequency, overtime pay, shift differential pay, bonus, tips, commissions, and next pay increase. Any blanks or discrepancies in the verification must be clarified with the employer by the owner prior to certifying the resident.

Verification of Employment: chfainfo.com/rental-housing/asset-management/compliance-forms#

Third-party Employment Verification Types

Both a written VOE and verbal VOE are equally acceptable. The written method does not need to be attempted before obtaining a verbal VOE.

HUD Notice H 2023-10, HOTMA Implementation Guidance: Section J.5.a

Written Third-party Employment Verification

With the written VOE method, the owner/agent sends the VOE form directly to the employer via fax, mail, or email, and receives it back directly from the employer. The resident may not handle the form. In rare cases where the employer does not follow the form's instruction and gives the VOE to the resident to return, the owner must call the employer to verify all information is still accurate.

To avoid fraud, the employer contact information on the VOE must be completed by the property owner/agent after confirming the information, not by the resident.

Verbal Third-party Employment Verification

To complete a verbal VOE, the owner/agent contacts the employer via telephone or in-person visit. During the call or visit, the owner asks all the questions listed on the VOE form and documents the employer's responses either on the form itself or in a clarification record. In addition, the owner must document the name of the person providing the information, the person's title and phone number, and the date of the phone call or visit.

Self-certification of Employment Income

Only when the file contains documentation showing how all third-party verification methods explained above were attempted and why they were unsuccessful, the owner may use the resident's self-certification as a last resort.

To complete a self-certification, the tenant submits a signed and dated statement of reported income. CHFA does not require that a self-certification be notarized. However, it is recommended to include language on any self-certification form to ensure the certifier understands the consequences of knowingly providing false information.

Documentation of Attempts to Obtain Most Acceptable Verifications

If the most acceptable verification types cannot be obtained, the file must contain documentation showing how and when the owner/agent made the attempts to obtain that documentation before relying on less acceptable types.

Documentation examples include the following.

- Clarification record explaining why the Work Number or other applicable system was not used
- Clarification record explaining why the resident did not provide pay stubs or a payroll summary report
- Copies of fax attempts or emails sent to the employer for a written verification
- Call log showing the dates when management called the employer to request verbal verification

Consistent treatment of applicants/residents

To ensure households are treated fairly, owners must conduct employment verifications in the same manner for all applicants and residents. For example, if two applicants both work for employers that use the Work Number, the owner may not verify with Work Number for one applicant and pay stubs for the other applicant. Likewise, if only two pay stubs are collected from one applicant, only two pay stubs may be collected from all applicants, unless there is a valid reason to do otherwise.



Additional verification may be collected when necessary to document the reason for inconsistent information or other items that need clarification in a particular tenant file.

New Employment Verification

For new employment income sources, the owner should verify income using a traditional written, third-party Verification of Employment (VOE) form or, if a VOE is unavailable, the best available information. This could include an employer's signed and dated letter of hire.

Employment Verification Using Income Tax Returns

For mixed income developments conducting full annual recertifications, if the file contains documentation showing UIV verification is unavailable and the tenant is unable to provide pay stubs or a payroll summary, income tax returns are an acceptable method to document employment income. However, the income tax returns will only be accepted if they have the corresponding official tax forms and schedules attached and include a third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).



CHFA does not permit the use of income tax returns as verification of employment income at move-in.

Employment Termination Verification

If an adult household member had employment that ended within three months prior to the certification date, the owner must verify the employment termination date directly with the former employer. If attempts to obtain a written or verbal verification from the former employer are unsuccessful and documented in the file, the owner may accept a signed and dated statement by the applicant/resident specifying the last day of employment.

Calculating Annual Employment Income

Gross anticipated employment income must be annualized using the household's current circumstances, unless the verification indicates that a change will occur in the next 12 months, as explained below.

- For The Work Number, pay stubs, or a payroll summary, the average gross earnings per pay period is annualized.
- For a Verification of Employment, the wage and frequency of pay are used to annualize income.

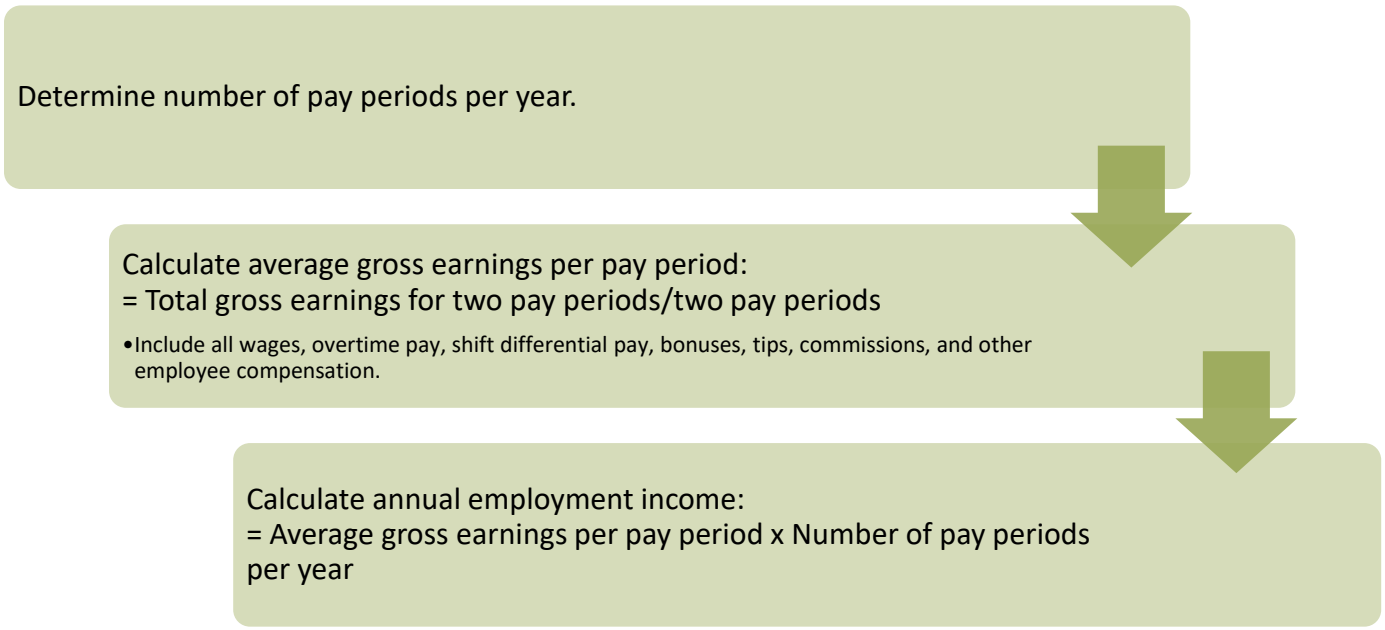
When wages are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, owners must use the gross amount, prior to the reduction, to determine a family member's annual employment income.

Documenting Employment Income Calculations

Calculations for annual employment income and all other sources of income must be attached to each verification in the file. This can include copies of calculator tapes, calculation forms/spreadsheets, or handwritten calculations.

Calculating Employment Income Using UIV (Work Number), Pay Stubs, or Payroll Summary

- This calculation is conducted using gross earnings from the two most recent pay periods prior to the date of certification.
- Determine how often the applicant is paid and the number of pay periods per year.
    - Weekly – every week (52 pay periods)
    - Biweekly – every two weeks (26 pay periods)
    - Semimonthly – two times per month (24 pay periods)
    - Monthly – once per month (12 pay periods)
- Calculate the average gross earnings received over the two pay periods.
    - Include all wages, overtime pay, shift differential pay, bonuses, tips, commissions, and other employee compensation.
- Multiply the average gross earnings per pay period by the number of pay periods per year to obtain annual income.



Calculating Employment Income Using Verification of Employment (VOE)

Multiply the income (hourly or salaried amount) by the maximum number of periods (hours, months, etc.) the employer anticipates the resident will work in the next 12 months. Include all wages, overtime pay, shift differential pay, bonuses, tips, commissions, and other employee compensation.



If a pay increase is noted on the VOE, determine the number of pay periods before and after the increase and include the pro-rated raise in your calculation.

Below are the methodologies to use when determining annual income according to the person's wage and hours.

- Hourly wages - for full-time employment at 40 hours per week: multiply by 2,080 hours
- Weekly wages: multiply by 52 weeks
- Biweekly wages (every two weeks): multiply by 26 pay periods
- Semimonthly amounts (two times per month): multiply by 24 periods
- Monthly amounts: multiply by 12 months
- Annual salaries: no further calculation required

Section 5.12 Business and Self-employment Income

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When calculating annual income, owners must include net income from the operation of a business and any self-employment income received by the applicant/resident as an independent contractor. This includes those who are paid in cash and those who receive an IRS Form 1099.

Independent Contractor Definition

An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

What to Include in Business Income

Net business income is gross income less business-related expenses, interest on certain loans, and depreciation, computed on a straight-line basis.

Business Income Includes	Allowable Deductions from Business Income	Prohibited Deductions from Business Income
Net income from the business	Business expenses (e.g., salaries, utilities, supplies, rent, insurance)	Principal payments on loans
Salaries paid from the business to any adult family members	Interest portion on loans that were not used for business expansion	Interest on loans or other expenses for business expansion

Business Income Includes	Allowable Deductions from Business Income	Prohibited Deductions from Business Income
Cash or assets withdrawn by any family member (unless the withdrawal is reimbursement for an investment)	Straight-line depreciation	Expenses for capital improvements

Business and Self-employment Income Verification

CHFA requires all the following documentation for **all** business owners and self-employed persons, including those who are paid in cash and those who receive an IRS Form 1099 tax statement.

Required Documentation	Additional Information
Certification of Income for Self-employed Persons	Certification of Income for Self-employed Persons: chfainfo.com/rental-housing/asset-management/compliance-forms#
Business plan summary	Business plan summary must include business name, business/self-employment type, date business/self-employment started, frequency of work, frequency of payment, and average payment amounts.
Year-to-date profit and loss statement	Income and expense statement or similar income statement that reflects actual YTD income and expenses, not estimates or averages
Most recent federal tax return ▪ **If the person files annual tax returns**	Must include IRS Form 1040 and Schedule C
Most recent annual profit and loss statement ▪ **If the person does not file annual tax returns**	Income and expense statement or similar income statement that reflects actual previous calendar year income and expenses, not estimates or averages

Notes on Business and Self-employment Tax Returns

- The IRS requires self-employed individuals to file an income tax return if their net earnings from self-employment were $400 or more. Per the IRS, if their net earnings from self-employment were less than $400, they still have to file an income tax return if they meet any other filing requirement listed in the IRS Form 1040 and 1040-SR instructions.
- CHFA does not require applicants or residents to file tax returns. Nevertheless, if it appears that an applicant/resident was required by the IRS to file an income tax return and states they did not file, a Verification of Non-filing Letter from the IRS may be required by the owner or CHFA.
- If the taxpayer (applicant/resident) filed a tax return, but does not have a copy of the return, they may request a tax return transcript from the IRS at irs.gov/individuals/get-transcript. The resident may also complete IRS Form 8821, Tax Information Authorization, which allows the owner to verify their federal tax return.

Certification of Income for Self-employed Persons: chfainfo.com/rental-housing/asset-management/compliance-forms#

Determining the Amount of Business and Self-employment Income for the TIC

Because anticipated self-employment income can be difficult to document and estimate, CHFA's policy requires that self-employment income be determined as summarized below. For new businesses without historical financial records, the owner must make their best attempt to estimate anticipated annual income.

- Review three amounts: historical annual net income, current YTD net income, and projected annual net income.
- Use the YTD profit and loss statement to annualize current net income.
- Use the most conservative annual amount of the three on the TIC, unless you verify it is unrealistic.
- Explain significant discrepancies between years using a clarification record.

Sample Clarification Record: chfainfo.com/rental-housing/asset-management/compliance-forms#

Historical: What did they earn last year?	**Current: What are they on track to earn this year?**	**Projected: What do they anticipate for the next 12 months?**	**Questions to ask**
For residents who file taxes: tax return - most recent Form 1040 with Schedule C	YTD profit and loss statement - use to annualize current income	Certification of Income for Self-employed Persons	Are there significant discrepancies? If so, why?
For residents who did not file taxes: annual profit and loss statement for previous calendar year	Business summary		What is the most conservative amount?
Optional: records of payments and expenses			Is it realistic?

Section 5.13 Alimony

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The amount of alimony included in household income must be based on alimony payments actually received by the family. If a resident has been awarded alimony, management must:

- document the alimony amount that is actually being received by the household,
- and include the total amount received in the past 12 months on the TIC.

Alimony Income Verification

In order of preference, third-party verification options include:

- a 12-month payment history report from the court or agency responsible for enforcing the payments;
- a signed and dated letter from the person paying support stating the weekly or monthly amount currently paid and the total amount paid in the past 12 months; or
- as a last resort, a statement or affidavit from the resident stating the weekly or monthly amount currently received and the total amount received in the past 12 months.
- Only if the resident states they are receiving the full amount of support awarded may the separation/settlement agreement or a divorce decree stating the amount and type of support and payment schedule be used to verify actual alimony income.



Owners are no longer permitted to include the full amount of alimony to which the family is legally entitled by court or agency orders but which they do not receive.

Section 5.14 Child Support

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Child support may or may not be court-ordered and it may be received through the agency responsible for enforcing payments (e.g., Colorado Child Support Services Program) or informally outside of the court system. The amount of child support included in household income must be based on payments actually received by the family.

Birth Certificates for Children

Copies of birth certificates are not required for the Housing Tax Credit and CHFA Loan programs. Nevertheless, CHFA recommends that birth certificates are obtained for minors to determine whether both parents are in the household.

Child Support Affidavit

A Child Support Affidavit is required for each child who has only one parent in the household. The affidavit will indicate whether child support is received and whether child support has been court-ordered or is received outside of the court system.



Child Support Affidavit: chfainfo.com/rental-housing/asset-management/compliance-forms#



For households who receive some type of government rental assistance through the Section 8, USDA Rural Development, or other government programs, a separate Child Support Affidavit is not required.

Child Support Income Verification

Court-ordered Child Support

If a resident certifies they have been awarded support, the owner must:

- Obtain third-party verification in the form of a 12-month payment history report.
  - In Colorado, contact the county Human Services Department and/or the state's Family Support Registry.
  - If support was ordered in another state, contact that state's enforcement agency.
- Count the total amount actually received in the past 12 months on the TIC.
  - If the verification includes clearly documented arrears payments, those amounts may be excluded from the amount received.



Colorado Family Support Registry: https://childsupport.state.co.us/family-support-registry



Owners are no longer permitted to include the full amount of child support to which the family is legally entitled by court or agency orders but which they do not receive.

Child Support Outside the Court System

If a resident certifies he/she does not have a court order for child support, but is receiving it informally on a regular basis, the owner must:

- Contact the child support provider to obtain either a signed and dated statement, or a Verification of Household Assistance form. Both options must state the weekly or monthly amount currently paid and the total amount paid in the past 12 months.
- If the above documentation cannot be obtained, a signed and dated statement from the resident stating the weekly or monthly amount currently received and the total amount received in the past 12 months, along with an explanation as to why the above documentation could not be obtained, is acceptable.

Verification of Household Assistance:
chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 5.15 Public Assistance

ALL PROG

When counting public assistance, such as Colorado Works or Temporary Aid to Needy Families (TANF), Old Age Pension (OAP), and Aid to the Needy and Disabled (AND), always use the gross amount specified as the maximum grant or benefit the person or family could receive.

Deductions for health insurance premiums or other items (including penalties deducted from TANF payments) must be included in the gross amount counted as income.

Public Assistance Income Verification

Third-party verification prepared by the agency providing the benefit, dated within 120 days of the certification effective date, is required. Acceptable options include:

- the resident's current award or benefit letter,
- a Colorado PEAK summary provided by the resident's caseworker
- a Colorado PEAK summary from the resident's online account or mobile phone app, or
- a Verification of Public Assistance form.

Using Online Account and Mobile Phone App Screenshots to Verify Public Assistance Benefits

If the only verification available is a screenshot of the resident's online account or mobile phone app:

- the screenshot must show the resident's name on the account, and
- clarification must be included that states the actual date when the screenshot was taken.

Determining How to Include Public Assistance Benefits on the TIC

Under HOTMA, whether to count public assistance benefits as income depends on whether they have a discrete end date or are regular periodic payments that are expected to continue during the 12 months after the certification effective date.

- Benefits that have a certain end date during the next 12 months are considered nonrecurring income and are excluded from household income.
- Benefits received at regular intervals (e.g., weekly or monthly) that are expected to continue during the 12 months after the certification and can be extended must be included in household income.

24 C.F.R. § 5.609(b)(24)
HUD Notice H 2023-10, HOTMA Implementation Guidance: Section G.1

Section 5.16 Social Security Benefits

ALL PROG

When counting Social Security benefits, including SSI and SSDI, always use the gross monthly benefit before any deductions for Medicare premiums.

Adjustments Due to Overpayments and Underpayments

If the amount of the Social Security benefit is adjusted due to a previous overpayment or underpayment, use the benefit amount as follows.

- Overpayments: Use amount after adjustment
- Delays/underpayments: Use amount before adjustment

Annual Cost-of-Living Adjustment (COLA)

Each fall, the Social Security Administration announces a cost-of-living adjustment for Social Security recipients. Once the announcement is published, it must be applied to all move-in certifications effective after the announcement date. If a move-in certification effective after the announcement has already been completed and signed, management must document the COLA, recalculate income on the TIC, and have the resident initial the changes.



Be sure to set a recurring calendar reminder to look for the Social Security COLA announcement every October.

Social Security Benefits Verification

Acceptable options for third-party verification include the following.

- An award or benefit letter mailed to the resident
- A benefit letter printed from the resident's online Social Security account
- TPQY - a computer-generated printout detailing Social Security benefits



Since these benefits typically do not change more than annually, Social Security verifications do not have to be dated within 120 days and may be dated up to one year prior to the certification effective date.



Because they do not always reflect **gross** benefits, bank statements, tax forms, and checks are not permitted as verification.

Section 5.17 Unemployment

ALL PROG

Unemployed Resident Affidavit

Unemployed adult residents, including unemployed spouses, must complete an Unemployed Resident Affidavit certifying that they are currently unemployed and indicating whether they receive any unemployment benefits and whether the benefits will continue during the upcoming 12-month period.



Residents of assisted living and designated elderly developments who are 62 and older are not required to complete an Unemployed Resident Affidavit.



Unemployed Resident Affidavit: chfainfo.com/rental-housing/asset-management/compliance-forms#

Unemployment Benefits

Unemployment Benefits Verification

Verification of unemployment compensation must state the benefit amount, how often it is received, and the benefit end date, if known. The verification must be dated within 120 days of the certification effective date and may be obtained from the following.

- The state unemployment compensation agency's current benefit statement
  - Colorado Department of Labor and Employment (DLE) (or other applicable state)
- A current benefit summary from the resident's online account or mobile phone app

Using Online Account and Mobile Phone App Screenshots to Verify Unemployment Benefits

If the only verification available is a screenshot of the resident's online account or mobile phone app:

- the screenshot must show the resident's name on the account, and
- clarification must be included that states the actual date when the screenshot was taken.

Determining How to Include Unemployment Benefits on the TIC

Under HOTMA, whether to count unemployment benefits as income depends on whether they have a discrete end date or are regular periodic payments that are expected to continue during the 12 months after the certification effective date.

- Benefits that have a certain end date during the next 12 months are considered nonrecurring income and are excluded from household income.
- Benefits received at regular intervals (e.g., weekly or monthly) that are expected to continue during the 12 months after the certification and can be extended must be included in household income.



24 C.F.R. § 5.609(b)(24)

HUD Notice H 2023-10, HOTMA Implementation Guidance: Section G.1

Anticipated New Employment

Determining How to Include Anticipated New Employment on the TIC

If a resident is currently unemployed but has received an actual offer of employment which the owner/agent can verify, the anticipated employment must be included as income. If verified new employment is included, then any current unemployment benefits should be excluded.



Anticipated employment must only be included when the employer has verified a start date and the amount of income to be received. If either the start date and/or income is uncertain, then anticipated employment earnings must not be counted as income.

Unemployed Resident Income Summary

Income Type	Circumstances	How to Count in Household Income
Unemployment Benefits	Benefits are expected to continue during the 12 months after the certification and can be extended.	Include
Unemployment Benefits	Benefits have an end date within the 12 months following the certification (i.e., nonrecurring income).	Exclude
Anticipated New Employment	The new employer has verified both the applicant's/resident's start date and the amount of income to be received.	Include
Anticipated New Employment	The new employer has not verified the start date and/or the amount of income to be received.	Exclude

Section 5.18 Seasonal Employment

ALL PROG

Seasonal Worker Definition

Per HUD regulations, a seasonal worker is an individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.



24 C.F.R. § 5.603(b)

Income earned as a seasonal worker is not considered nonrecurring income and must be included unless specifically excluded by HUD regulations.

Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include, but is not limited to employment as a teacher, school bus driver, farm worker, ski instructor, landscaper, etc.

Seasonal Worker Affidavit

Residents employed seasonally must complete a Seasonal Worker Affidavit certifying their plans for any off-season income.



Seasonal Worker Affidavit: chfainfo.com/rental-housing/asset-management/compliance-forms#

Calculating Seasonal Employment Income

Calculating seasonal income is not always straightforward. To calculate correctly, it is critical to know the start and end dates of the resident's seasonal employment. The preferred way to verify seasonal employment dates, including the start month and day and end month and day, is directly with the employer, either in writing or by phone. If unsuccessful contacting the employer and attempts are documented, the owner may rely on dates listed by the resident on their Seasonal Worker Affidavit.

To calculate seasonal income, calculate average earnings per pay period during the season based on UIV data, pay stubs, payroll summary, or third-party verifications Then use the verified start and end dates to calculate the number of weeks in the season. Since seasons can begin mid-month, do not round up more than one decimal point. Finally, multiply the number of weeks by the average earnings per pay period during the season to obtain total anticipated seasonal employment income.

Determining How to Include Off-season Income on the TIC

Anticipated off-season income could include employment, self-employment, unemployment benefits, and financial assistance from non-household members, and must be included in annual household income. Unless the household receives a full rent subsidy, the combined amount of seasonal employment and anticipated off-season income should account for the resident's portion of rent over the 12-month period. If not, a clarification record is required to document the file.

Section 5.19 Retirement Account Income

ALL PROG

The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits are included in annual income. Periodic payments received due to the withdrawal of cash or assets from an investment are also counted as income. Periodic payments could be received weekly, monthly, or once per year.

Distributions from retirement accounts that are not periodic (i.e., sporadic) are not counted as income.



For detailed information on retirement account income, see HUD 4350.3, Paragraph 5-6(L).

Required Minimum Distributions (RMDs)

The IRS requires individuals to start taking withdrawals, referred to as a Required Minimum Distribution, from their traditional IRA, 401(k), 403(b), 457(b), and certain other retirement plan accounts at a specific age. As of 2023, the age is 73. Once RMDs begin, the retiree must make the minimum withdrawal each year. Because RMDs are regular and recurring, they must be included in annual household income.

Verification of Retirement Account Income

An annual benefit notification letter, dated within one year of the certification effective date, or a current statement prepared by the distributing agency is required. If the resident is unable to provide a letter or current statement, third-party written or verbal verification of the amount and frequency of distributions with the agency that issues periodic payments is the next preferred verification type.



Assets: Under HOTMA, regardless of whether periodic payments are being received, the balance in any retirement account recognized by the IRS, including IRAs, employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for self-employed individuals, are excluded from assets.

Section 5.20 Student Financial Assistance

ALL PROG

As of 2024, certain student financial assistance must be verified, reviewed, and counted as income, when applicable, for all Housing Tax Credit and CHFA Loan units, regardless of whether they have Section 8.



See Section 8.1, Student Financial Assistance Income, for detailed guidance on how to include financial aid in income.

When certifying any household with a student who receives financial assistance, the owner/agent must consider a variety of factors to identify which rules to follow, and then verify, calculate, and document the amount of assistance, if any, that must be included in annual household income.



There is no longer a blanket exclusion of all student financial assistance for households that do not receive Section 8 assistance.



Verification of Student Status and Financial Aid: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 5.21 Nonrecurring Income

ALL PROG

Nonrecurring Income Definition

Nonrecurring income is income that that has a discrete end date and will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family.



24 C.F.R. § 5.603(b)(24)



Owners may accept a self-certification from the family stating that the income will not be repeated beyond the coming year. Third-party verification is not required.

How to Treat Nonrecurring Income

All types of nonrecurring income are excluded from annual household income.

Types of Nonrecurring Income

Below is a list of income exclusions noted in HUD regulations and guidance as nonrecurring income. This list is not exhaustive.

Nonrecurring Income Type
Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment
Direct federal or state economic stimulus or recovery payments
State refundable tax credits or state tax refunds at the time they are received
Federal refundable tax credits or federal tax refunds at the time they are received
Gifts for holidays, birthdays, or other significant life events or milestones (e.g., weddings, baby showers, anniversaries)
In-kind donations (e.g., food, clothing, or toiletries) received from a food bank or similar organization ▪ This applies regardless of whether the in-kind donation is recurring or nonrecurring.
Nonrecurring in-kind donations from friends and family
Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.)
Nonrecurring payments made to the family, or to a third party on behalf of the family, to assist with utilities, eviction prevention, and security deposits to secure housing
Nonrecurring payments for participation in research studies depending on the duration
General one-time payments received by or on behalf of the family



24 C.F.R. § 5.603(b)(24)

HUD Notice H 2023-10, HOTMA Implementation Guidance: Section G.1

Income that Does Not Count as Nonrecurring Income and Is Included

- Earned income received as an independent contractor, day laborer, or seasonal worker, even if the source, date, or amount of the income varies.
- Unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Section 5.22 Household Assistance

ALL PROG

Residents, including those claiming zero- or extremely low-income, may receive monetary or non-monetary contributions from friends, family members, or charitable organizations. Under HOTMA, whether to include such contributions, also referred to as household assistance, in household income depends on whether they are recurring and whom they are received from.

- Monetary contributions include the following.

- Cash, bank transfers, cash app payments, and deposits
- Bills paid on behalf of the family for rent, utilities, transportation costs, phone plans, or other expenses

- Non-monetary contributions can include the following.
  - In-kind donations, like clothing or toiletries

Is Household Assistance Recurring or Nonrecurring?

Recurring

Household assistance that is expected to continue during the 12 months after the certification effective date and can be extended is considered recurring income.

Nonrecurring

Household assistance that has a certain end date during the 12 months after the certification effective date is considered nonrecurring income. See Section 5.21, Nonrecurring Income, for more information.



Owners may accept a self-certification from the family stating whether the assistance will be repeated in the coming year.

How to Treat Household Assistance

Household Assistance Type	Who Is Providing the Assistance?	How to Count in Household Income
Monetary (e.g., cash, bank transfers, cash app payments, or deposits)	Friends and family	▪ Recurring – Include ▪ Nonrecurring – Exclude
Rent, utilities, transportation costs, or other bills paid on behalf of the family	Friends and family	▪ Recurring – Include ▪ Nonrecurring – Exclude
In-kind donations, like clothing or toiletries	Friends and family	▪ Recurring – Include ▪ Nonrecurring – Exclude
In-kind donations, like clothing or toiletries	Food bank or similar organizations	▪ Recurring – Always exclude ▪ Nonrecurring – Always exclude



24 C.F.R. § 5.609(b)(24)

HUD Notice H 2023-10, HOTMA Implementation Guidance: Section G.1

The value of food provided by an organization or by any persons not living in the unit is always excluded from household income.

Verification of Recurring Contributions and Household Assistance

Once an owner/agent has determined that a particular applicant's household assistance must be included in income, third-party verifications must be obtained from:

- a Verification of Household Assistance form or affidavit signed by the person or organization providing the assistance, stating the frequency and value of the contributions and whether they will continue during the next 12 months;
- a verification letter from a bank, attorney, or a trustee administering the contributions; or
- as a last resort, a statement from the receiver of the assistance stating the frequency and value of the contributions and whether they will continue during the next 12 months.

Verification of Household Assistance: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 5.23 Zero- or Extremely Low-income

ALL PROG

In the following cases, a Zero-/Extremely Low-income Household Questionnaire is required. Certain types of recurring monetary and in-kind household assistance disclosed on the questionnaire must be third-party verified and included in annual household income. See Section 5.22, Household Assistance, above for detailed instructions.

- If any adult (except for a non-employed spouse) states zero income and does not receive a rent subsidy.
- If household income is insufficient to cover rent and the household does not receive a rent subsidy.

Zero-/Extremely Low-Income Household Questionnaire: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 5.24 Basic Allowance for Housing

ALL PROG

Under IRS regulations, the military Basic Allowance for Housing (BAH) must be included as income for all properties that are not located in a Qualified Military Installation (QMI) area.

Properties in the following six counties are within a QMI and may exclude BAH from income: El Paso, Douglas, Elbert, Lincoln, Pueblo, Fremont, and Teller.

Section 3005 ofthe American Housing and Economic Recovery Act of 2008 (HERA)

Protecting Americans from Tax Hikes Act of 2015

Section 5.25 Real Estate Rental Income

ALL PROG

If a resident discloses real estate, lists their prior residence as a home they owned, or has an outstanding mortgage, the file must include documentation showing the owner has conducted due diligence as to the ownership and status of the property and any related income from the asset. Due diligence also includes documenting whether the property is rented or is anticipated to be rented. Net rental income must be included in household income.

For information on how to treat real estate as an asset, see Section 6.9, Real Estate.

Verification of Rental Income

If an affordable housing resident's property is rented or occupied, rental payments to the resident must be verified using the rental property's lease, or other reasonable documentation, if a lease has not been executed.

Mortgage Payments in Lieu of Rent

If, in lieu of rent, the resident's rental property occupant makes mortgage payments on behalf of the affordable housing resident and the payments are expected to continue during the next 12 months, the payments must be included in household income as recurring gift income.

This does not include mortgage payments made by a joint owner of the resident's real estate, which are not considered income to the affordable housing resident.

Calculation of Net Rental Income

If a resident's property is rented or occupied, the monthly rental income, less reasonable expenses, must be annualized to determine net income from the rental property. Reasonable expenses may include the following.
Note: All deducted expenses must be documented, and the principal portion of mortgage payment may not be deducted.

- Owner-paid utilities
- Maintenance/Repairs
- Advertising
- Interest portion of mortgage payments
- Taxes and insurance

Net Rental Income from Jointly Owned Real Estate

Any net rental income from jointly owned real estate must be included in annual income, unless that income is specifically excluded by regulations, or unless the resident demonstrates they do not have access to the income. If the resident demonstrates they only have access to a portion of the rental income, then the income listed on the TIC must reflect only that portion.

Reverse Mortgages

Reverse mortgage payments to a homeowner are considered loan proceeds and not income.

Regardless of any reverse mortgage on a home, as long as the applicant/resident still owns the home, its cash value must be included as an asset.

chapter 6

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO HTC — Colorado state HTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Household Assets and Asset Income

This chapter outlines the process for identifying household assets and verifying the income from assets that must be included in annual income.

Please look at the chart below to see the programs to which each section in this chapter is applicable.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
6.1 Asset Definitions	✓							
6.2 Asset Certification	✓							
6.3 Net Family Assets	✓							
6.4 Treatment of Assets	✓							
6.5 Cash Value of Assets	✓							
6.6 Calculating Income from Assets	✓							
6.7 Verifying Assets	✓							
6.8 Retirement Accounts	✓							
6.9 Real Estate	✓							
6.10 Trusts	✓							
6.11 Assets Disposed of for Less than Fair Market Value	✓							

Section 6.1 Asset Definitions

ALL PROG

Federal Guidance on Determining Assets and Income from Assets

Housing Tax Credit regulations require that tenant income is calculated consistent with the determination of annual income under Section 8 of the United States Housing Act of 1937. CHFA monitors CHFA Loan projects according to the same requirements. Therefore, we refer to HUD Handbook 4350.3, Chapter 5, and HUD's HOTMA regulations for guidance in determining how to identify and calculate assets and asset income.

26 C.F.R. § 1.42-5(b)(1)(vii)

No Asset Limitation

Although Section 104 of HOTMA sets maximum asset limits for eligibility and assistance in certain Section 8 programs, these limits do not apply to the Housing Tax Credit and CHFA Loan programs. Therefore, there is no limit on the amount of assets a family may have, and a family is never required to convert any assets to cash to qualify for a Housing Tax Credit or CHFA Loan unit.

Asset Definitions

Assets are broken into two broad categories: real property and personal property.



Real Property

Real property is defined by state law and generally means land, minerals, houses, and other permanent structures attached to the land. This includes attached mobile homes for which there is a Deed of Trust.

Personal Property

Personal property includes both tangible items, like vehicles, equipment, and jewelry, and intangible items like checking accounts and financial investments.

Personal property is further broken into necessary personal property and non-necessary personal property.

Necessary Personal Property

Necessary personal property includes the following and is **never** included for purposes of income qualification.

- items essential to the family for the maintenance, use, and occupancy of the unit as a home
- items that are necessary for employment, education, health, and wellness
- personal effects
- items that are convenient or useful to a reasonable existence
- items that support and facilitate daily life within the family's home
- items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability

Non-necessary Personal Property

Non-necessary personal property includes all personal property that does not qualify as necessary personal property, including bank accounts, financial investments, and luxury items.

The table below provides examples of necessary and non-necessary personal property but is not an exhaustive list.

Necessary Personal Property	Non-necessary Personal Property
Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)	Cash and bank accounts (e.g., checking account, savings account, standalone debit card not linked to a bank account, money market account)
Furniture, carpets, linens, kitchenware	Internet-based financial services accounts (e.g., Venmo, PayPal, Apple Pay, Cash App, Chime, etc.)
Common appliances and common electronics (e.g., radio, television, DVD player, gaming system)	Other financial investments (e.g., money market mutual fund account, stocks, bonds, CDs)
Clothing and personal effects that are not luxury items (e.g., toys, books)	Virtual currency, including digital currency and cryptocurrency (e.g., Bitcoin, Ethereum, Tether, Cardano, etc.)
Wedding and engagement rings and jewelry used in religious/cultural celebrations and ceremonies	Whole or universal life insurance policies that have cash value (do not count term life policies)
Religious and cultural items	Revocable trusts created by the resident or otherwise controlled by the household
Medical equipment and supplies and healthcare–related supplies	Recreational car/vehicle not needed for day-to-day transportation [campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)]
Musical instruments used by the family	Recreational boat/watercraft
Personal computers, phones, tablets, and related equipment	Expensive jewelry without religious or cultural value, or which does not hold family significance
Professional tools of trade of the family, for example professional books	Collectibles (e.g., coins/stamps)
Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities	Equipment/machinery that is not used to generate income for a business
Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	Items such as gems/precious metals, antique cars, artwork, etc.

HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.4.c and Table F1

Section 6.2 Asset Certification

ALL PROG

At move-in and for full annual recertifications, each adult member of a low-income household is required to complete an Asset Certification form, even if the person states they have no assets, and regardless of the combined value of all assets. On the Asset Certification (also referred to as the Statement of Assets), the resident must list the amount of income they anticipate receiving from each asset. In addition, residents must also either identify all assets that have been disposed of for less than fair market value or certify that no assets have been disposed of for less than fair market value.

Asset Certification: chfainfo.com/rental-housing/asset-management/compliance-forms#

If the household contains multiple adults, all members may complete one combined Asset Certification form.

For basic annual recertifications, an Asset Certification is not required.

Asset Certification in the Application and Questionnaire

If the household completes CHFA's Application or Certification Questionnaire in full, which both incorporate the Asset Certification, a separate Asset Certification form is not required. This also applies if the owner/agent uses their own application or questionnaire that incorporates all content from CHFA's Asset Certification.

CHFA encourages owners to reduce paperwork and not require a separate Asset Certification in addition to the application/questionnaire, when possible.

Section 6.3 Net Family Assets

ALL PROG

Net Family Assets Definition

"Net family assets" is the net cash value of all assets owned by the family, except those specifically excluded by HUD regulations, after deducting reasonable costs that would be incurred in disposing of the assets.

Inclusions in Net Family Assets

As part of determining household income from assets, owners must identify which assets are included in each family's net family assets, as defined by HUD (see above). Note, however, that even when some assets are not included in net family assets, their actual income is still included. See Section 6.4, Treatment of Assets, for more information.

Non-necessary Personal Property Inclusion

Non-necessary personal property with a combined value greater than the applicable HUD threshold is considered part of net family assets.

Assets Disposed of for Less than Fair Market Value

In determining net family assets, owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value during the two years preceding the application date (all properties) or annual recertification (mixed-income developments).

See Section 6.11, Assets Disposed of for Less than Fair Market Value, for detailed instructions.



Assets that were recently disposed of for less than fair market value due to bankruptcy or foreclosure must be documented but are not included in assets.

Negative Equity in Assets

The cash value of real property or other assets with negative equity is considered $0 for the purposes of calculating net family assets. Since it does not prohibit an applicant or resident from selling the property or other investments, negative equity alone does not justify excluding the property or other investments from family assets.



24 C.F.R. § 5.603

Assets Owned by a Business Entity

If a business entity owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

Jointly Owned Assets

For assets jointly owned by the applicant/resident and one or more individuals outside of the family, owners must include the total value of the asset in net family assets, unless:

- the asset is otherwise excluded (see Exclusions below), or
- the resident can demonstrate that the asset is inaccessible to them, or
- the resident can demonstrate that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.



If the resident demonstrates that they can only access a portion of an asset, then only that portion's value is included in net family assets.

Income from Jointly Owned Assets

All income from a jointly owned asset must be included in annual income, unless:

- that income is specifically excluded, or
- the resident demonstrates that they do not have access to any income from that asset, or
- that they only have access to a portion of the income from that asset (then include only that portion).



Review 24 C.F.R. § 5.609(b) for a full list and explanation of income exclusions.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.4.a

Virtual Currency (including cryptocurrency and digital currency)

Virtual currency is a digital representation of value that functions as a medium of exchange. Some virtual currencies are convertible, which means they have an equivalent value in real currency. This includes digital currency and cryptocurrency.

Although it exists digitally, virtual currency is considered an asset and the cash value must be included, unless it is otherwise specifically excluded. To calculate the amount, use a converter website, such as CoinDesk.com, to convert the digital or cryptocurrency into its fair market value in U.S. dollars. Deduct any transaction fees to determine cash value.



Be sure to document the date and time and website from which the currency conversion amount was obtained.

Exclusions from Net Family Assets

Below is a partial summary of required exclusions from net family assets, followed by additional explanations for some items.



See Section 6.1, Asset Definitions, for definitions of real property, necessary personal property, and non-necessary personal property.



Refer to 24 C.F.R. § 5.603(b)(3)-(b)(4) for a full list and explanation of net family asset exclusions.

Net Family Asset Exclusions
Necessary personal property
The combined value of all non-necessary personal property if the combined total value is equal to or less than **the applicable HUD threshold**
The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including IRAs, employer retirement plans [e.g., 401(k) and 403(b)], and retirement plans for self-employed individuals
The value of real property that the household does not have the effective legal authority to sell in the jurisdiction in which the property is located
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
The value of any Coverdell education savings account under section 530 of the Internal Revenue Code
The value of any qualified tuition program under section 529 of the Internal Revenue Code
The value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of the Internal Revenue Code
The value of any ‘‘baby bond’’ account created, authorized, or funded by federal, state, or local government
Interests in Indian trust land
Equity in a manufactured home where the family receives assistance under 24 C.F.R. part 982
Equity in property under the Homeownership Option for which a family receives assistance under 24 C.F.R. part 982
Family Self-sufficiency Accounts
Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family
Full amount of assets held in a nonrevocable trust
Full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the household
The value of an account where a family member is a beneficiary who may access an account’s funds only upon the death of the account’s owner

Non-necessary Personal Property Exclusion

When the combined value of all non-necessary personal property is equal to or less than the applicable HUD threshold, all non-necessary personal property is excluded from net family assets.



24 C.F.R. § 5.603(b)(3)(ii)

Real Property Exclusion

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 is excluded from net family assets. Examples of real property that the family does not have effective legal authority to sell include, but are not limited to:

- co-ownership situations where one party cannot unilaterally sell the real property, including situations where one owner is a victim of domestic violence;
- property that is tied up in litigation; and
- inherited property in dispute.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.4.a

Federal Tax Refunds and Refundable Tax Credits

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family. In other words, if a federal tax refund or credits were received during the 12 months before the certification effective date, then the amount that was received is subtracted from the total value of net family assets. When the subtraction results in a negative number, then net family assets are considered $0.



Only the amount the family receives is excluded from net family assets. If a $500 federal tax refund was anticipated but only $250 is received, then only $250 will be excluded from the net family assets.

Taxpayers have several options for receiving their tax refunds and credits. These include via paper check or direct deposit into a checking or savings account; via TreasuryDirect to buy savings bonds; via direct deposit into a Traditional, Roth, or Simplified Employee Pension Plan-IRA; or via purchase of savings bonds, a Health Savings Account, an Archer Medical Savings Account, or a Coverdell Education Savings Account.



Refundable tax credits, such as the Earned Income Tax Credit (EITC), are determined as part of an overall tax return submission to the IRS. Taxpayers receive one federal tax refund reflecting the taxpayer's tax liability, if negative, including any applicable refundable tax credits.

Verification of Federal Tax Refunds and Refundable Tax Credits

Total Cash Value of Net Family Assets is Equal to or Less than the Applicable HUD Threshold

- Although the refund/credits must be excluded, verification is not required. The owner/agent can rely on the resident's statement of the date and amount as documented in the file (e.g., application, questionnaire, etc.).

Total Cash Value of Net Family Assets Exceeds the Applicable HUD Threshold

- For a move-in or full annual certification, the owner/agent must third-party verify the amount and date of the family's federal tax refund/refundable tax credits. Verification could include a copy of the federal tax return that has third-party receipt of transmission (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.), or a statement from the account into which the refund was deposited showing the federal refund date and amount.



24 C.F.R. § 5.603(b)(3)(xi)

HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.4.e

Trusts

See Section 6.10, Trusts, for detailed information on different types of trusts, whether they must be counted as net family assets, and how to determine and count any trust-related income.

Beneficiaries of Assets

If an individual is a beneficiary who may access an account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from the account, then the account is not counted in net family assets. Nevertheless, the resident should provide proper documentation demonstrating that they are only a beneficiary on the account.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.4.a

Section 6.4 Treatment of Assets

ALL PROG

How to verify and calculate income from assets depends on the asset type and whether the total cash value of the household's net family assets exceeds the applicable HUD threshold.

CHFA encourages owner/agents to use an asset worksheet to ensure that all household assets and income from assets are counted correctly and consistently.

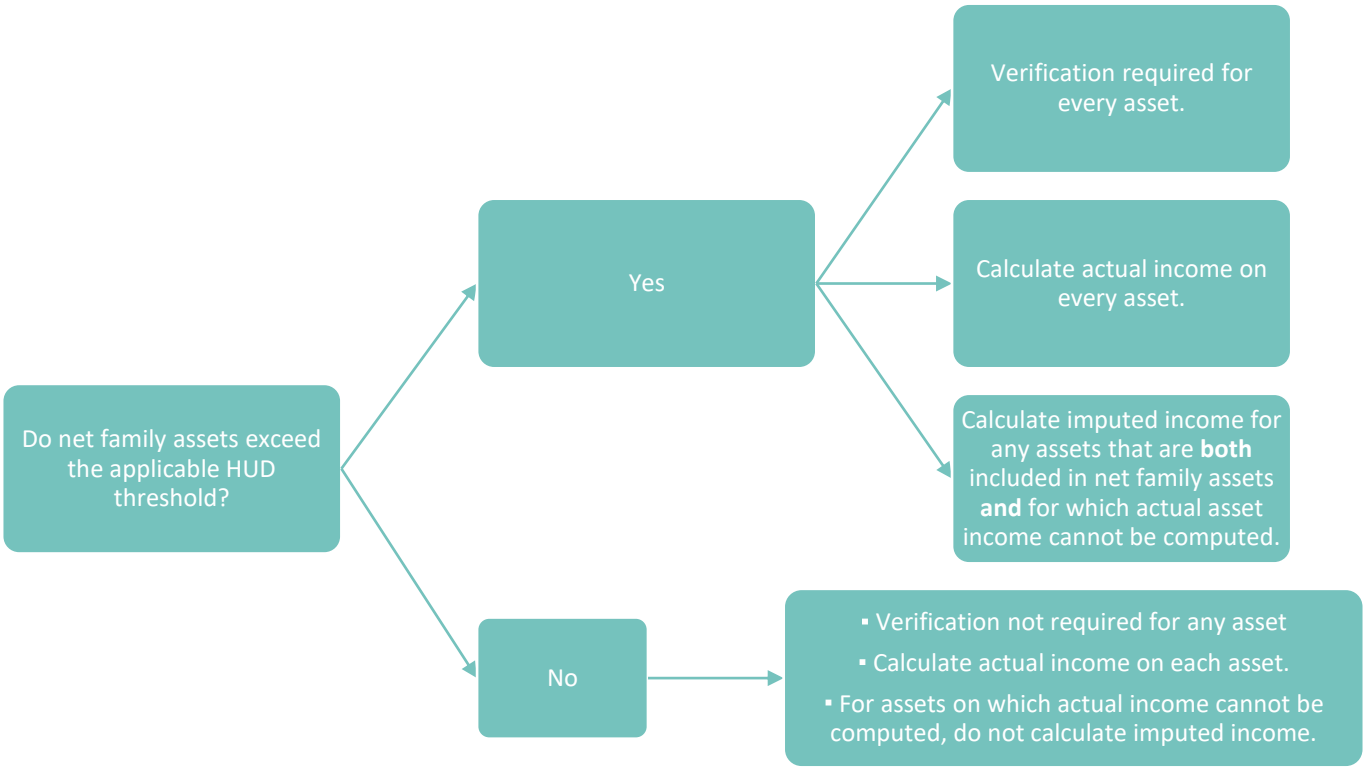
If Total Cash Value of Net Family Assets Is Equal to or Less than the Applicable HUD Threshold

- Third-party verification of assets is not required.
- Calculate the actual income for each asset, regardless of whether it is included in net family assets.
    - List $0 if actual income cannot be calculated.
- Calculation of imputed income from assets is not required.

If Total Cash Value of Net Family Assets Exceeds the Applicable HUD Threshold

- Third-party verification is required for each asset.
- Calculate actual income for each asset, regardless of whether it is included in net family assets, except those for which actual asset income cannot be computed.
- Calculate imputed income only for those assets that are included in net family assets and for which actual asset income cannot be computed.

The flow chart below shows how to handle assets depending on the factors explained above.





HUD Notice H 2023-10, HOTMA Implementation Guidance: Sections F.6 and F.7 (includes helpful examples and scenarios)

How to Enter Assets and Asset Income on the Tenant Income Certification (TIC)

How to enter assets and income from assets in Part IV. - Assets on the Tenant Income Certification (TIC) depends on whether the total cash value of the household's net family assets exceeds the applicable HUD threshold. Complete either Part IVA or Part IVB on the TIC as follows, not both.

- If total cash value of Net Family Assets is equal to or less than the applicable HUD threshold, complete only Part IVA. Enter only the total actual income in Box (F). Do not list individual assets. Skip all of Part IVB.
- If total cash value of Net Family Assets is greater than the applicable HUD threshold, skip all of Part IVA. Complete only Part IVB. Using third-party verified amounts, list the HH Member and each individual asset's cash value and income information separately in Columns (G)-(L), then total Box (M).



Please refer to CHFA's detailed Instructions for Completing the Tenant Income Certification at chfainfo.com/rental-housing/asset-management/compliance-forms#.

Net Family Assets – Annual Adjustments for Inflation

Every year HUD will publish inflation adjustments to the items below that are related to net family assets, no later than September 1st. The revised amounts will be effective on January 1st of the following year.

- Threshold above which imputed income must be calculated on net family assets
- Threshold above which the total value of non-necessary personal property is included in net family assets
- The amount of net assets for which the owner may accept self-certification by the family and is not required to verify assets



Be sure to set a recurring calendar reminder to look for HUD's inflation adjustments on net family assets every year by September 1st: huduser.gov/portal/datasets/inflationary-adjustments-notifications.html



HUD Notice H 2023-10, HOTMA Implementation Guidance: Attachment H

Section 6.5 Cash Value of Assets

ALL PROG

When verifying and calculating income from assets, the first step is to determine the cash value of each asset.



Cash value is the remaining value after deducting reasonable costs that would be incurred in disposing of the asset (i.e., in converting the asset into cash).

To determine the cash value of certain assets, such as real estate or mineral rights, you must first determine the current market value. From an asset's current market value, you may deduct the following to arrive at the cash value.

- Broker and legal fees
- Withdrawal and conversion fees and penalties
- Real estate closing/settlement costs
    - If the actual amount is unknown, use 10 percent of the full value of the asset.
- The principal balance of a loan or mortgage on the asset

Asset Valuation Guidelines

Below are the amounts to use as the "cash value" for certain common asset types.

Asset Type	What to Count as Cash Value
Bank accounts (checking account, savings account, money market account)	Current balance
Internet-based financial services accounts (Venmo, PayPal, Apple Pay, Cash App, Chime, etc.)	Current balance
Standalone debit card, not linked to a bank account (Direct Express, unemployment, etc.)	Current balance
Other financial investments (money market mutual fund account, stocks, bonds, CDs, etc.)	Cash value of current balance after any withdrawal fees and penalties
Virtual currency, including digital currency and cryptocurrency (Bitcoin, Ethereum, Tether, Cardano, etc.)	Cash value of current balance after any withdrawal and conversion fees
Real estate	Current cash value (see Section 6.9, Real Estate)
Whole or universal life insurance policies (do not count term life policies)	Current cash value
Revocable trusts created by the resident or otherwise controlled by the household	Current cash value after any fees (see Section 6.10, Trusts)



Remember that retirement accounts are no longer counted as assets.

Section 6.6 Calculating Income from Assets

ALL PROG

Income from assets must be calculated as follows.

Asset Type	Examples	Include asset in net family assets?	Calculate actual income for the asset?	Calculate imputed income for the asset?
Real property	▪ Land ▪ Houses ▪ Minerals	Yes, unless it may be excluded as described in Section 6.3, Net Family Assets or HUD Notice H 2023-10, Section F.4.a	Yes	Yes, only when ▪ the real property is included in net family assets, and ▪ net family assets exceeds the applicable HUD threshold, and ▪ actual income cannot be calculated
Non-necessary personal property: when total value exceeds the applicable HUD threshold	▪ Bank accounts ▪ Financial investments ▪ Recreational vehicles ▪ Luxury items	Yes	Yes	Yes, only when ▪ net family assets exceeds the applicable HUD threshold, and ▪ actual income cannot be calculated
Non-necessary personal property: when total value is equal to or less than the applicable HUD threshold	▪ Bank accounts ▪ Financial investments ▪ Recreational vehicles ▪ Luxury items	No	Yes	Never
Necessary personal property	▪ Vehicles relied on for personal or business use transportation ▪ Common appliances ▪ Personal computers	Never	Never	Never

Actual Income from Assets

The actual income from each household asset must always be calculated. This is true even if the income is determined to be $0, and regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets.

Actual income includes, but is not limited to, the following.

- interest earned
- dividends paid
- net rental income
- certain trust-related income
- other actual income earned



For accounts with interest rates, multiply the interest rate by the full value (not the cash value) of the asset.



Actual income from an asset does not include the increase in market value of the asset.

Asset Type	What to Use to Calculate Actual Income
Bank accounts (checking account, savings account, money market account)	Interest rate
Internet-based financial services accounts (Venmo, PayPal, Apple Pay, Cash App, Chime, etc.)	Interest rate (if applicable)
Standalone debit card, not linked to a bank account (Direct Express, unemployment, etc.)	n/a – no actual income
Other financial investments (money market mutual fund account, stocks, bonds, CDs, etc.)	Interest rate or dividends
Virtual currency, including digital currency and cryptocurrency (Bitcoin, Ethereum, Tether, Cardano, etc.)	Interest rate or dividends
Real estate	Net rental income (see Section 6.9, Real Estate)
Whole or universal life insurance policies	Interest rate or dividends
Revocable trusts created by the resident or otherwise controlled by the household	Actual income earned by the trust *Trust-related income is counted in only certain cases. See Section 6.10, Trusts, for detailed information on different types of trusts and how to determine and count any trust-related income.
Assets disposed of for less than fair market value	n/a – no actual income

Imputed Income from Assets Using HUD's Current Passbook Rate

Imputed income from assets is calculated using the HUD passbook rate, which HUD now updates each year in September. Be sure to use the rate in effect on the certification effective date.



HUD's passbook rate is updated annually for inflation by September 1st for the following year: huduser.gov/portal/datasets/inflationary-adjustments-notifications.html

Remember: imputed income is calculated only for specific assets and only if all three conditions listed below are met.

- The value of net family assets is more than the applicable HUD threshold.
- The specific asset is included in net family assets.
- Actual asset income cannot be calculated for the specific asset.



When actual income can be calculated and equals $0, that amount is counted and imputed income is not calculated for that asset.



When calculating imputed income, multiply the current passbook rate by the cash value of the asset.

Determining which Asset Income Amount to Include in Household Income

CHFA encourages owner/agents to use an asset worksheet to ensure that all household assets and income from assets are counted correctly and consistently.

- If the total cash value of net family assets is equal to or less than the applicable HUD threshold, include only the actual income from each household asset.
- If the total cash value of net family assets is more than the applicable HUD threshold, several steps must be taken to determine income from each household asset. Each asset will have either actual income or imputed income, never both.
    - First: include the actual income from each household asset for which actual income can be calculated;
    - Second: only for the specific assets that are included in net family assets and for which actual income cannot be calculated, include the imputed income;
    - Last: total the annual income amounts of each asset and count the combined income from assets amount in household income.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.6 (includes helpful examples and scenarios)

Section 6.7 Verifying Assets

ALL PROG

At move-in and for full annual recertifications, if a household's net family assets have a total cash value over the applicable HUD threshold, the owner must obtain third-party verification for each asset.



When net family assets equal the applicable HUD threshold or less, third-party verification is not required.

Types of Asset Verification

Forms of third-party asset verification are listed below in order of preference. However, all types listed below are equally accepted by CHFA.



Owners must treat all households consistently when verifying assets and attempt the same forms in the same order.

Asset Verification Type	Key Points
Bank account statements, investment account statements, etc., provided by the resident or printed from the internet.	For all banking and financial accounts, obtain the current statement.
Written Verification of Assets form received directly from the financial institution, financial advisor, stockbroker, etc.	Traditional third-party verification It is recommended to document the way the form was received. Examples of documentation include: ▪ a return fax line on the form ▪ the verifier's email attaching the form ▪ the envelope in which the form was sent ▪ a clarification record stating the name and contact information of the verifier who delivered or completed the form in person and the date
Verbal verification by the owner/agent with the financial institution, financial advisor, stockbroker, etc.	The owner completes either the Verification of Assets form or a clarification record with the same questions. The documentation must include the date of the phone call (or visit to the third party) and the verifier's name, title, phone number, and/or email address.



Verification of Assets form: chfainfo.com/rental-housing/asset-management/compliance-forms#



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section J.5

How Long Are Asset Verifications Valid?

Asset verifications are valid for 120 days from the date the document was signed by the person verifying the information. Once the 120-day period has expired, the documentation is no longer considered reliable and new verifications must be obtained.

Section 6.8 Retirement Accounts

ALL PROG

Retirement Accounts Excluded from Net Family Assets

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 [e.g., 401(k) and 403(b), Keogh], and retirement plans for self-employed individuals is now always excluded from net family assets.

Retirement Account Income and Periodic Payments

Any income (e.g., interest or dividends) earned on the funds while stored in a retirement account is not considered actual income from assets. However, any distribution of periodic payments from the retirement account is considered income at the time it is received by the family. See Section 5.19, Retirement Account Income, for more information.



24 C.F.R. § 5.603 and 5.609(b)(26)

Section 6.9 Real Estate

ALL PROG

If a resident discloses real estate, lists their prior residence as a home they owned, or has an outstanding mortgage, the owner must follow up to document the ownership and status of the property and any related income (see Section 5.25, Real Estate Rental Income).



Real estate includes mobile homes attached to the land for which there is a Deed of Trust.

Jointly Owned Real Estate

For real estate jointly owned by the applicant/resident and one or more individuals outside of the household, owners must include the total cash value of the real estate in net family assets unless:

- the real estate is otherwise excluded (see Section 6.3, Net Family Assets), or
- the resident can demonstrate that the real estate is inaccessible to them, or
- the resident can demonstrate that they cannot dispose of any portion of the real estate without the consent of another owner who refuses to comply.

If the resident demonstrates that they can only access a portion of the real estate, then the value should be pro-rated and only that portion's value is included in net family assets.

Owners must adequately document the file if all or a portion of a real estate asset is excluded from net family assets for the reasons explained above.



Refer to 24 C.F.R. § 5.603(b)(3)-(b)(4) for a full list and explanation of net family asset exclusions.

Excluding Real Estate That Cannot Be Sold

The value of real estate that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located is excluded from net family assets. Examples of real estate that the family does not have effective legal authority to sell include, but are not limited to:

- co-ownership situations where one party cannot unilaterally sell the real property, including situations where one owner is a victim of domestic violence;
- property that is tied up in litigation; and
- inherited property in dispute.

How to Treat Real Estate Included in Net Family Assets

Below is a summary of how to treat real estate once the owner determines that it is included in Net Family Assets.

Property Status	How to Treat the Property as an Asset
Still owned entirely by the family as of the certification effective date **Includes property listed for sale or still in the foreclosure process**	Asset ▪ If net family assets equal or are less than the applicable HUD threshold, third-party verification is not required. The resident may self-certify the market value and any mortgage balance. ▪ If net family assets exceed the applicable HUD threshold, third-party verify both the market value and any mortgage balance. ▪ Calculate current cash value and include in net family assets. Actual Income ▪ Clarify whether the property is or will be rented. ▪ Document and include any net rental income. This includes mortgage payments made on the resident's behalf in lieu of rent for the property. Imputed Income ▪ Calculate only when: o the real property is included in net family assets, and o net family assets exceed the applicable HUD threshold, and o actual real property income cannot be calculated.
Still owned by the family jointly with other owners as of the certification effective date **Includes property listed for sale or still in the foreclosure process**	Asset ▪ If net family assets equal or are less than the applicable HUD threshold, third-party verification is not required. The resident may self-certify the market value and any mortgage balance. ▪ If net family assets exceed the applicable HUD threshold, third-party verify both the market value and any mortgage balance. ▪ Calculate current cash value and include in net family assets. ▪ Exceptions: o If the resident demonstrates they can only access a portion of the real estate, then the cash value included must be pro-rated for that portion. o If the resident can demonstrate the asset is inaccessible to them, do not count it as an asset. o If the resident can demonstrate they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply, do not count it as an asset. Actual Income ▪ Clarify whether the property is or will be rented. ▪ Document and include the **total** amount of any net rental income. This includes mortgage payments made on the resident's behalf in lieu of rent for the property. ▪ Exceptions: o If the resident demonstrates they only have access to a portion of the income from that asset, then the income included must reflect only that portion. o If the resident demonstrates they do not have access to the income from the real estate, do not count the income. Imputed Income ▪ Calculate only when: o the real property is included in net family assets, and o net family assets exceed the applicable HUD threshold, and o actual real property income cannot be calculated.

Property Status	How to Treat the Property as an Asset
Recently owned and foreclosed upon prior to the certification effective date	▪ Document the foreclosure, including the completion date. ▪ Do not include completed foreclosures in assets.
Recently owned and sold prior to the certification effective date	▪ Document the sale date. ▪ If the sale date is within two years of the certification, document whether the property was sold for less than fair market value (see below). If so, it must be included as an asset, unless the disposal was due to bankruptcy, divorce, or separation. See Section 6.11, Assets Disposed of for Less Than Fair Market Value. ▪ If the sale is over two years before the certification, no further action required.



See Section 5.25, Real Estate Rental Income, for further steps on how to verify and calculate income from real estate.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.4.a

Verification of Real Estate Market Value

To determine the cash value of real estate, you must first obtain third-party verification of the asset's market value. Acceptable options for third-party verification for real estate market value include the following.

- Real estate agent's market/valuation report (written or verbal)
- Appraisal (current within six months)
- Online real estate database estimate (e.g., Zillow, Redfin, or similar sites)
- Market value from the County Assessor's office
    - Least preferred because this typically reflects an outdated market value

How to Calculate Real Estate Cash Value

Once the market value is verified and documented, deduct closing costs and any outstanding mortgage on the asset to obtain the cash value. If actual closing costs are unknown, use 10 percent of the market value as an estimate.

How to Calculate Whether Real Estate Was Sold for Less than Fair Market Value

Document the estimated market value at the time the property was sold (not the sale price or the current market value). Calculate the cash value as explained above. Subtract the amount the applicant/resident actually received for the property from the cash value. The difference must be counted as an asset disposed of for less than fair market value for two years from the sale date (see Section 6.11, Assets Disposed of for Less than Fair Market Value).



Assets disposed of for less than fair market value due to bankruptcy or foreclosure must be documented but are not counted in assets.



When an asset is disposed of as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or resident receives consideration not measurable in dollar terms.

Section 6.10 Trusts

ALL PROG

Trust Definition

A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries). A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Generally, the assets are invested for the benefit of the beneficiaries. The beneficiary frequently will be unable to access any of the trust funds until a specified date or event (e.g., the beneficiary's 21st birthday or the grantor's death).



Affordable housing residents may be the creator of a trust or the beneficiary.

Trust Types

Trusts may be revocable or irrevocable (i.e., nonrevocable). Depending on the type, the creator or the beneficiary may or may not receive regular investment income from the trust and may or may not be able to withdraw any of the principal.

- Revocable trust: a trust that the creator of the trust may amend or end (revoke). The creator maintains access to the funds in the trust account.
- Irrevocable trust: a trust that may not be amended or ended. The creator has no access to the funds in the account.

How to Treat Trusts

Affordable housing residents may be the creator/grantor of a trust, a trustee, or the beneficiary. How to treat trusts depends on whether a family member has control of the trust account (i.e., is a grantor or trustee), and how distributions are made, including the purpose of the distributions.

Below is a HUD summary to assist owners in determining whether a trust should be considered a net family asset and/or whether a trust's actual earned income or distributions are considered income to the family. Examples of actual income earned by the trust include interest, dividends, realized gains, rental income, or other earnings.



Owners must be careful to distinguish between distributions of principal and distributions of **earnings** on a trust's principal. Distributions of principal are never considered income.

Trust Type and Variation	Is the trust considered a net family asset?	Is the actual income earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of income earned on the trust principal considered family income?
Revocable Grantor is not part of the household, and the family or household is not otherwise in control of the trust.	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor.
Revocable Grantor is part of the household, or the trust is otherwise under the control of the family or household.	Yes	Yes * If net family assets are more than the applicable HUD threshold, and actual income earned by the trust cannot be calculated, imputed income must be calculated.	No	No
Irrevocable	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.4.d and Table F2



24 C.F.R. § 5.603 and 5.609(b)(2)



Irrevocable trusts established as a result of a legal settlement or court judgment are not considered assets disposed of for less than fair market value.

Special Needs Trusts

A special needs trust may be created under some state laws, often by family members for persons with disabilities who are not able to make financial decisions for themselves. Typically, special needs trusts are irrevocable. Use the table above to determine whether a special needs trust should be considered a net family asset and/or whether the trust's earned income or distributions are considered income to the household.

Verification of Trusts

When an applicant or resident is the creator/grantor, trustee, or beneficiary of a trust, the file must contain valid documentation of whether a family member has control of the trust account (i.e., is a grantor or trustee), and how distributions are made, including the purpose of distributions.

Acceptable options for third-party verification for trusts include the following.

- Trust Agreement
- Excerpts from the Trust Agreement, including the cover page and signature pages, that identify the creator and beneficiary and disclose the terms for payments from the trust and access to the balance of the trust
- Letter from the Trustee disclosing the same information

Section 6.11 Assets Disposed of for Less than Fair Market Value

ALL PROG

Definition

The term "asset disposed of for less than fair market value" refers to a family or business asset that is sold, donated, or given away to another person or entity without receiving in return an equal amount of money, goods, services, etc. This includes cash gifts, trusts created for someone outside the family, gifts of stocks and bonds, and real estate sold at an amount below the fair market value.

At move-in and for full annual recertifications, residents must declare on the Asset Certification whether and when they have disposed of any assets for less than their fair market value.



Assets placed by the family in a nonrevocable trust established for the benefit of someone in the family are not considered assets disposed of for less than fair market value.



For more information and examples on assets disposed of for less than fair market value, see:
HUD Notice H 2023-10, HOTMA Implementation Guidance: Section F.4.a

Determining Whether and How to Include Assets Disposed of for Less than Fair Market Value

Per the HUD Handbook, the amount counted as an asset disposed of for less than fair market value is the difference between the cash value of the asset on the open market when it was disposed of and the amount the applicant/resident actually received for it. Management must include calculations of the asset's cash value and the difference in the amount received in the file when reviewing assets disposed of for less than fair market value.



Assets disposed of for less than fair market value due to bankruptcy or foreclosure must be documented but are not counted in assets.



When an asset is disposed of as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or resident receives consideration not measurable in dollar terms.



An asset moved to a retirement account held by a member of the family is not counted as an asset disposed of for less than fair market value.

How Long to Include as a Household Asset

An asset disposed of for less than fair market value is included in all full certifications effective during the two years after the date the asset was sold, donated, or given away. After two years from the date of sale, donation, etc., the asset is no longer included.

chapter 7

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO HTC — Colorado state HTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Household Certifications and Forms

The following chapter outlines CHFA's requirements regarding household certifications. Topics include how to complete the Tenant Income Certification (TIC) form and supporting documentation for various types of certifications, which forms may be used to certify residents, and CHFA's policy on completing certifications electronically.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
7.1 Completion of the Tenant Income Certification	✓							
7.2 Effective Dates	✓							
7.3 Move-in Certification	✓							
7.4 Annual Recertification	✓							
7.5 Next Available Unit Rule		✓	⇆	✗	⇆	✗	✗	✗
7.6 Unit Transfers	✓							
7.7 Interim Certification	✓							
7.8 Initial Certification		✓	✓	✗	✗	✗	✗	✗
7.9 Acquisition-Rehabilitation Certification		✓	✗	✗	✗	✗	✗	✗
7.10 Resyndication Certification		✓	✗	✗	✗	✗	✗	✗
7.11 Alternatives to the TIC	✓							
7.12 Changes in Unit AMI Designation	✓							
7.13 Changes in Tenant Rent	✓							
7.14 Certification Forms	✓							
7.15 Electronic Files	✓							
7.16 Electronic Certification Forms and Signatures	✓							

Section 7.1 Completion of the Tenant Income Certification

ALL PROG

After identifying all household members, verifying a household's income and asset information, and determining gross rent, the owner must prepare a Tenant Income Certification form, referred to as a TIC, to document the information for audit purposes. The form certifies that the household is eligible to live in a low-income unit. The TIC must list all family members along with their income and assets.



TIC with formulas: chfainfo.com/rental-housing/asset-management/compliance-forms#

TIC without formulas: chfainfo.com/rental-housing/asset-management/compliance-forms#



If the owner uses a TIC that does not list the maximum rent, it must be added manually to demonstrate compliance.

Signing the Tenant Income Certification

The TIC must be signed by all adult household members (page 1 only) and by the owner/agent (page 2 only). Each TIC lists the household's move-in date and the certification's effective date. Per HUD guidelines, the TIC may be signed on or up to 120 days prior to the certification effective date.

Income Limits and Maximum Rents on the Tenant Income Certification

When using TICs generated with software, the owner must ensure income limits and maximum rents are reflected correctly and make any corrections needed.

- NextGen: Due to system errors creating issues with income limits, maximum rents, and income, CHFA does not encourage generating TICS from NextGen at this time.
- Other software systems: Some types of software do not include maximum rent on the TIC. Since CHFA requires maximum rent to be listed on pg. 2 of the TIC, it must be added manually.

Supplementary Demographic Information Form

The Supplementary Demographic Information form is used to enter information into NextGen that is required by HUD and/or CHFA for data analysis purposes. This form must be completed and initialed by all adult household members along with the TIC at move-in and whenever changes in household composition occur.

If the household elects not to complete the demographic information, all adult residents must mark the option, "I do not wish to provide this information," and initial the form. The owner may use their own version of the form if it contains all the same content as CHFA's form.

Supplementary Demographic Information: chfainfo.com/rental-housing/asset-management/compliance-forms#

Project-based Section 8 properties that use a form HUD-27061 to collect demographic data are not required to use CHFA's Supplementary Demographics Information form as long as the HUD form is available for review.

Tenant Income Certification Types

CHFA requires the owner to complete a TIC for the certification types noted below. Each type is described in more detail in the sections that follow.

- Move-in
- Annual recertification
  - 100 percent affordable
  - Mixed-income
- Unit transfer
- Interim (when new adult members join the household)
- Initial

Unlike some other affordable housing programs, the Housing Tax Credit and CHFA Loan programs do not require interim certifications for changes in income, gross rent, or rental assistance.

Section 7.2 Effective Dates

ALL PROG

Certification Type	Effective Date Definition	Example
Move-in	The date the household takes possession of the unit (may not be the date the lease or TIC is signed)	May 18, 2021
Annual Recertification	CHFA requires that the effective date is the first day of the move-in anniversary month.	May 1, 2022

Changing the Annual Recertification Effective Date

In the cases below, the owner may choose a different Housing Tax Credit or CHFA Loan annual recertification effective date instead of the first of the move-in anniversary month.

- For units with Section 8 or other rental assistance: when the HAP voucher administrator uses a different recertification effective date (e.g., to align with their lease term) and changing the date will align the two programs
- For all properties: when the owner elects to conduct mass recertifications of all households during the same time period every year



The owner must ensure the household never goes more than 12 months between annual recertifications. This means that in some cases, a household must be recertified twice in the first 12 months.

Section 7.3 Move-in Certification

ALL PROG

At move-in, all adult members and management must sign the completed TIC **prior** to move-in. Although the programs allow signatures up to 120 days prior to the move-in date, CHFA recommends that owners have the move-in TIC completed and signed no more than one week prior to move-in to ensure the information is the most current and accurate as of the move-in date.

It is the owner's responsibility to ensure households are qualified. CHFA does not review or approve tenant applications or files for initial eligibility outside of the program compliance review process.

The move-in certification is used to document the following.

- Household members
- Annual income
    - Must be separated by income source and household member
- Tenant-paid rent, utility allowance, and mandatory fees
- Area Median Income (AMI) designation
- Compliance with income limit and maximum rent
- Student status (if applicable)



See CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist for the forms and verifications required for a full certification at move-in: chfainfo.com/rental-housing/asset-management/compliance-forms#

Effective Date at Move-in

At move-in, the effective date is the date the household takes occupancy of the unit. Therefore, on the move-in TIC, the move-in date and the effective date should always be the same date.

Completing TICs for a First-year LIHTC Property

Compliance during a LIHTC property's first credit year is critical to ensuring the successful flow of tax credits to the property's investor(s). During the first credit year, CHFA recommends implementing a form for residents to confirm prior to lease signing whether there have been any changes in their employment, income, student status, etc., since their application date. The owner must follow up on any changes before executing the TIC. This practice will help to demonstrate that management is doing its due diligence to ensure that residents are certifying the most current and accurate information.

Move-in Unit Inspection Checklist

For all developments with CHFA Loans, a Unit Inspection Checklist is required at move-in. The form must be completed by the resident and signed by both the resident and owner/management.

For all other developments that do not have CHFA Loans, a Move-in Unit Inspection Checklist is recommended, but not required.

Section 7.4 Annual Recertification

ALL PROG

Effective January 1, 2023, CHFA revised its annual recertification policy for Housing Tax Credit and CHFA Loan developments to include both basic and full annual recertifications. Regardless of project type, after move-in, the owner must continue to recertify household composition and gross rent of households in all Housing Tax Credit and CHFA Loan units each year to determine eligibility. Certain developments must also certify student status and/or income and assets annually, as explained below.

The annual recertification process is used to document the following.

- Household members
- Area Median Income (AMI) designation
- Tenant-paid rent, rental assistance, utility allowance, and mandatory fees
- Compliance with maximum rent
- If applicable:
    - Student status
    - Annual household income
    - Compliance with the Available Unit Rule

Whether owners may conduct a basic or full annual recertification and the supporting documentation required at annual recertification depends on the project type, as summarized below and described in detail later in this chapter.

Property Types	First Annual Recertification and Later
100 Percent Low-income ▪ Housing Tax Credit: Years 1-15 ▪ Housing Tax Credit: Post Year 15 ▪ CHFA Loan	Basic annual recertification
Mixed Income ▪ Housing Tax Credit: Post Year 15	Basic annual recertification
Mixed Income ▪ Housing Tax Credit: Years 1-15 ▪ CHFA Loan	**Full** annual recertification



For an annual recertification, conduct either a basic annual recertification or a full annual recertification. Only one type is required, as noted above. Do not complete both types.

When to Begin the Recertification Process

The annual recertification process should be started at least 90 but no more than 120 days prior to the effective date. The owner is required to attempt to complete the annual recertification even when the household plans on vacating their unit soon after the recertification date.

Effective Date at Annual Recertification

CHFA's policy is that annual recertifications are due on the first day of the anniversary month that the household moved into the property, regardless of the lease term or any subsequent unit transfers. Therefore, the effective date of annual recertifications may not always correspond with lease renewals.



If a household moves into the property on June 24th, their annual recertification is due on June 1st each year, regardless of any unit transfers.



For units with Section 8 or USDA RD assistance:
If the HAP administrator changes the recertification effective date, the owner may change the Housing Tax Credit or CHFA Loan effective date to align with it. However, the owner must ensure the household does not go more than 12 months between annual recertifications.

Basic Annual Recertification

100 Percent LIHTC, 100 Percent CHFA Loan, and Mixed-income PY15 Housing Tax Credit

For a basic annual recertification, management must prepare a Basic Annual Recertification (BAR) form complete with all signatures on or up to 120 days before the recertification effective date. The basic form is used to certify household composition and compliance with occupancy restrictions, including maximum rents, utility allowances, and fees.

Certification of income and assets is not required. Therefore, owners are not required to obtain either a resident questionnaire or third-party verification of income and assets.

For Housing Tax Credit developments in Years 1-15 of the Compliance Period and for developments with tax-exempt bond financing, the household's student status must also be certified as part of the basic annual recertification.



Basic Annual Recertification and Certification of Student Status: chfainfo.com/rental-housing/asset-management/compliance-forms#

When conducting a basic annual recertification, prepare or obtain the items below.

- Basic Annual Recertification (BAR) form
  - Confirm current household composition with the resident(s).
  - Document the current tenant rent, updated utility allowance, non-optional charges, rental assistance, if any, and any change in the AMI designation (see Section 7.12, Changes in Unit AMI Designation).
- Student Status Certification
  - Only applicable for Housing Tax Credit Years 1-15 and all developments financed with CHFA-issued tax-exempt bonds
  - See Section 8.5, Verification of Income and Status for Students, on when verification of part-time student status may also be required to establish ongoing eligibility.
- Affordable Housing Lease Addendum attached to current lease
- Documentation of current tenant rent (e.g., current lease, most recent lease addendum, or most recent tenant rent notification for rental assistance recipients)



See CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist for the forms and verifications required for a basic annual recertification: chfainfo.com/rental-housing/asset-management/compliance-forms#



CHFA reserves the right to reinstate the income/asset certification and third-party verification requirement for all annual recertifications should the project fall out of compliance with the terms of the Land Use

Restriction Agreement (LURA) or CHFA Regulatory Agreement, or if it is determined that the owner leased a unit to a non-income-qualified household.

Interim Certifications

Remember that interim certifications are still required for the Housing Tax Credit and CHFA Loan programs whenever an additional person moves into a unit. When a new member joins the household, that new member must be fully certified, including all the standard move-in forms and verifications. See Section 7.7, Interim Certification, for detailed information.

Basic Recertifications in NextGen

Basic annual recertifications must still be submitted in NextGen monthly. However, only tenant rent, utility allowance, non-optional charges, rental assistance, and any change in the AMI designation need to be entered.



For units with Section 8, HOME, or USDA-RD assistance, the owner must continue to follow annual recertification verification requirements specific to those programs and may not be able to use basic annual recertifications.

Full Annual Recertification

Mixed-income Housing Tax Credit Years 1-15 and Mixed-income CHFA Loan

For mixed-income Housing Tax Credit developments in Years 1-15 and CHFA Loan developments, a full annual recertification with all applicable certification forms and third-party verifications is required annually using the TIC form. The recertification must be completed and signed by all adult residents and the owner representative on or up to 120 days prior to the recertification effective date. A basic annual recertification is not permitted.

When conducting a full annual recertification,

- obtain all the same certification forms and verifications as at move-in;
- explain any significant changes in household income or status between move-in and the recertification, including substantial increases in household income after move-in, in a clarification record;
- on page 1 of the TIC, mark the type on as an Annual Recertification; and
- on page 2 of the TIC, document the current tenant rent, updated utility allowance, non-optional fees, rental assistance, if any, and any change in the AMI designation (see Section 7.12, Changes in Unit AMI Designation).



See CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist for the forms and verifications required for a move-in/full certification: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 7.5 Next Available Unit Rule

The Next Available Unit Rule (NAU Rule) involves the applicable fraction and applies to each building in LIHTC and tax-exempt bond-financed projects (see Section 4.7 for Applicable Fraction definition). While the rule applies to both 100 percent affordable and mixed-income developments, compliance must be formally tracked and documented only for mixed-income projects.

The NAU Rule is triggered at annual recertification when a household's income increases to over 140 percent of the current income limit. If a unit no longer qualifies as low-income, it no longer counts toward the building's applicable fraction. If a building's applicable fraction decreases to less than the required proportion, the owner must rent available units in the building to qualified households to restore the fraction, as described below.

Unit Income and Treatment at Annual Recertification	Status of the Unit
Household income increases **up to** 140 percent of the current income limit. ▪ The household's income met the income limit at move-in. ▪ The unit continues to be rent-restricted.	The unit continues to qualify as a low-income unit.
Household income increases to **over** 140 percent of the current income limit. ▪ The household's income met the income limit at move-in. ▪ The unit continues to be rent-restricted. ▪ The owner rents the next comparable unit that is or becomes available within the building to a qualifying household. ▪ The owner rents all available units to qualifying households until the required applicable fraction of the building is restored.	The unit is considered an "over-income unit," and still continues to qualify as a low-income unit. Once the required applicable fraction of the building has been restored, the over-income unit may remain rent restricted. Or, if the building is a mixed-income building, the unit may become a market-rate unit upon lease renewal.

Unit Income and Treatment at Annual Recertification	Status of the Unit
Household income increases to **over** 140 percent of the current income limit. ▪ The household's income met the income limit at move-in. ▪ The unit continues to be rent-restricted. ▪ The owner rents the next comparable unit that is or becomes available within the building to a **non-qualifying** household. ▪ The owner fails to rent all available units to qualifying households until the required applicable fraction of the building is restored.	The unit is considered out of compliance and ceases to be treated as a low-income unit. All units previously designated as "over-income" lose their status as low-income units and are now out of compliance. All the units will remain out of compliance until the applicable fraction is restored.



26 U.S.C. § 42 (g)(2)(D)
26 C.F.R. § 1.42-15



Although applicable fractions must be maintained, the NAU Rule is no longer monitored for Post Year 15 LIHTC projects, including mixed-income projects.

Comparable Unit Definition

The NAU Rule defines a "comparable unit" as a unit that is comparably sized or smaller than the "over-income" unit (or, for deep rent skewed projects, any low-income unit). CHFA defines a comparable unit as any unit up to 100 square feet larger or smaller than the unit that invoked the NAU.

Available Unit Definition

The Next Available Unit Rule is applied on a building-by-building basis, not by project. A comparable unit is not deemed to be available for purposes of the rule if it is subject to a preliminary reservation (pre-leased) that is binding on the owner under local law prior to the date a lease is signed or the unit is occupied.

Noncompliance with the Next Available Unit Rule

If any comparable unit that is available or that subsequently becomes available is rented to a non-qualified household before the required applicable fraction is restored, all over-income units lose their status as low-income units and are therefore out of compliance. Violations of the NAU Rule are reported on IRS Form 8823, line 11i.



For additional guidance on the tax credit implications for noncompliance with the NAU Rule, consult a tax attorney or accountant.

Section 7.6 Unit Transfers

ALL PROG

As explained below, unit transfer rules depend on where the household is moving within the property, the property type(s), and current household income. When conducting a unit transfer, follow the steps below.

- On page 1 of the Tenant Income Certification (TIC):
  - Mark the certification type as a Unit Transfer.
  - Keep the household's move-in date as the date they moved into the property (not the new unit).
- On page 2 of the TIC, document the new rent and utility allowance amounts and any change in the AMI designation (see Section 7.12, Changes in Unit AMI Designation, below for when changes in AMI are permitted).
- Keep all previous certifications in the file.
- Do not change the annual recertification effective date. Going forward, the annual recertification month remains the anniversary month of the date the household moved into the property (not the new unit).



For units with Section 8 or USDA-RD assistance:
If the HAP administrator changes the recertification effective date due to a unit transfer, the owner may change the Housing Tax Credit or CHFA Loan effective date to align with it. However, the owner must ensure the household does not go more than 12 months between annual recertifications.

Transfers Within the Same Building – All Properties

For all Housing Tax Credit projects and CHFA Loan properties, all transfers within the same building are permitted, regardless of current household income. When a current qualifying household transfers to another unit within the same building, the newly occupied unit adopts the status of the vacated unit and the vacated unit adopts the former status of the newly occupied unit. In other words, the two units swap their status with one another. The result is that the household simply transfers and is not required to be certified as a new move-in. However, a Unit Transfer TIC is required to document the changes regarding the rent, utility allowance, and set-aside.

Transfers Between Buildings at Multiple-building Housing Tax Credit Projects and CHFA Loan Properties

For a multiple-building Housing Tax Credit project or a CHFA Loan property, unit transfer rules depend on the property type and the household's current income. As summarized below, developments with both CHFA-issued tax-exempt bond financing [Private Activity Bonds (PAB)] and LIHTC are monitored for compliance according to the LIHTC transfer rules. CHFA Loan properties that have CHFA-issued PAB but no LIHTC are monitored according to PAB transfer rules.

When a current qualifying household transfers to a unit in another building as permitted under the following rules, the newly occupied unit adopts that status of the vacated unit and the vacated unit adopts the former status of the newly occupied unit. As noted above, a Unit Transfer TIC is required to document the changes regarding the rent, utility allowance, and set-aside.

Property Types	Current Household Income is at or Below 140 Percent of Current Income Limit	Current Household Income Exceeds 140 Percent of Current Income Limit
LIHTC only **LIHTC + PAB** **CHFA Loan + LIHTC + PAB** **CHFA Loan + LIHTC – No PAB** **CHFA Loan – No PAB**	Transfer permitted for both Mixed-income and 100 Percent Affordable.	Mixed-income: Transfer not permitted. Household must stay within the building. 100 Percent Affordable: Transfer permitted.
Post Year 15 LIHTC **Post Year 15 LIHTC + PAB** **CHFA Loan + PY15 LIHTC + PAB** **CHFA Loan + PY15 LIHTC – No PAB**	Transfer permitted for both Mixed-income and 100 Percent Affordable.	Transfer permitted for both Mixed-income and 100 Percent Affordable
CHFA Loan + PAB – No LIHTC	Transfer permitted for both Mixed-income and 100 Percent Affordable.	Mixed-income: Transfer permitted, but owner must follow Next Available Unit Rule. 100 Percent Affordable: Transfer permitted, but owner must follow Next Available Unit Rule.

Transfers Between Buildings at Separate-building LIHTC Projects – Years 1-15

In Years 1-15 (i.e., the Compliance Period), if a LIHTC owner elected to treat multiple buildings at a property as separate LIHTC projects, unit transfers are not permitted. If a household wishes to move from one building to another building at the property, the move must be treated as a move-out/move-in. A new move-in certification, including all required forms and verifications, must be prepared for the household and they must requalify for the new unit based on the current applicable income limit.



To determine if your LIHTC buildings are treated as individual projects, refer to the property's first-year IRS Form 8609 (Part II, Line 8b).

Section 7.7 Interim Certification

ALL PROG

Interim certifications are required for the Housing Tax Credit and CHFA Loan programs only when an additional person moves into a unit or when the designation of a unit with an existing household is changed to a lower or higher AMI (see Section 7.12, Changes in Unit AMI Designation). Otherwise, interim certifications are **not** required for changes in existing household members' income, changes in rent or utility allowances, or when a household member leaves the household (although the owner must document the file when any household member vacates the unit).

New Household Members

When a new member joins the household, that new member must be fully certified, including all the standard move-in forms and verifications. The new total household income must be certified on an interim TIC and is based on the existing

household's income at the most recent certification combined with the new household member's income. It is not necessary to recertify the entire household unless a recertification is currently due for the existing household members.

To complete the interim certification:

- Calculate the new household member's income.
- Prepare a new TIC that includes all current household members, the original household's most recent income, the new household member's income, updated total income, and the applicable income limit based on the new household size.
    - Keep the household's move-in date as the date the original household moved into the property.
    - Mark the certification type on page 1 of the TIC as Interim.
    - Note: All adult members must sign the interim TIC.
- Keep all previous certifications in the file.
- Do not change the annual recertification effective date. The annual recertification month remains the anniversary month of the date the original household moved into the property.

New Household Members and the Next Available Unit Rule

At mixed-income Housing Tax Credit and tax-exempt bond-financed projects, if the additional household member's income raises total household income above 140 percent of the current household income limit, the Next Available Unit Rule applies (see Section 7.5, Next Available Unit Rule).

At Housing Tax Credit and tax-exempt bond-financed projects that are 100 percent low-income, if the additional household member's income raises total household income above 140 percent of the current household income limit, the household remains qualified as long as an original member remains in the unit.

New Household Member Policy

CHFA recommends that owners have a written policy regarding new household members. To prevent manipulation of household income limits, the policy should include a restriction that new adult members may not join a household until at least six months after move-in, except under specific circumstances.

Original Household Members Vacate a LIHTC or Tax-exempt Bond-Financed Unit

At all LIHTC and tax-exempt bond-financed projects, after a new member joins a household, management must monitor any future move-outs from that unit to ensure it remains qualified. If an original household member vacates the unit, the unit will remain a qualified unit as long as at least one other original household member remains in the unit and the Full-time Student Rule and/or the Next Available Unit Rule are not violated. Minor children and other dependents who were members of the household at move-in are considered original household members.

Although an interim TIC is not required, the owner must document the file when any household member vacates the unit, including a minor child or other dependent. If all original household members vacate the unit, leaving only members who joined after the original move-in, the owner must determine whether the remaining members are a qualified tax credit household.



See the IRS 8823 Guide, pp.4-4 to 4-6, for a detailed explanation of how to determine if a household is qualified to remain in the unit.



The original household rule does not apply to developments that do not have LIHTC or tax-exempt bond financing.

Changes in Unit AMI Designation

When the designation of a unit with an existing household is changed to a lower or higher AMI, the household's current income must be fully verified and certified on an interim TIC (see Section 7.12, Changes in Unit AMI Designation).

To complete the interim certification:

- Calculate the current household income.
    - For units being redesignated to a higher AMI, also calculate the current household income as a percentage of the income limit for the current AMI. It must equal at least 140 percent of the current income limit.
- Prepare a new TIC that includes all current household members, the updated total household income (including any income from assets), and the applicable income limit based on the new designation.
    - Keep the household's move-in date as the date the original household moved into the property.
    - Mark the certification type on page 1 of the TIC as Interim.
    - Note: All adult members must sign the interim TIC.
- Keep all previous certifications in the file.
- Do not change the annual recertification effective date. The annual recertification month remains the anniversary month of the date the original household moved into the property.

Section 7.8 Initial Certification

TC Y 1-15 PY 15+

Housing Tax Credit Program

For the Housing Tax Credit program, initial certifications of existing households are required as explained below.

Initial Certification Type	Certification Information
To certify an existing household during the first credit year of an existing property receiving a **first** allocation of LIHTC for acquisition-rehab.	▪ Obtain all the same certification forms and verifications as for a new move-in. ▪ On page 1 of the TIC, mark the type as Move-in/Initial. ▪ Determine the initial certification effective date, move-in date, and annual recertification date as specified in the chart below in Section 7.9, Acquisition-rehabilitation Certification.

Initial Certification Type	Certification Information
To document a change in unit status from market rate to Housing Tax Credit at a mixed-income Housing Tax Credit property. This occurs when an existing household in a market-rate unit who did not qualify at move-in becomes Housing Tax Credit-qualified at some point after move-in.	▪ Obtain all the same certification forms and verifications as for a new move-in. ▪ Explain the change in status and identify the household's original property move-in date in a clarification record. ▪ On page 1 of the TIC, mark the type as Move-in/Initial. ▪ Use the date the last adult member signs the TIC as the initial certification effective date and move-in date. ▪ Going forward, the annual recertification month will be the anniversary month of the initial certification date.
To certify an existing household during the first credit year of an existing property receiving a **second** allocation of LIHTC (i.e., a resyndication) for acquisition-rehab.	▪ For a resyndication project, if the file contains sufficient documentation of an existing household's income-qualification under the first LIHTC allocation, neither the IRS nor CHFA requires an initial certification under the second LIHTC allocation. ▪ Although an initial certification is not required, owners may elect to conduct them for all households anyway. ▪ Section 7.10, Resyndication Certification, for more information.

CHFA Loan Programs

For the various CHFA Loan programs, initial certifications of existing households are required as explained below.

Initial Certification Type	Certification Information
To certify an existing household at an existing property that is receiving new CHFA Loan financing which specifically requires an initial certification.	▪ Must be completed according to the date specified in the CHFA Loan regulatory agreement. ▪ Obtain all the same certification forms and verifications as for a new move-in. ▪ On page 1 of the TIC, mark the type as Move-in/Initial. ▪ Use the date the last adult member signs the TIC as the initial certification effective date and move-in date. ▪ Going forward, the annual recertification month will be the anniversary month of the initial certification date.

Initial Certification Type	Certification Information
To document a change in unit status from market-rate to affordable at a mixed-income CHFA Loan property. This occurs when an existing household in a market-rate unit who did not qualify at move-in becomes income-qualified for an affordable unit at some point after move-in.	▪ Obtain all the same certification forms and verifications as for a new move-in. ▪ Explain the change in status and identify the household's original property move-in date in a clarification record. ▪ On page 1 of the TIC, mark the type as Move-in/Initial. ▪ Use the date the last adult member signs the TIC as the initial certification effective date and move-in date. ▪ Going forward, the annual recertification month will be the anniversary month of the initial certification date.

Section 7.9 Acquisition-rehabilitation Certification

TC Y 1-15

When an owner receives tax credits for the acquisition and rehabilitation of an existing building that does not already have LIHTC, additional rules apply when first certifying and qualifying units for tax credits. In the first year, Initial Certifications must be completed to qualify existing households in the Housing Tax Credit program as follows.



See the IRS 8823 Guide, Chapter 4, for additional guidance on certifying residents during the first credit year of acquisition-rehab LIHTC projects.

Initial Certification Type	Income and Rent Limits	Move-in Date	Effective Date	Other Information
Existing Households Certified within 120 Days Before or After the Building Acquisition Date	Use the limits in effect as of the building acquisition date.	Use the initial certification effective date.	Use the building acquisition date.	CHFA recommends including a clarification record with the household's original property move-in date.
Existing Households Certified More Than 120 Days After the Building Acquisition Date	Use the limits in effect as of the certification effective date.	Use the initial certification effective date.	Use the date the last adult member signs the TIC.	CHFA recommends including a clarification record with the household's original property move-in date.
New Households Certified After the Building Acquisition Date	Use the limits in effect as of the certification effective date.	Use the date the new household takes occupancy of the unit.	Use the move-in date.	n/a

Annual Recertifications for Existing Residents

After the initial LIHTC certification is completed for an existing household, the Housing Tax Credit annual recertification date should be tied to that initial certification effective date. However, if another affordable housing program has established a date that conflicts with the Housing Tax Credit annual recertification date, CHFA allows owners to align the Housing Tax Credit recertification dates to the other affordable housing program, as long as the household never goes more than 12 months without a Housing Tax Credit annual recertification.

See Section 7.2, Effective Dates, for a detailed explanation.



If the owner aligns the Housing Tax Credit date with another program, the file must include a clarification record.

Section 7.10 Resyndication Certification

TC Y 1-15

Resyndication occurs when an existing LIHTC project that has completed the 15-year Compliance Period receives a second allocation of LIHTC to be acquired and rehabilitated by a new ownership entity. Following are several key points for the owner and management to keep in mind at resyndication.

"Income Grandfathering"

If an existing household is over the income limit applicable under the new allocation, they will remain eligible for a tax credit unit under the new allocation as long as:

- the household was income-qualified for the Housing Tax Credit program under the previous tax credit allocation,
- the file contains sufficient documentation to confirm the previous income qualification,
- the unit remains rent-restricted, and
- the household meets all other current Housing Tax Credit rules (including the Full-time Student Rule).



See the IRS 8823 Guide, Chapter 4, for additional guidance on the treatment of existing Housing Tax Credit households at resyndication.

First-year Certifications for Existing Households at Resyndication

Initial Income Certification

During the first credit year of a resyndication project, if the file contains sufficient documentation of a household's income-qualification at some point under the first LIHTC allocation, neither the IRS nor CHFA requires a new (or initial) certification to demonstrate income eligibility under the second LIHTC allocation.

If the owner is using the "income grandfathering" option, the file must contain a clarification record stating:

- the effective date of the previous certification used to demonstrate the household was originally income-qualified under the first LIHTC allocation,
- the number of household members at that time, and
- the applicable income limit at that time.

Whether the owner uses the "income grandfathering" option or elects to complete a full initial certification for all existing residents, annual recertifications should continue as scheduled under the first allocation of LIHTC. In other words, if an initial certification is completed, the annual recertification effective date must be tied to the household's original property move-in date, not the initial certification effective date.

Student Status Certification

A Student Status Certification must be completed at resyndication for all households to demonstrate compliance with the IRS Student Rule under the second allocation of LIHTC.

Income and Rent Limits at Resyndication

Once a LIHTC project receives a second allocation of tax credits, it is no longer eligible to use HERA special limits. Likewise, the owner may no longer rely on the previous allocation's highest set of Hold Harmless limits (see Section 4.1, Income Limits and Maximum Rents on HERA special and Hold Harmless limits). Under the new allocation, the Hold Harmless protection is reset to the limits used in the first year of the new allocation.

Section 7.11 Alternatives to the TIC

ALL PROG

Acceptable Alternatives to the TIC

Property Type	Alternative to the TIC
For all Developments with Rural Development Section 515 Financing	The RD 3560-8 Certification form may be used in lieu of a separate TIC or Basic Annual Recertification form for all certifications.
For Project-based Section 8 Properties in Years 1-15 of the LIHTC Extended Use Period	At move-in, a TIC must be completed. Beginning with the first annual recertification, the form HUD-50059 may be used in lieu of a TIC or Basic Annual Recertification form.
For Project-based Section 8 Properties That are Post Year 15 LIHTC	At move-in and annual recertification, the form HUD-50059 may be used in lieu of the TIC or Basic Annual Recertification form.
For Project-based Section 8 Properties with New Allocations of LIHTC for Acquisition/ Rehab	For existing residents, a TIC is required to document all first-year Initial Certifications. Thereafter, at move-in, a TIC must be completed. For annual recertification, the form HUD-50059 may be used in lieu of a TIC or Basic Annual Recertification form.
For Project-based Section 8 Properties with CHFA Loans (no Housing Tax Credits)	At move-in and annual recertification, the form HUD-50059 may be used in lieu of the TIC or Basic Annual Recertification form.



If using the RD 3560-8 or the form HUD-50059, the owner must still ensure that households meet Housing Tax Credit and/or CHFA Loan qualifications, including student status, if applicable.

Unacceptable Alternative to the TIC

The form HUD 50058, used by some project-based Section 8 properties, is not approved for use with the Housing Tax Credit and CHFA Loan programs.

Section 7.12 Changes in Unit AMI Designation

ALL PROG

Change to Lower AMI Designation

Owners may lower a household's AMI designation at any time under the following conditions.

- Current household income is verified to be at or below the applicable income limit for the new AMI designation.
- Gross rent is reduced to be at or below the applicable maximum rent for the new AMI designation.
- An interim TIC is completed at the time of unit redesignation (see Section 7.7, Interim Certification).

Change to a Higher AMI Designation

CHFA allows a household's AMI designation to be increased only under the following conditions.

- The property conducts full annual recertifications for all low-income units.
- The redesignation may occur only at annual recertification or unit transfer.
- Current household income is verified to be over 140 percent of the income limit for the household's current AMI designation.
- The unit redesignation must be reflected on the applicable annual recertification or unit transfer TIC.

Changing Designations with Average Income Test Minimum Set-aside

For Housing Tax Credit properties that elect the Average Income Test minimum set-aside, the owner may change unit designations only for the specific reasons detailed in CHFA's Average Income Test Compliance Monitoring Policy. Redesignating an occupied unit to a higher AMI at these properties is not permitted.



CHFA's Average Income Test Compliance Monitoring Policy for Housing Tax Credit Developments: chfainfo.com/rental-housing/asset-management/lihtc-program-compliance.

Section 7.13 Changes in Tenant Rent

ALL PROG

Increases and decreases in tenant rent do not require an interim certification or TIC. However, the file must contain a record of the owner's notice to the household of the new rent amount and the effective date that is signed by the owner and the tenant.

Tenant Rent Decreases

Tenant rent decreases required to comply with changes in maximum rents or utility allowances must be implemented and documented timely according to timeframes explained in Section 4.1, Income Limits and Maximum Rents, and in Section 4.4, Utility Allowances.

Tenant Rent Increases

Tenant rent increases during the lease term are not permitted by CHFA for Housing Tax Credit and CHFA Loan properties. Owners may increase tenant rent only at lease renewal, regardless of changes in maximum rents or utility allowances, and in accordance with Colorado state and local law.

Noncompliance with CHFA's policy may result in a Not in Good Standing designation with CHFA programs and/or other consequences as specified in Chapter 17, Noncompliance.



An exception is permitted when a mid-lease rent increase is required by the Section 8, USDA Rural Development, or similar rental assistance programs.

Section 7.14 Certification Forms

ALL PROG

CHFA has designed various certification and verification forms for use by owners and managers. See CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist for a summary of when each form is required or recommended.

With certain exceptions, owners are not required to use CHFA's forms, provided that the owner's forms contain all the same questions and content. To ensure that owners have the most current version of all forms, review the Compliance Form Current Version List on CHFA's compliance forms webpage.



Compliance forms completed more than 120 days prior to the certification effective date are no longer valid and new forms must be completed to reflect current information.



All CHFA program compliance forms and the Current Version List may be accessed at chfainfo.com/rental-housing/asset-management/compliance-forms#.



CHFA's LIHTC and Multifamily Loan Program File Requirements Checklist: chfainfo.com/rental-housing/asset-management/compliance-forms#

Asset and Student Certifications within the Application and Questionnaire

If a household completes CHFA's Application or Certification Questionnaire in full, which both incorporate the full Asset Certification and Student Certification questions, separate Asset Certification and Student Certification forms are not required. This also applies if the owner/agent uses their own application or questionnaire that incorporates all content from CHFA's Asset Certification and Student Certification.



For properties using CHFA's Application or Questionnaire, CHFA encourages owners to reduce paperwork and not require a separate Asset Certification or Student Certification in addition to the application/questionnaire.

Exception for Households Who Receive Section 8, USDA Rural Development, or Similar Government Rental Assistance

For only those households who receive some type of government rental assistance through the Section 8, USDA Rural Development, or other government programs which verify their income, the following CHFA certification forms are not required for any certification, including move-in and the annual recertifications. Instead, the owner may use the forms required by the other program.

- Certification of Income for Self-employed Persons and supporting documentation
- Child Support Affidavit
- Seasonal Worker Affidavit
- Unemployed Resident Affidavit
- Zero-income Questionnaire

Assistance with Forms

Certification forms must be completed directly by the resident unless he or she is unable to complete the form due to medical or other valid reasons. If a resident requests assistance in completing forms, the file must contain a clarification record (e.g., CHFA's Authorization to Assist form) that indicates the person(s) who completed their forms and the reason for assistance. The clarification must be signed by both the resident and the person providing assistance (e.g., caseworker, relative, management).



Authorization to Assist: chfainfo.com/rental-housing/asset-management/compliance-forms#

Power of Attorney

Certification forms must be signed and dated by the resident. Some residents have a power of attorney (POA), a legal document giving one person or organization (the agent or attorney-in-fact) the power to manage their property, financial, or medical affairs. When an agent or attorney-in-fact signs Housing Tax Credit or CHFA Loan documents on a resident's behalf, the signed and notarized POA document must be available for review by CHFA upon request.

Changes to Forms

Once a form is completed and/or signed by the resident, changes or revisions are not permitted unless they are clarified by management and initialed by all adult resident(s) who signed the form, including an initialed true and correct statement.



Clarification Record: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 7.15 Electronic Files

ALL PROG

Electronic File Storage

Housing Tax Credit and CHFA Loan resident certification files may be stored electronically, subject to the following requirements.

- The project owner, investor (if applicable), and agent must all agree to the electronic storage policy.
- The project owner's electronic storage policy must adhere to all applicable IRS regulations and guidance, including the following.
  - IRS Revenue Ruling 2004-82 (Q-11)
  - IRS Revenue Procedure 97-22
  - IRS Revenue Procedure 98-25
  - IRS 8823 Audit Technique Guide

Electronic File Format for Onsite Program Compliance Review

During an onsite Housing Tax Credit or CHFA Loan Program Compliance Review, resident files may be provided electronically for inspection subject to the following requirements.

- Each electronic resident file must be complete and organized in a consistent file order.
- A file index showing where to locate each document type in the system must be provided to the reviewer.
- Two-screen computer monitor displays for the CHFA reviewers' use are preferred.



See Section 10.2, Review Notice and Format/Electronic File Reviews, for information on how CHFA conducts some file reviews remotely instead of on site.

Section 7.16 Electronic Certification Forms and Signatures

ALL PROG

Housing Tax Credit and CHFA Loan certification forms that are signed by residents or management, including the Application, Questionnaire, Student Status Certification, etc., may be handled electronically subject to the following requirements.

Tenant Income Certification (TIC) and Basic Annual Recertification Forms

- Content may be entered electronically by management on the TIC and BAR forms.

Supporting Certification Forms

- Content on certification forms may be filled out electronically by residents (not management).
- As with all formats, electronic forms must be completed directly by residents unless he or she is unable to complete the form due to medical or other valid reasons.
- If a resident requires assistance in completing electronic forms, the file must contain a clarification record that is signed by the resident and indicates the person(s) who completed their forms and the general reason for assistance.



Authorization to Assist: chfainfo.com/rental-housing/asset-management/compliance-forms#

Electronic Signatures

- Signatures by residents and management on the TIC and Basic Annual Recertification forms and supporting certification forms may be completed electronically only if each signature is authenticated and date- and time-stamped by the software.
- If the electronic signature does not include a time and date stamp, an authentication record that shows the resident's identifying information, the name of each document signed electronically, and the date each document was signed is required.
- If a resident submits electronically typed and/or signed forms via email, the resident's email must be attached to the form to show it was completed by the resident. The email must clearly show the sender, date sent, and the attachment's title.



Unless at least one of the conditions above is met, typed and unauthenticated signatures are not permitted.

chapter 8

Students

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO HTC — Colorado state HTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

For all programs, certain rules regarding income and financial aid apply to students. For developments with Housing Tax Credits and/or a CHFA Loan funded with tax-exempt bonds, the Student Rule applies in determining a household's eligibility to occupy a low-income unit. The following chapter summarizes the various rules that apply to students.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
8.1 Student Financial Assistance Income	✓							
8.2 Students and Non-Financial Assistance Income	✓							
8.3 Student Status Certification		✓	⇆	✗	⇆	✗	✗	✗
8.4 IRS Student Rule		✓	⇆	✗	⇆	✗	✗	✗
8.5 IRS Student Rule Summary		✓	⇆	✗	⇆	✗	✗	✗
8.6 Verification of Income and Status for Students	✓							
8.7 IRS Student Rule and Post Year 15 LIHTC		✗	✓	✗	✗	✗	✗	✗

Section 8.1 Student Financial Assistance Income

ALL PROG

Student financial assistance must be verified, reviewed, and counted as income, when applicable, for all Housing Tax Credit and CHFA Loan units. This is required for both full-time and part-time students. When certifying any household with a student who receives financial assistance, the owner/agent must verify the types of financial assistance received to calculate the amount of assistance, if any, that must be included in annual household income.



There is no longer a blanket exclusion of all student financial assistance for households who do not receive Section 8 assistance.



CHFA encourages owners/agents to use a student financial assistance worksheet to ensure that student financial assistance is handled correctly.

HUD Annual Appropriations Act: Section 8 Student Financial Assistance Limitation

When an annual HUD appropriations act is passed, it may contain language that differs from the prior year and impacts how income eligibility is determined for certain student households who receive Section 8 assistance.

As of the effective date of this manual, Section 209 of the Consolidated Appropriations Act, 2026, does **not** require owners to apply the Section 8 student financial assistance limitation that had been in effect prior to the implementation of HOTMA and is different from HUD's HOTMA student financial assistance regulations. Therefore, student financial assistance for all non-Section 8 and Section 8 households is now determined using the HOTMA set of rules.



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section G.16.d



Owners/agents must be aware whether the Section 8 student financial assistance limitation is in effect when determining income for households with Section 8. While the Section 8 limitation is not in effect as of the effective date of this manual, future appropriations acts could add back the language or a variation of it.

HOTMA Student Financial Assistance Rule

The following information explains the HOTMA rule, related definitions, and how to calculate student financial assistance.

HEA Student Financial Assistance Excluded

All student financial assistance received under Section 479B of the Higher Education Act ("HEA") is always excluded from income.

Net Other Student Financial Assistance Included

Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is included in income. The owner must verify that the other student financial assistance is for the student's actual covered costs.

HOTMA Definitions

HEA Student Financial Assistance and Other Student Financial Assistance

Higher Education Act (HEA) student financial	assistance includes the following:
Federal Pell grants	Robert C. Byrd Honors Scholarship Program
Teach grants	Child Care Access Means Parents in School
Federal work study programs	Scholarships for veteran's dependents
Federal Perkins loans	**Note:** This list is not exhaustive. Refer to Section 479B of the Higher Education Act.
Federal Family Education Loan Program	
William D. Ford Federal Direct Loan Program	
Various higher education relief programs for students	
Student financial assistance received under the Bureau of Indian Education	
Higher education tribal grant	
Tribally controlled colleges or universities grant program	
Employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA)	
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	

Other student financial assistance includes grants and scholarships received from the following sources:
The federal government
A state (including U.S. territories), Tribe, or local government
A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3)
A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity)
An institution of higher education
Note: Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf.



For a complete list of WIOA employment and training programs, refer to 29 U.S.C. § 3174.



Other student financial assistance does not include financial support in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under HEA) or gifts, including gifts from family or friends.



24 C.F.R. § 5.609(b)(9)

Higher Education Act of 1965
Public Law 89-329, as amended through Public Law 119-21, July 4, 2025



HUD Notice H 2023-10, HOTMA Implementation Guidance: Section G.16.a, G.16.b

Actual Covered Costs

Actual covered costs includes the following:
Tuition
Books and supplies (includes supplies and equipment to support students with learning disabilities or other disabilities)
Room and board

Actual covered costs includes the following:
Other fees required and charged to a student by the education institution
Reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit (applies only to a student who is not the head of household, co-head, or spouse).



24 C.F.R. § 5.609(b)(9)

HOTMA Rule Calculation Process

Below are the steps to calculate student financial assistance income, followed by flow charts. The purpose of the calculations is to determine the "extra" amount of other student financial assistance received that exceeds the actual covered costs the student must pay to attend school. As explained above, HEA assistance must be treated differently than other student financial assistance.

The first step for all student households is to verify student financial assistance and actual covered costs.



Verification of Student Status, Tuition, and Financial Aid: chfainfo.com/rental-housing/asset-management/compliance-forms#

Using Online Account Printouts or Mobile Phone App Screenshots to Verify Student Financial Assistance and Actual Covered Costs

Although tenant-provided documents are acceptable, CHFA's preference is to use the Verification of Student Status, Tuition, and Financial Aid. If management instead uses printouts or screenshots from the applicant's online account or mobile app, they must:

- be clearly dated and
- contain all the same information required on the Verification form, including the amounts, types, and frequency for both financial assistance and for actual covered costs.

Calculation Steps

1. Verify the student's financial assistance with their educational institution.
    - Request the aid amounts that have been or will be paid in the 12-month Certification Period.
    - The verification should specify HEA assistance and other student financial assistance, as well as actual covered costs.
2. If only HEA assistance is received and no other student financial assistance is received,
    - **Stop**. No student financial assistance income is included in household income.

3. If other student financial assistance is received, take the following steps:

    - Calculation Step 1:
        - **Actual covered costs - HEA assistance = $_____** (Actual covered costs in excess of HEA)
        - If the actual covered costs in excess of HEA amount is negative,
            - **Stop**. Include **all** other student financial assistance in household income.
        - If the actual covered costs in excess of HEA amount is positive,
            - Go to Calculation Step 2.
    - Calculation Step 2:
        - **Other student financial assistance - actual covered costs in excess of HEA = $_____**
        - If the amount is negative,
            - **Stop**. No student financial assistance income is included in household income.
        - If the amount is positive,
            - Count only this amount of student financial assistance income in household income.



Remember that, while HOTMA requires that the amount of HEA assistance is verified and used in the calculation, all HEA assistance is always excluded from household income.

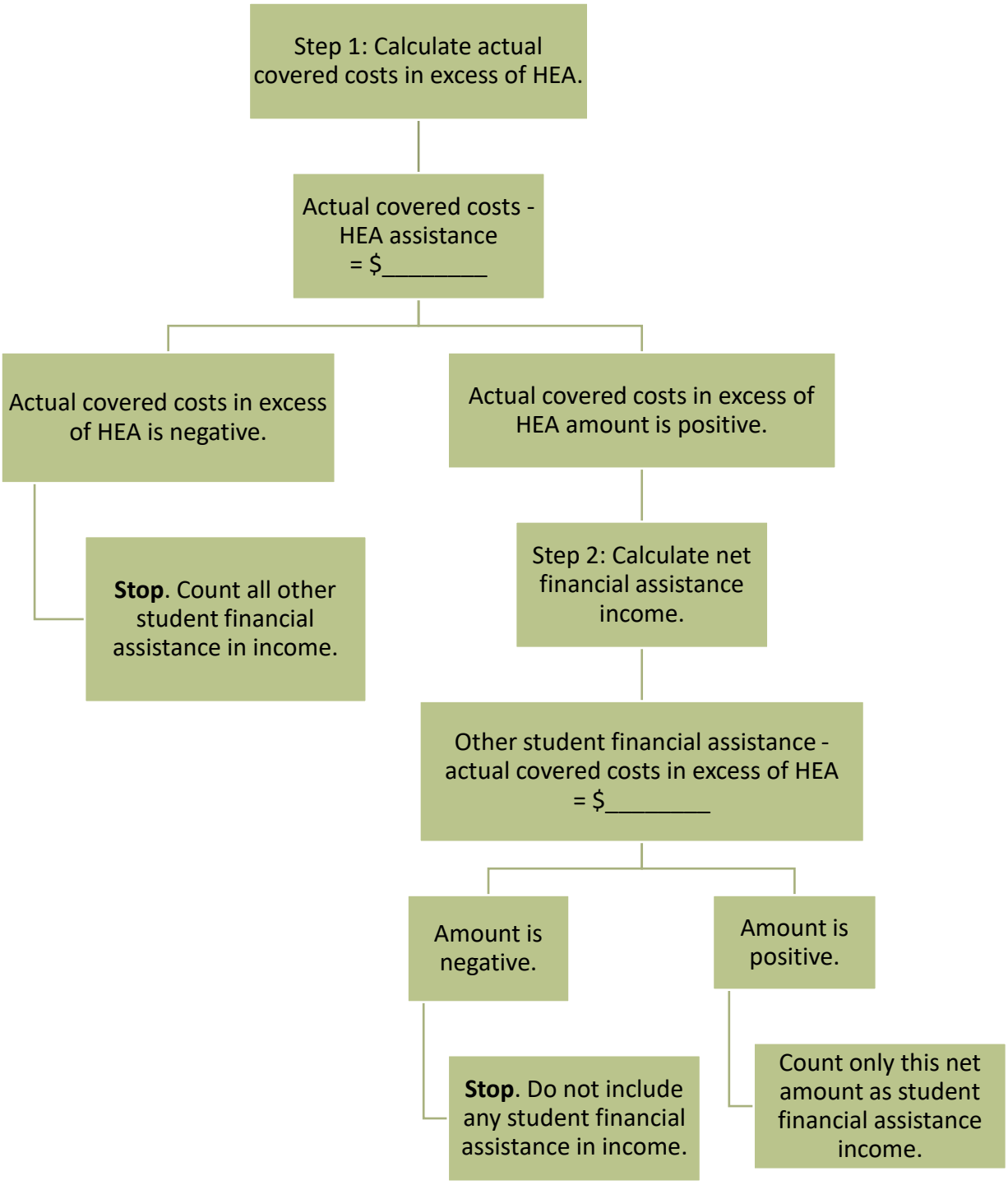


HUD Notice H 2023-10, HOTMA Implementation Guidance, contains helpful examples of different types of student assistance. For the HOTMA rule calculations, see Chart G1 and Examples G10, G11, and G12.

Student Financial Assistance Includes HEA Only (i.e., no other student financial assistance)

Stop. Do not include any student financial assistance in income.

Student Financial Assistance Includes Both HEA and Other Student Financial Assistance



Student Financial Assistance includes other student financial assistance only (i.e., no HEA)



Section 8.2 Students and Non-financial Assistance Income

ALL PROG

Below is a summary of guidelines on students and any income that is not considered financial aid. See Section 8.1, Student Financial Assistance Income, for detailed information on how to treat and verify student financial assistance.

Student/Household Member	Income Type	How to Treat Income
Full-time Students Who Are Age 18 and Older and Are Head, Co-head, or Spouse	Employment income Non-employment income (SSI, Child Support, Public Assistance, etc.)	Include all Include all
Full-time Students Who Are Age 18 and Older, and Not Head, Co-head, or Spouse (i.e., dependents)	Employment income Non-employment income	Include only the first $480/year, as adjusted. *See adjustment information below. Exclude any employment income over $480/year, as adjusted. Include all
Full-time Students Under Age 18	Employment income Non-employment income	Exclude all Include all
Part-time Students	Employment income Non-employment income	Include all Include all

HUD 4350.3, Paragraph 5-6(A)(3)(d-f)

Dependent Student Earned Income Exclusion: Annual Adjustment for Inflation

Every year HUD will publish an inflation adjustment to the employment income exclusion for dependent full-time students, no later than September 1st. The revised amount will be effective on January 1st of the following year.



24 C.F.R. § 5.609(b)(14)



Be sure to set a recurring calendar reminder to look for HUD's inflation adjustments every year by September 1st: huduser.gov/portal/datasets/inflationary-adjustments-notifications.html

Section 8.3 Student Status Certification

TC Y 1-15 PY 15+ CHFA LOAN

For LIHTC properties in the 15-year Compliance Period and for all properties with tax-exempt bond financing through CHFA, the IRS Student Rule applies. Therefore, a Certification of Student Status must be completed by all household members age 18 years and older at move-in and annually thereafter.

Owners may use their own Student Status Certification form if it contains all the same questions and content as CHFA's Certification of Student Status.

For properties using CHFA's Certification Questionnaire, the Student Certification questions are included in the Questionnaire, and a separate Certification of Student Status is not required.



Certification of Student Status: chfainfo.com/rental-housing/asset-management/compliance-forms#



Student Status Certification is not required for properties that do not have LIHTC or tax-exempt financing.

IRS Student Rule

For LIHTC properties in the 15-year Compliance Period and for all properties with tax-exempt bond financing through CHFA, the IRS Student Rule applies. Under the rule:

- A household comprised entirely of students (as defined by the IRS) who had/have/will have full-time status is ineligible to occupy a tax credit unit **unless** one or more of five exemptions is met (see summary below). When one or more of these exemptions is used to qualify the household, management must obtain verification.
- As long as at least one member (including an unborn child) of a household is not a full-time student, the household complies with the rule. The qualifying member may be a non-student or a part-time student.



26 U.S.C. § 42(i)(3)(D)

26 U.S.C. § 142(d)(2)(C)



The IRS Student Rule does not apply to properties that do not have LIHTC or tax-exempt financing.

IRS Student Definition

It is critical that management understands how IRS regulations define the term “student.” The IRS defines a “student” as an individual who has been, is, or anticipates being enrolled as a full-time student at an educational institution during at least five months in the calendar year. An educational institution includes the following.

- Kindergarten, elementary, junior, and senior high schools
- Colleges, universities, technical, trade, and mechanical schools
- Online schools and programs that are eligible to accept federal financial aid (per IRS guidance)



26 C.F.R. § 1.151-3(b) and (c)

Regarding the time period of enrollment:

- The five months do not have to be consecutive.
- Enrollment at any point in a month (e.g., just one day) counts as enrollment during that month.
- Once a resident reaches five months of enrollment, the student designation lasts the remainder of the calendar year.



For example, a college student enrolled between January 21st and May 2nd has been enrolled for five months and meets the IRS definition of a student until the end of the calendar year.

Full-time Student Definition

Whether a student is full-time or part-time is determined by the educational institution at which they are enrolled. A student's status is not determined by management or by the resident.

Five Exemptions for Households with All Full-time Students

A household comprised entirely of full-time students is ineligible to occupy a tax credit unit unless one or more of the following five exemptions is met.

Exemption	Exemption Details	Third-party Verification
TANF	At least one student is receiving assistance under Title IV of the Social Security Act (TANF).	TANF benefit verification
Single Parent(s) with Children	At least one student is a single parent with child(ren). Parent and children must not be claimed as dependents by any other person except the non-resident parent.	Not required, but tax return is recommended
Married Couple Who Are Eligible to File a Joint Tax Return	Actual filing of joint tax return is not required	Not required, but tax return is recommended
Government-supported Job Training	At least one student is enrolled in a program receiving assistance under the Workforce Innovation and Opportunity Act of 2014 or similar federal, state, or local government laws.	Verification of WIOA or other government support from the educational institution or training program
Foster Care	At least one student was previously under the care and placement responsibility of the state agency responsible for administering foster care.	Documentation from state agency showing placement at any point in time

Change in Status to Non-qualifying Student Household

The following households no longer qualify to occupy a unit financed with LIHTC or tax-exempt bonds.

- A full-time student household that previously met one of the five exceptions but now ceases to meet an exception.
- A previously non–full-time student household becomes comprised of all full-time students and does not meet one of the five exceptions.

Section 8.5 IRS Student Rule Summary

TC Y 1-15 PY 15+ CHFA LOAN

Below is a basic summary of whether different household types comply with the IRS Student Rule.

Household Type	In compliance with IRS Student Rule?	Key Points
Multiple Members: At Least One Member Is Not Considered a Student	Yes	Non-student could be an unborn child.
Multiple Members: All Household Members Are Students, and At Least One Is Part-time	Yes	Third-party verification of part-time student's status is required.
Multiple Members: All Household Members Are Full-time Students	Only if one of five exemptions applies	Most exemptions require verification.
One-person Household: Full-time Student	Only if one of five exemptions applies	Recent graduates may not yet be eligible.
One-person Household: Part-time Student	Yes	Third-party verification of part-time student's status is required.



The IRS Student Rule does not apply to properties that do not have LIHTC or tax-exempt financing.

Section 8.6 Verification of Income and Status for Students

ALL PROG

For the Housing Tax Credit and CHFA Loan programs, third-party verification of student status and/or student income are required in the following cases.

Household Type	How to Verify Student Status and/or Income
A Household Member Is a Student – either Full-time or Part-time	▪ Verify all types of student financial assistance and actual covered costs that will be paid in the 12-month Certification Period. ▪ Include the amount of student financial assistance in household income that is required depending on various factors, as explained in Section 8.1, Student Financial Assistance Income.
A Household Member Is a Full-time Student Age 18 or Older and not Head, Co-head, or Spouse and Has Employment Income	▪ Verify with the educational institution whether the student's status is full-time. ▪ Verify employment income. ▪ Count a maximum of $480, as adjusted, per year of employment income in household income.
A Household Includes All Students, and at Least One Student Is Part-time	▪ Verify with the educational institution whether the student's status is part-time. ▪ If so, the part-time student will qualify the household under the IRS student rule. ▪ Exception: Part-time student status verification is not required for properties that do not have LIHTC or tax-exempt financing.

Section 8.7 IRS Student Rule and Post Year 15 LIHTC

PY 15+

Since student status is not one of the defined requirements of the Land Use Restriction Agreement, CHFA no longer monitors compliance with the IRS Student Rule for LIHTC properties in the Post Year 15 period. Unless a Post Year 15 LIHTC property also has tax-exempt bond financing, Student Status Certification is no longer required.



For developments financed with tax-exempt bonds, CHFA continues to monitor compliance with the IRS student rule as long as the bonds remain outstanding.

Student Status at Resyndication

If a Post Year 15 LIHTC project receives a second allocation of LIHTC to be acquired and rehabilitated by a new ownership entity (i.e., a "resyndication"), a Student Status Certification must be completed for all existing households to demonstrate compliance with the IRS Student Rule under the new allocation.

chapter 9

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO HTC — Colorado state HTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Assisted Living Developments

Assisted living is a type of state-licensed housing designed for people who need various levels of medical and personal care. Assisted living developments enables residents to live in individual rooms, apartments, or shared rooms. Services offered to assist residents with daily living generally include meals, medication monitoring, personal care, housekeeping, some medical services, and recreational activities.

The following chapter describes CHFA's compliance guidance and requirements specific to assisted living developments financed with Housing Tax Credits and/or CHFA Loans.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
9.1 Assisted Living Application/Questionnaire	✓							
9.2 Assisted Living Tenant Income Certification Forms	✓							
9.3 Assisted Living Income Verification	✓							
9.4 Assisted Living Gross Rent and Utility Allowances	✓							
9.5 Living Lease/Occupancy Agreement	✓							
9.6 Assisted Living Resident Signatures	✓							
9.7 Occupancy and Demographic Reporting (NextGen) for Assisted Living	✓							
9.8 Assisted Living Units with Multiple Residents	✓							
9.9 Mixed-income LIHTC Assisted Living Developments		✓	✓	✗	✗	✗	✗	✗

Section 9.1 Assisted Living Application/Questionnaire

ALL PROG

Prior to move-in, all assisted living residents must complete an application or certification questionnaire to identify their sources of income and assets and whether any assets have been disposed of for less than fair market value. CHFA has prepared a simplified questionnaire that may be used for this purpose at move-in and for full annual recertifications.



Assisted Living Certification Questionnaire: chfainfo.com/rental-housing/asset-management/compliance-forms#

Student Status Certification

At assisted living developments financed with LIHTC (Years 1-15 only) and/or tax-exempt bonds, residents must also certify their student status annually. CHFA's Assisted Living Certification Questionnaire includes all Student Status Certification questions and may be used to satisfy this annual requirement. If the owner uses their own application or questionnaire, CHFA's Student Status Certification must also be completed.



Certification of Student Status: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 9.2 Assisted Living Tenant Certification Forms

ALL PROG

Assisted living property owners must prepare a separate Tenant Income Certification (TIC) or Basic Annual Recertification (BAR) form for each individual resident or married couple (only if occupying the same unit). The form must be signed by the resident or the person legally authorized to sign on their behalf. In the case of unmarried roommates, each roommate must sign a separate form reflecting only her/his own sources of income, assets, and total annual income.

Section 9.3 Assisted Living Income Verification

ALL PROG

Some assisted living residents pay occupancy and supportive service fees with their own private sources of income (i.e., "private pay"). Others participate in the Home and Community Based Services (HCBS) program in which the federal Medicaid program pays their fees. The owner must third-party verify income on or **prior to** the resident's move-in date for both.

Income verification requirements for either of these options can present challenges unique to assisted living developments. Examples of common challenges include difficulty obtaining information from residents or their families and the necessity to move residents in on very short notice to ensure their safety. To support owners in overcoming these challenges, CHFA has modified its verification requirements for assisted living projects as follows.

Income and Asset Verification at Move-in

	Medicaid Recipient	Non-Medicaid Recipient (Private pay)
Third-party Verification of Income	Owner may rely on an HCBS-issued Post-Eligibility Treatment of Income (PETI) or Previous Authorization Request (PAR) notice, as long as the notice is received on or up to 120 days prior to the move-in date.	Standard third-party verification requirements apply per Chapter 5, Determining Household Members and Income. The owner may use any of the following options for all income types. ▪ Documents provided by the resident ▪ Third-party written ▪ Third-party verbal
Third-party Verification of Assets	Not required if income is verified with a PETI or PAR notice received on or up to 120 days **prior** to the move-in date.	Required only if total cash value of all assets exceeds the applicable HUD threshold. If so, each asset must be verified according to the standard third-party verification requirements in Chapter 6, Household Assets and Asset Income. In doing so, the owner may use **any** of the following options. ▪ Statements for bank accounts, investment accounts, retirement accounts, etc., provided by the resident. ▪ Verification of Assets form received directly from the financial institution, financial advisor, stockbroker, etc. ▪ Verbal verification by the owner with the financial institution, financial advisor, stockbroker, etc. Must be documented in a clarification record.

Third-party Verification Not Available Prior to Move-in

- If the owner elects to move in a resident while Medicaid approval is pending or before a PAR/PETI notice is received:
  - the owner must obtain the same third-party verifications prior to move-in as required for residents who pay privately (see table above).
- If time constraints due to a hospital discharge or health/safety issue prevent timely third-party verification of any kind:
  - the owner must include a complete explanation/clarification record in the file at move-in, and
  - obtain valid third-party verification as soon as possible thereafter.

Documentation Required at Annual Recertification

100 percent Housing Tax Credit and/or CHFA Loan	Mixed-income
Owners may conduct basic annual recertifications beginning with the first annual recertification. Required documentation includes: ▪ Student Status Certification, if applicable ▪ Basic Annual Recertification (BAR) form – completed by owner, signed by both owner and resident or their attorney-in-fact.	For mixed-income Housing Tax Credit developments in Years 1-15 and CHFA Loan developments, owners must conduct a full annual recertification with all applicable certification forms and third-party verifications annually using the Tenant Income Certification (TIC) form. For mixed-income Post Year 15 LIHTC developments, basic annual recertifications are permitted beginning with the first annual recertification.



See Section 7.4, Annual Recertification, for detailed information on how to conduct basic and full annual recertifications.

Section 9.4 Assisted Living Gross Rent and Utility Allowances

ALL PROG

At most assisted living developments, the resident or a government agency pays a combined monthly supportive service fee covering rent, meals, services, etc. In most cases, it is not feasible for the owner to identify an amount within the combined fee that reflects only tenant-paid rent, separate from meals and other services. Typically, all utility costs are also included in the combined supportive service fee.

When the combined supportive service fee includes both rent and utilities and those amounts cannot be separated from supportive services, please contact your Program Compliance Officer regarding the handling of utility allowances and the gross rent amount on page 2 of the Tenant Income Certification (TIC) form.

In addition, per the Internal Revenue Code, payments received by the owner from a governmental assistance program (e.g., Medicaid) or a nonprofit organization to pay for a resident's supportive service fee that includes an amount for rent that is not separable from the amount for supportive services are excluded from gross rent.



26 U.S.C. § 42(g)(2)(B)(iii)

Section 9.5 Assisted Living Lease/Occupancy Agreement

ALL PROG

Each tenant file must include a lease or occupancy agreement that states the resident's name, unit number, and move-in date. The lease/occupancy agreement must be signed by the resident or the person legally authorized to sign on their behalf.

An Affordable Housing Lease Addendum must also be attached to or included in the lease.



Affordable Housing Lease Addendum: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 9.6 Assisted Living Resident Signatures

ALL PROG

All Housing Tax Credit and CHFA Loan program certification documents must be signed by the assisted living resident or the person legally authorized to sign on their behalf. Documents may not be signed by the owner or manager.

Power of Attorney

Many residents of assisted living developments have a power of attorney (POA), a legal document giving one person or organization (the agent or attorney-in-fact) the power to manage their property and financial affairs. When an agent or attorney-in-fact completes or signs Housing Tax Credit or CHFA Loan documents on a resident's behalf, the signed and notarized POA document must be available for review by CHFA upon request.

Section 9.7 Occupancy and Demographic Reporting (NextGen) for Assisted Living

ALL PROG

Owners of all Housing Tax Credit and CHFA Loan developments must submit accurate occupancy and demographic information online via NextGen, CHFA's occupancy and demographic reporting system (See Chapter 3, Required Submissions). The required data can be found on each household's Tenant Income Certification form (TIC) and Supplementary Demographic Information form.

CHFA requires property owners to submit NextGen data on both a monthly and an annual basis. However, given the nature of assisted living in which residents frequently transfer units, the monthly NextGen submission requirement is waived for assisted living developments. Instead, assisted living developments may enter occupancy data once per year for current occupants as of December 31st. Annually, the year-end data for the previous calendar year must be entered and submitted in NextGen by February 15th.

Section 9.8 Assisted Living Units with Multiple Residents

ALL PROG

While some assisted living developments are single-room occupancy, others house residents in double rooms or suites. Regardless of occupancy type, to protect residents' privacy, a separate TIC must be prepared for each individual resident to reflect only her/his own sources of income, assets, and total annual income.



A married couple occupying the same unit may sign a TIC showing their combined annual income.

Managing Units with Multiple Residents in NextGen

For units with multiple unmarried occupants, each resident's data must be entered in NextGen as an individual household. To do so, the owner should set up such units in the system as Unit 1-A, Unit 1-B, Unit 1-C, etc. With this approach, one occupant may be transferred or moved out in the system, while allowing other occupants to remain in the unit.

Section 9.9 Mixed-income LIHTC Assisted Living Developments

TC Y 1-15 PY 15+

Set-aside Requirements

For assisted living properties financed with LIHTC, rooms shared by multiple residents who are LIHTC-qualified and non-LIHTC-qualified will not be counted toward the LIHTC set-aside requirement.

For compliance testing of set-aside requirements, the following are counted as one LIHTC unit.

- Single-occupancy rooms in which the sole resident is LIHTC-qualified
- Fully occupied rooms designated for multiple occupants in which all residents are LIHTC-qualified
- Partially occupied rooms designated for multiple occupants in which one or more residents is LIHTC-qualified and the other "bed(s)" are vacant

Applicable Fraction Reporting and Monitoring

As noted in Section 4.7, Applicable Fraction, each LIHTC building must maintain the required number and size of units as measured by both the unit fraction and floor space fraction. The unit fraction is assessed according to the set-aside requirements described above. However, determining compliance with the floor space fraction is challenging for units occupied by multiple unrelated residents. Although applicable fraction compliance is monitored primarily based on occupancy data entered in NextGen, NextGen is not suited for tracking the square footage fraction for rooms designated for multiple occupants.

Therefore, so that Program Compliance Officers may evaluate compliance with the square footage fraction, owners of mixed-income LIHTC developments with multiple-occupancy rooms may be required to submit annually by February 15th a separate summary that shows the property's LIHTC-qualified units and associated square footage as of December 31st of the prior year. Year-end occupancy and demographic data for the property must still be entered into NextGen. However, that data will not be used to monitor compliance with the square footage applicable fraction requirement.



Starting with the 2017 QAP, for assisted living units, double-bed occupancy of unrelated persons is not allowed.

chapter 10

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO HTC — Colorado state HTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Program Compliance Reviews

As a monitoring agency, it is CHFA's responsibility to ensure that developments are compliant with the regulations and rules governing the Housing Tax Credit and CHFA Loan programs. This chapter outlines how CHFA evaluates compliance through periodic program compliance reviews and how issues of noncompliance associated with a review may be handled.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
10.1 Review Frequency and Scope	✓							
10.2 File Review Notice and Format	✓							
10.3 File Review	✓							
10.4 Management Interview	✓							
10.5 File Review Report	✓							
10.6 File Review Corrections	✓							
10.7 Physical Inspections	✓							
10.8 Common Findings	✓							
10.9 Noncompliance related to Reviews	✓							

Section 10.1 Review Frequency and Scope

ALL PROG

CHFA Program Compliance staff conduct periodic program compliance reviews, also referred to as management reviews, to ensure properties are being operated in accordance with program requirements and providing safe, decent, and sanitary housing. Each review is handled by two officers who will perform the file review and physical inspection independently.

- Program Compliance Officers (PCOs) conduct file audits to review occupancy requirements, special rules, policies, and procedures. These are typically performed remotely but may also be performed in person.
- Physical Inspection Officers (PIOs) conduct on-site physical inspections.

The table below summarizes the frequency and scope of different types of program compliance reviews.

Type	First Review	Frequency	Scope
CHFA Loan (no other CHFA-monitored programs): Initial Inspection	Within three months once the permanent loan has fully funded or once lease-up is complete	One time only	PCO will review 3-5 files and provide informal guidance and feedback. Depending on the severity, findings may require correction. If inspection conducted in person, PCO may also tour the property and inspect a sample of vacant (if possible) units of various sizes.
CHFA Loan (non-FHA-insured)	Within 12 months once the permanent loan has fully funded	At least every three years	Files: The lesser of 15 percent of restricted units or the number in the IRS's Minimum Unit Sample Size Reference Chart Units: At least 20 percent or minimum of 10
FHA-insured/ Risk Share-enhanced Loan	Within 12 months once the permanent loan has fully funded	Annually	Files: The lesser of 15 percent of restricted units or the number in the IRS's Minimum Unit Sample Size Reference Chart Units: A minimum of two units of each bedroom size
LIHTC: Year 1 Initial Inspection	After first building places in service and prior to the issuance of the IRS Form 8609. Applicable to both new allocations and resyndications.	One time only	PCO will review three to five files and provide informal guidance and feedback. Depending on the severity, findings may require correction. If inspection conducted in person, PCO may also tour the property and inspect a sample of vacant (if possible) units of various sizes.
LIHTC: Years 1-15	By the end of the second calendar year following the year that the last building places in service	At least every three years	Files: The lesser of 20 percent of LIHTC units or the number in the IRS's LIHTC Minimum Unit Sample Size Reference Chart Units: Same

Type	First Review	Frequency	Scope
LIHTC Years 1-15 + CHFA Loan	By the end of the second calendar year following the year that the last building places in service and within 12 months once the permanent loan has fully funded	At least every three years	Files: The lesser of 20 percent of LIHTC units or the number in the IRS's LIHTC Minimum Unit Sample Size Reference Chart Units: Same
LIHTC Years 1-15 + FHA-insured/Risk Share-enhanced Loan	By the end of the second calendar year following the year that the last building places in service and within 12 months once the permanent loan has fully funded	Annually	Files: The lesser of 20 percent of LIHTC units or the number in the IRS's LIHTC Minimum Unit Sample Size Reference Chart Units: Same, including a minimum of two units of each bedroom size
Post Year 15 LIHTC	n/a	At least every five years	Files: At least 10 percent Units: At least 10 percent or minimum of 10
Post Year 15 LIHTC + CHFA Loan	n/a	At least every three years	Files: The lesser of 15 percent of restricted units or the number in the IRS's Minimum Unit Sample Size Reference Chart Units: At least 20 percent or minimum of 10
Post Year 15 LIHTC + FHA-insured/Risk Share-enhanced Loan	n/a	Annually	Files: The lesser of 15 percent of restricted units or the number in the IRS's Minimum Unit Sample Size Reference Chart Units: At least 10 percent or minimum of 10, including a minimum of two units of each bedroom size

When ownership or management changes, a review may occur within that year to ensure the new entity is compliant.

When patterns of noncompliance are identified, reviews may include a higher number of files/units, or take place more frequently, than noted above.

Section 10.2 File Review Notice and Format

ALL PROG

File Review Timeframe

For LIHTC developments in years 1 through 15, amended IRS regulations require that CHFA may give no more than 15 calendar days' notice. CHFA applies the same timeframe to Post Year 15 LIHTC and CHFA Loan developments.

Except in rare circumstances, CHFA will not notify the owner of which specific files are selected in advance of the review.



26 C.F.R. § 1.42-5

Amendments to the Low-Income Housing Credit Compliance-Monitoring Regulations, 84 Fed. Reg. 6076 (February 26, 2019)

File Review Confirmation and Pre-review Document Submission

Once the review is scheduled, the Program Compliance Officer (PCO) will issue a written review confirmation to the owner, management agent, and/or onsite manager. The confirmation will identify the review date, time, and location, as well as the review format and the number of files to be audited.

The confirmation will request that the owner/agent complete CHFA's online Pre-review Management Questionnaire and upload it to CHFA's Insight system, along with all required pre-review/supporting documents listed on the questionnaire, within 48 hours of the confirmation.



Pre-review Management Questionnaire: chfainfo.com/rental-housing/asset-management/compliance-forms#

The questionnaire and pre-review/supporting documents should be uploaded to Insight as "Supporting Documents Required Prior to LIHTC and/or CHFA Loan Management Review." They include the following.

- Pre-review Management Questionnaire
- Rent roll
    - Must include original property move-in date, AMI designation, tenant portion of rent, and fees
- Blank lease packet with all lease addenda (including all VAWA documents)
- Twelve-month vacant unit report
    - Must include move-out date, make-ready date, and new move-in date (if reoccupied)
- Utility allowance schedules – current year and previous year
- Housing Tax Credit projects only: Confirmation as to whether the project is meeting the Additional Owner Agreements in Section 6(a) or Exhibit C of the LURA (if applicable)



Be sure your rent roll does not list a unit transfer date instead of the household's actual property move-in date. If so, it will be returned for correction and could delay the review.

Remote/Electronic File Reviews

Generally, CHFA PCOs conduct Housing Tax Credit and CHFA Loan program compliance reviews remotely. In some cases, PCOs conduct the compliance review in person. Your PCO will communicate the review format in their confirmation notice.

Below is a summary of the electronic review process when a review is conducted remotely.

- Prior to the electronic review date, the PCO will notify the owner/management agent of the specific files selected for review.
- The owner/agent will have at least 48 hours (depending on the number of files) to upload the selected files in CHFA's secure Insight system. The owner or agent must have an Insight username and password to use the system.
    - Files must be uploaded in PDF format according to CHFA's Insight Tenant File Upload Instructions.
    - Owners/Agents are required to fill in CHFA's Electronic File Review Checklist, to organize files in the checklist order, and to use that completed checklist as the cover sheet for each file.
    - When uploading tenant files, use this Insight document type.
        - "Supporting Documents Required Prior to LIHTC and/or CHFA Loan Management Review"
    - Files that are not organized and uploaded as explained in the instructions will be deleted and the owner/agent will be asked to resubmit the information.
- The PCO will review the files on the scheduled review date.
- A telephone call with the owner/agent will be scheduled once the file review is completed to complete the management interview portion of the review and to go over any file findings.
- A report will be issued to the owner/agent according to standard compliance review procedures.



CHFA's Insight Tenant File Upload Instructions:
chfainfo.com/rental-housing/asset-management/compliance-forms#

Electronic File Review Checklist – LIHTC Years 1-15 and CHFA Loan:
chfainfo.com/rental-housing/asset-management/compliance-forms#

Electronic File Review Checklist – Post Year 15 LIHTC:
chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 10.3 File Review

ALL PROG

During the file review, CHFA examines move-in certifications, annual recertifications, unit transfers, and interim certifications to determine whether the unit is in compliance with income and rent restrictions, certification requirements, and other program rules. Owners should use this Compliance Manual and CHFA's File Requirements Checklist as a guide in preparing complete and accurate tenant files.

LIHTC and Multifamily Loan Program File Requirements Checklist: chfainfo.com/rental-housing/asset-management/compliance-forms#

Enterprise Income Verification (EIV) Reports

For properties with Section 8 Housing Assistance Payment contracts, HUD requires owners to verify certain income types using the online EIV system. Because most CHFA Program Compliance Officers are not authorized by HUD to review EIV reports, actual EIV reports may not be kept in Housing Tax Credit and CHFA Loan files unless in a sealed envelope.

Section 10.4 Management Interview

ALL PROG

During the management interview, the PCO will review the following areas of compliance with the owner/agent and determine if any follow-up information or changes to management practices are necessary.

- Submissions
- Staff training
- Storage/Retention of tenant records
- Recertification process
- VAWA policies and procedures
- Fees
- Utility allowance policy and procedures
- Rent increases and decreases
- Next Available Unit Rule
- Vacant Unit Rule
- Vacancy information
- IRS Student Rule
- Hazard insurance claims (CHFA Loan only)
- Employee units
- Changes in eligible basis (Housing Tax Credit only)
- Casualty losses

Section 10.5 File Review Report

ALL PROG

The Program Compliance Officer will prepare a report summarizing the file review within 30 days and send it to the owner and management agent. The report covers the following areas.

- General condition of the tenant files
- Whether income and rent restrictions are being met
- Whether any Additional Owner Agreements are being met
- Any management practices that need to be modified
- File findings
- How utilities and utility allowances are handled
- Status of loan payments and reserve deposits, if applicable
- Status of submission/reporting requirements
- Whether the development appears to be compliant with the applicable program(s)

File Review Cure Date

If the review report includes any file observations and findings or other items that require correction or explanation, the report will include a cure deadline of 30 days from of date the report is issued.



Requests to extend the cure date must be submitted to the PCO in writing and will be approved only under extraordinary circumstances.

File Review Closure

All reviews must be closed in a timely manner and no later than 90 days of the report issuance date. Once a review is closed, the PCO will send a confirmation of the closure date and the property's compliance status to the owner and agent.

Failure to submit the information required to close a review timely will cause the property, management agent, and owner to be designated as Not in Good Standing with CHFA Programs. See Chapter 17, Noncompliance, for more information.

Section 10.6 File Review Corrections

ALL PROG

Documentation to demonstrate that all file review corrections have been made must be uploaded by the cure date to CHFA's secure online Insight system.

How to Organize File Corrections

Each set of corrections should be organized as follows.

- Include a written response summary or cover letter at the beginning of the corrections that lists each finding and the type of correction provided.
- Include supporting documentation for each finding.
- Organize corrections in unit number order as outlined in the review report.
- Clearly mark each unit's documentation by either:
    - Adding divider pages that show the unit number before the page that begins corrections for that unit, or
    - Adding the unit number at the top of the page that begins the corrections for that unit.
- Combine the summary/cover letter and all corrections into one PDF document that is 40MB or smaller in size.
    - If the size exceeds 40MB, attempt to compress the file size.
    - If it cannot be compressed into 40MB or less, divide it into as few documents as possible to upload.

Clarification Records

Whenever making corrections to a tenant certification file, a clarification record is required to explain the reason for revising the document or file. When completing clarifications, include all the following pieces of information.

- Organization name, if applicable (e.g., name of the employer, investment company, bank, etc.)
- Effective date of certification being corrected
- Date the clarification was received
- Manner in which the clarification was received (e.g., via phone, in person, etc.)
- Name, title, phone number, and email address of the organization staff person who provided the clarification
- Name of management agent or site staff who received the clarification
- Specific questions asked
- Specific responses provided



Clarification Record sample: chfainfo.com/rental-housing/asset-management/compliance-forms#

Correcting Forms and "True and Correct" Statements

When preparing a new or corrected form for a tenant certification that has already been completed, the following requirements apply.

- Each change/correction made to a form that has already been signed by the household must be initialed by all adult residents.
    - Do not use white out correction fluid to make corrections.
    - Make corrections by striking out the original information so it is still legible and adding the new information beside it.
    - If a new form is prepared instead of correcting the original form, the original form must be kept in the file.
- Residents' and the owner/agents' signatures on any new forms must reflect the actual date the new form was signed.
    - Backdating signatures is not permitted. Forms that are backdated will not be accepted.
- For both new forms and corrected forms, to make clear that the new or corrected data is accurate as of the certification date in question, a "true and correct" statement must be included on the form.
    - Example: "This information is true and correct as of [insert previous certification date here]."
    - The "true and correct" statement must reflect the original certification effective date, not the date of the correction.
    - All adult residents must initial the "true and correct" statement.

Uploading File Corrections in CHFA's Insight System

Upload all corrections to CHFA's secure Insight system by the cure date. The owner or agent must have an Insight username and password to use the system. Below are basic instructions on preparing and uploading corrections in Insight. For additional instructions on uploading corrections, refer to the "Information" tab within Insight.

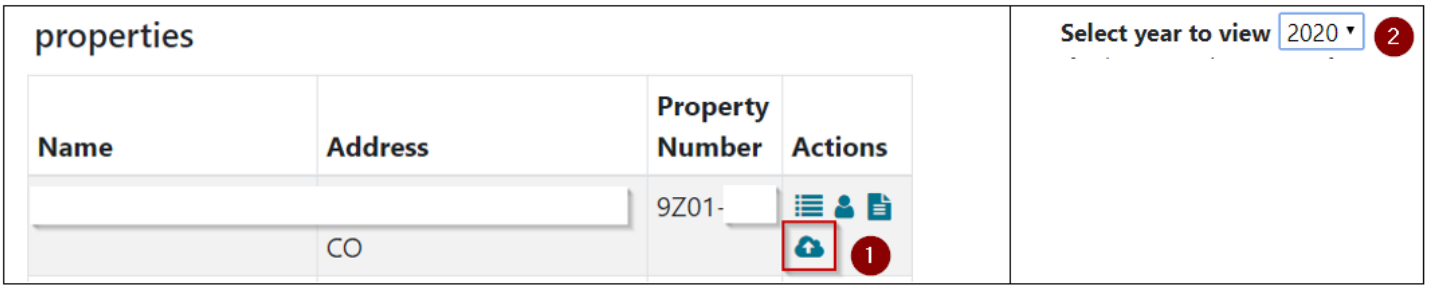
Preparing corrections

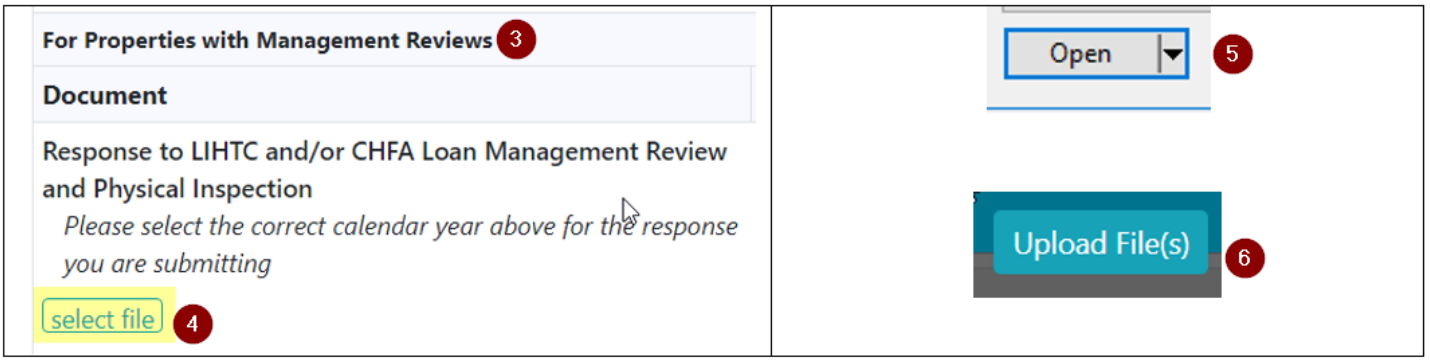
- Scan and/or save the summary/cover letter and all corrections as one document (if possible) in PDF format to your computer.
- Ensure the PDF file is 40MB or smaller in size.
    - If the PDF file exceeds 40MB, attempt to compress the file size.
    - If it cannot be compressed into 40MB or less, divide it into as few documents as possible to upload.
- If you are unable to save your file to PDF format, contact your PCO.

Uploading corrections

1. Sign into Insight and select the "Upload Documents" icon for your property.
2. Select the "year to view" from the drop-down list (use the current year).
3. Scroll down to the section titled "For Properties with Management Reviews."
4. Under "Response to LIHTC and/or CHFA Loan Management Review," click the "select file" button and then browse for the PDF corrections file that you scanned and saved to your computer.
5. Highlight the PDF corrections file on your computer and click the "Open" button.
6. Click "Upload File(s)."

Notify your PCO via email once all the required corrections have been uploaded.







Insight login page: echfa.com/Insight/login

To register for an Insight account, go to the Insight login page and click the request a new user account link.

Section 10.7 Physical Inspections

ALL PROG

Physical inspections are conducted by the Physical Inspections Officer (PIO). The physical inspection assesses whether low-income units, and the property in general, are in safe, decent, sanitary condition and in good repair. All occupied units, common areas, and buildings must be suitable for occupancy at the time of the inspection.



For LIHTC properties within the 15-year Compliance Period, physical condition noncompliance is reported on IRS Form 8823, line 11c.

Physical Inspection Protocol - NSPIRE

For both the Housing Tax Credit and CHFA Loan programs, CHFA inspects the items and components located within units, inside the building, and outside of the building according to the National Standards for the Physical Inspection of Real Estate (NSPIRE) used by HUD's REAC inspection program.



HUD's NSPIRE website: hud.gov/program_offices/public_indian_housing/reac/nspire

CHFA NSPIRE Guidebook

CHFA Program Compliance has prepared an NSPIRE Guidebook as a supplemental resource to HUD's NSPIRE Compilation Bulletin. The guidebook is designed to support owners and agents as they prepare for and respond to NSPIRE inspections.



CHFA NSPIRE Guidebook: chfainfo.com/rental-housing/asset-management/lihtc-program-compliance

Physical Inspection Timeframe

For LIHTC developments in years one through 15, amended IRS regulations require that CHFA may give no more than 15 calendar days' notice. CHFA applies the same timeframe to Post Year 15 LIHTC and CHFA Loan developments.



26 C.F.R. § 1.42-5

Amendments to the Low-Income Housing Credit Compliance-Monitoring Regulations, 84 Fed. Reg. 6076 (February 26, 2019)



In the event of extraordinary circumstances (natural disaster, severe weather), the owner may request an extension and provide documentation to support the request. If CHFA grants an extension, a new inspection date will be set.

Physical Inspection Notice

To schedule the inspection, the PIO will notify the owner and management agent. The notice will identify the proposed inspection date, time, and location, as well as the number of units to be inspected. If the owner/agent does not respond, the review date and time will be scheduled and a confirmation issued without further comment.



Except in rare circumstances, CHFA will not notify the owner of the specific units (selected at random) for inspection until the day of the inspection.

Physical Inspection Pre-review Document Submission

The inspection notice will list the following pre-review documents to be completed by the owner/agent and submitted to the PIO at least 48 hours prior to the inspection.

- Physical Inspection Officer Management Review Questionnaire
- Rent roll
- Twelve-month vacancy/availability report
- Inspection notice to residents
- Inspection certifications, if applicable, for the following
    - Boilers
    - Elevators
    - Fire sprinkler/backflow
    - Fire extinguishers
    - Lead-based paint report

Inspection of Vacant Units

The physical inspection will include a review of vacant units. Any vacant units that are not suitable for occupancy as of the inspection will be noted in the review report. As part of the compliance review, any such units must be made ready for a new household within a reasonable timeframe.



See Section 2.6, Vacant Units, for CHFA's guidelines on a reasonable amount of time to make units ready.

Life-threatening and Severe Hazards (24-hour correction period)

At the review, the CHFA inspector will formally notify management of any life-threatening or severe hazards identified during the physical inspection. The owner or agent must correct all life-threatening and severe hazards within 24 hours of the inspection. Work orders demonstrating how and when the item(s) have been corrected must then be submitted to CHFA within 72 hours.

Physical Inspection Report

The PIO will prepare a report summarizing the inspection within 30 days and send it to the owner and management agent. The report covers the following areas.

- General condition of the site, buildings, and residential units
- Life-threatening or severe hazards
- Other physical deficiencies
- Any maintenance practices that need to be modified
- Capital improvements
- Whether the development appears to be compliant with the applicable program(s)

Physical Inspection Cure Date

As noted above, any life-threatening or severe hazards must be corrected within 24 hours of the inspection.

If the report includes any other physical deficiencies, or other items that require correction or explanation, the report will include a cure deadline of 30 days from the date the report is issued.



Requests to extend the cure date must be submitted to the PIO in writing and will be approved only under extraordinary circumstances.

Physical Deficiencies That Cannot Be Completed in 30 Days

For deficiencies that cannot be completed in 30 days due to severity, weather, etc., a cure date of 60 days may be set. Any physical deficiencies that will take more than 60 days to cure must be addressed by the owner with the submission of a plan for curing the deficiencies including an anticipated completion date. When a plan is submitted, it is the owner's responsibility to provide proof of completion of physical repairs to the PIO by the date specified in the plan.

Physical Inspection Closure

All physical inspections must be closed in a timely manner and no later than 90 days of the report issuance date. Once an inspection is closed, the PIO will send confirmation of the closure date to the owner and agent.

Failure to submit the information required to close an inspection timely will cause the property, management agent, and owner to be designated as Not in Good Standing with CHFA Programs. See Chapter 17, Noncompliance, for more information.

Physical Deficiency Corrections

For all non-EH&S inspection findings, work orders, photos, invoices, or other written documentation must be submitted to the PIO and include all the following pieces of information.

- Location (unit number, building number, common area, or other location)
- Specific finding being addressed
- Specific action taken to correct the issue
    - Example: “replaced smoke detector” is acceptable. “Done” and “complete” are not acceptable.
- Date the repair was completed
- Signature of person completing the repair

REAC NSPIRE Inspection In Lieu of CHFA Physical Inspection

For developments with project-based Section 8 contracts or a 542(c) Risk Share-enhanced loan, if a REAC physical inspection has been conducted for HUD within the same calendar year as the compliance review, the PIO may elect to incorporate the REAC inspection findings into the Housing Tax Credit or CHFA Loan program compliance review instead of conducting a separate physical inspection. In such cases, to close out the program compliance review, the owner must submit documentation to the PIO showing that each REAC finding has been resolved and, in the case of a failing REAC score, a plan to improve the property’s condition.



For more information on REAC inspections for properties with 542(c) Risk Share-enhanced loans, see Chapter 11, Risk Sharing Program.

Section 10.8 Common Findings

ALL PROG

File Findings	Physical Deficiencies
TICs – errors, blanks, corrections not initialed, issues with signatures and signature dates	Missing or non-functioning smoke detectors and carbon monoxide detectors
Incomplete documents	Fire extinguishers
Late or missing recertifications	GFCI/AFCI protection
Missing or inaccurate calculations	Infestation

File Findings	Physical Deficiencies
Unverified income or assets	Blocked emergency egress from bedrooms
Incomplete or missing clarification records	Sharp hazards
Incomplete documentation for self-employment	Sprinkler heads
Incomplete information for seasonal employees	Fire doors that do not automatically close as designed
Incorrect or missing true and correct statements	Outlets/Outlet covers
Disorganized files	Combustible items stored in a mechanical closet

Section 10.9 Noncompliance Related to Reviews

ALL PROG

Any noncompliance identified during the review process must be corrected and documented. For patterns of significant noncompliance, CHFA may require the owner to conduct a file audit or physical inspection of all units at the property - either internally or by a third-party affordable housing consultant. See Chapter 17, Noncompliance, for a full discussion of how CHFA addresses noncompliance.

Not in Good Standing Designation

Significant instances and/or patterns of noncompliance that are not cured by the review's cure date will result in a designation of the property, management agent, and owner as Not in Good Standing with CHFA programs. See Chapter 17, Noncompliance, for more information on this designation and related consequences.

Reporting to the IRS, Colorado Department of Revenue, or HUD

- For LIHTC developments in years one through 15, CHFA will determine whether any noncompliance identified during the review process must be reported to the Internal Revenue Service on IRS Form 8823.
- For developments with Colorado Affordable Housing Tax Credits, CHFA will determine whether any noncompliance identified during the review process must be reported to the Colorado Department of Revenue.
- For developments with Risk Share-enhanced loans, CHFA will determine whether any noncompliance identified during the review process must be reported to HUD.
- Whenever formal reporting to another government entity is required, the PCO will provide the owner an opportunity to provide additional documentation for inclusion with the reporting.

chapter 11

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO HTC — Colorado state HTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

- Compliance Toolbox Tip
- Reference
- Exception

Risk Sharing Program

The following chapter addresses compliance requirements specific to developments financed with CHFA multifamily loans insured through HUD's 542(c) Risk Sharing Program.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
11.1 Risk Sharing Program Overview		✗	✗	✗	⇆	✗	✗	✓
11.2 Risk Share Reporting		✗	✗	✗	⇆	✗	✗	✓
11.3 Risk Share REAC Inspections		✗	✗	✗	⇆	✗	✗	✓
11.4 Risk Share Annual Reviews		✗	✗	✗	⇆	✗	✗	✓
11.5 Risk Share Management Agent Changes		✗	✗	✗	⇆	✗	✗	✓
11.6 Risk Share-enhanced Loan Prepayment		✗	✗	✗	⇆	✗	✗	✓
11.7 HUD Handbook References		✗	✗	✗	⇆	✗	✗	✓

Section 11.1 Risk Sharing Program Overview

CHFA LOAN RS

The federal Risk Sharing Program was created under Section 542 of the Housing and Community Development (HCD) Act of 1992 to provide new forms of credit enhancement for multifamily housing loans. In April 1994, CHFA entered into a Risk Sharing Agreement with HUD to originate and service loans under the Section 542(c) Risk Sharing Program, referred to as Section 542(c) or Risk Share-enhanced Loans. In August 2015, CHFA, HUD, and the Federal Financing Bank (FFB) entered into a FFB Risk Sharing Agreement by which FFB acquires a participation interest in the mortgage loan. The Risk Share-enhanced loans made under both agreements are insured through the Federal Housing Administration (i.e., "FHA-insured"), and CHFA agrees to share 50 percent of the risk in the event of loan default. Since CHFA is sharing the risk of loss with HUD, the underwriting and servicing of the loans are delegated to CHFA, allowing for a faster HUD approval time for mortgage insurance.

CHFA is responsible for executing and enforcing the Regulatory Agreement with the mortgagor. It is the responsibility of CHFA Asset Management staff to monitor all Risk Share-enhanced loans in accordance with the requirements of the Risk Sharing Agreement between CHFA and HUD, and the FFB Risk Sharing Agreement between CHFA, HUD, and FFB (collectively referred as the "Agreements"). CHFA's agreements with HUD require Asset Management staff to conduct additional monitoring actions in relation to Risk Share-enhanced loans beyond those associated with CHFA's standard program requirements.

This chapter along with the property's CHFA Regulatory Agreement will assist borrowers in meeting Risk Sharing Program-specific compliance obligations.

12 U.S.C. § 1707
24 C.F.R. § 266

Section 11.2 Risk Share Reporting

CHFA LOAN RS

Developments with Risk Share-enhanced loans must follow all reporting requirements applicable to the CHFA Loan Program. In addition, they must submit an Affirmative Fair Housing Marketing Plan (AFHMP), annual operating budget, and audited financial statements as described below.

To confirm whether your property has a Risk Share-enhanced loan, see CHFA's Insight system or contact your Program Compliance Officer.

Affirmative Fair Housing Marketing Plan (AFHMP)

All developments with 542(c) Risk Share-enhanced loans must have an Affirmative Fair Housing Marketing Plan (AFHMP) current within five years and approved by CHFA or HUD.

Initial AFHMP

An initial AFHMP is required for new construction projects with HUD Multifamily assistance and for existing projects that are newly receiving HUD Multifamily assistance, such as projects transitioning to Project-based Rental Assistance (PBRA) through the RAD program. These projects receive approval of their initial AFHMP as part of their Risk Share loan closing.

Owner Review and Update Requirements

- After the initial AFHMP is approved, the owner is required to review the AFHMP and make updates as needed according to the following timeframes:
    - every five years, and
    - immediately if:
        - the local jurisdiction's Consolidated Plan has been updated, or
        - significant demographic changes have occurred in the housing market area.
- When the owner conducts an AFHMP review due to the timeframe or triggers noted above, they must document whether any updates to the AFHMP are required and proceed as follows.

Review Process for AFHMPS Reviewed and Found to Need Updates

Property Type	Agency That Approves the Updated AFHMP	Review Process
Properties with Project-based Section 8 Assistance	HUD's Office of Fair Housing and Equal Opportunity	▪ The owner must submit the updated AFHMP to den.incoming@hud.gov with a copy to their CHFA Program Compliance Officer (PCO). ▪ Upon approval of the AFHMP by HUD, the owner must email a copy of the approved plan to their PCO.
Properties without Project-based Section 8 Assistance	CHFA's Asset Management Division	▪ The owner must email the updated AFHMP to their PCO. ▪ CHFA will review the AFHMP according to current HUD guidelines. ▪ CHFA will contact the owner to request any corrections as necessary to approve the plan.

Review Process for AFHMPS Reviewed and Determined **Not** to Need Updating

For all properties with a Risk Share-enhanced loan that do not need updating:

- The owner must prepare a letter or memo documenting the date of the review and the conclusion that the current plan is satisfactory and does not require revision.
- The letter must be attached to the AFHMP made available for public inspection by applicants and residents.
- A copy of the letter must be submitted to the CHFA PCO whenever the owner's review is completed - at least every five years.
- Owners must keep a copy of their analysis for recordkeeping purposes.

Review Process for AFHMPS when the Owner Adopts a New Residency or Admissions Preference

When an owner of a property with a Risk Share-enhanced loan adopts a new admissions or residency preference in their admissions policies, they must update the project's existing AFHMP and submit it directly to HUD for review and approval. Upon approval of the AFHMP by HUD, the owner must email a copy of the approved plan to the PCO.

Annual Operating Budget

As of 2019, CHFA requires annual operating budgets only for developments with 542(c) Risk Share-enhanced loans. Owners of developments with 542(c) Risk Share-enhanced loans are required to upload a proposed operating budget in CHFA's Insight system no less than 60 days prior to the beginning of each fiscal year of the project.

The proposed operating budget should include anticipated income of the project and detailed expenses. Likewise, it should take the following into consideration: administrative expenses, administrative fees, management fees, operating expenses, maintenance, services (if applicable), utilities, hazard insurance, taxes and assessments, loan principal and interest, other costs payable pursuant to the financing documents, deposits to a replacement reserve fund, and deposits to any other reserves required by CHFA pursuant to the Regulatory Agreement, Loan Agreement, or other financing documents.

Audited Financial Statements

All projects with multifamily loans through CHFA must submit audited financial statements via Insight within 90 days [2] following the project's fiscal year end. The audit must reflect the financial standing of the CHFA-financed project independently from the partnership and/or owner entity. See Section 3.4, Audited Financial Statements, for more information.

For developments with 542(c) Risk Share-enhanced loans, the audit is to be completed in accordance with the HUD requirements as stated in IG 2000.04 – Rev.2, CHG 7, Chapter 3, and HUD Handbooks 4370.1 and 4370.2.

Once the audited statements for a Risk Share-enhanced loan are received, the PCO will share them with the project's HUD Account Executive (AE).

Section 11.3 Risk Share REAC Inspections

CHFA LOAN RS

Projects with Section 542(c) Risk Share financing are subject to periodic physical inspections by HUD's Real Estate Assessment Center (REAC). CHFA is responsible for executing and enforcing the Regulatory Agreement with the owner, including requiring the owner to maintain the project in good physical condition.

[2] Although some Regulatory Agreements and/or loan agreements may indicate a required submission date of 60 days after the end of the fiscal year, 24 C.F.R. 5.801, Uniform Financial Reporting Standards (UFRS), supersedes this requirement by giving all developments 90 days to submit their FYE Audited Financial Statements.

The REAC inspection may be coordinated by CHFA or directly by HUD. After the inspection, the REAC inspector will provide the owner with a Physical Inspection Summary Report, which includes the property's inspection score and a list of any deficiencies. Based on its inspection score within a 100-point system, the project will be assigned one of three designations as follows.

Designation	REAC score range	REAC Inspection cycle
Standard 1	90 points or higher	Every three years
Standard 2	80 to 89 points	Every two years
Standard 3	79 or less	Annually

Life-threatening and Severe Deficiencies

When a REAC inspection of any property finds life-threatening or severe deficiencies, the inspector will provide the owner with a Notification of Severe/Life-threatening Hazards on the day of inspection.

- The owner must correct or mitigate life-threatening and severe violations immediately, if possible, but no later than 24 hours after citation.
- For all Risk Share projects, the owner must provide both written (e.g., work orders) and photo evidence to the CHFA PCO and PIO and HUD AE within 72 business hours.
- Depending on whether the property has Section 8 Project-based Rental Assistance (PBRA), CHFA and/or HUD will monitor resolution of the hazards.

Follow-up on REAC Scores

Projects Scoring 31 to 59 Points

When a project receives a score between 59 and 31, it is considered to have failed the inspection. Upon receiving notice of a failed REAC inspection, CHFA will coordinate a phone call with the owner to address any questions they may have and the process for certifying repairs and closing out the inspection. Following the call, CHFA will issue a Notice of Violation letter to the owner. CHFA and HUD will coordinate to close out these inspections.

60-day Repair Deadline

Within 60 days of the issuance of the Notice of Violation letter, the owner is required to:

- make the necessary repairs for all findings noted in REAC's Physical Inspection Summary Report, and
- submit written documentation of repairs including:
    - A completed Project Owner's Certification that All REAC Inspection Findings Have Been Corrected signed by the owner, and
    - Supporting documentation of each repair, including work orders, receipts, invoices, and/or photos.



Project Owner's Certification that All REAC Inspection Items Have Been Corrected: chfainfo.com/rental-housing/asset-management/compliance-forms#

Following completion of work and receipt of a complete certification, CHFA may conduct its own inspection to determine that the repairs are completed to its satisfaction. Once CHFA has notified HUD of a satisfactory certification, HUD will schedule a REAC inspection, typically within one year, to determine if the owner has corrected the physical conditions that led to the violation.

Repairs Over 60 Days

In cases where the repairs cannot be completed within 60 days, CHFA may allow the owner to submit a detailed repair plan, including a timeline for completing work, and request an extension of time to complete the repairs. If the extension is granted, the owner must submit monthly updates to CHFA until confirmation of all repairs is certified in writing.

Failure to Complete and Certify Repairs

In the event the owner fails to provide the certification and documentation required by CHFA, and/or fails to provide the certification by the prescribed deadline, CHFA must notify HUD. HUD will enter a flag in the owner's previous participation history and request a reinspection of the property as soon as possible. Furthermore, CHFA may designate the property, management agent, and owner as Not in Good Standing with the CHFA Loan program until the property is brought back into compliance.

Appeal Process

All findings must be resolved within 60 days of the issuance of the Notice of Violation letter. In the meantime, if the owner wishes to appeal any findings, the appeal must be prepared according to HUD's specifications and submitted in hard copy by mail to the HUD REAC Technical Assistance Center in Washington, D.C., within 30 days of the REAC report release date. While the owner should notify the CHFA PCO when an appeal is filed, CHFA does not participate in the appeal process.



HUD's detailed instructions on submitting an appeal: hud.gov/program_offices/public_indian_housing/reac/products/pass/pass_guideandrule/trda

Projects Scoring 30 Points or Below

Physical inspections that receive a score of 30 or below will be automatically referred to the Departmental Enforcement Center (DEC) through the Integrated Real Estate Management System (iREMs) if they were conducted by REAC. REAC will send a letter advising the owner of the referral. The project will be assigned to a DEC Satellite Office for further evaluation. In the meantime, the DEC Program Office will seek to resolve all EH&S hazards included in the inspection report.

Depending on the circumstances, CHFA may also designate the property, management agent, and owner as Not in Good Standing with the CHFA Loan program until the property is brought back into satisfactory condition.

Section 11.4 Risk Share Annual Reviews

Annual Program Compliance File Review

Program Compliance Officers (PCOs) conduct program compliance file reviews annually for properties financed with Risk Share-enhanced loans. The PCO's first annual review will take place within 12 months once a permanent Risk Share-enhanced loan has fully funded.

As part of the annual compliance review, the PCO will verify if the owner has a current AFHMP on file, including documentation of the most recent five-year review, whether the plan required updates, and approval by HUD or CHFA (if applicable).

Once the compliance review is fully closed, including both file review and physical inspection, CHFA shares it with the Risk Share project's HUD Account Executive.

Annual Program Compliance Physical Inspection

Physical Inspection Officers (PIOs) conduct physical inspections annually for properties financed with Risk Share-enhanced loans. The PIO's first annual inspection will take place within 12 months once a permanent Risk Share-enhanced loan has fully funded. If necessary, the PIO will follow up on the property's most recent REAC inspection.



The annual file review and physical inspection for Risk Share properties will take place within 30 days of one another.

Annual Asset Quality Loan Review

After receiving a Risk Share property's audited financial statements, CHFA's Asset Management staff prepare a loan review analysis based on the property's payment history, value, cash flow, debt service, reserves, vacancy rates, etc., and any findings noted by the auditor. Once the analysis is finalized, CHFA shares it with the project's HUD Account Executive.

Section 11.5 Risk Share Management Agent Changes

HUD Previous Participation Certification - Form 2530 Clearance

Prior to making any management agent change, owners of projects with Risk Share-enhanced loans must obtain HUD's approval of the new management agent's eligibility to participate in HUD programs. To obtain eligibility approval, the owner must initiate a Previous Participation Review by HUD (i.e., 2530 clearance process). HUD's *Processing Guide for Previous Participation Reviews of Prospective Multifamily Housing and Healthcare Programs' Participants* provides detailed instructions on the process for owners.

The owner must submit the request for approval electronically to HUD, using form HUD-2530, Previous Participation Certification (as well as other documents outlined in the HUD guide), with a copy of the request to the property's CHFA PCO. Following approval of the 2530 clearance by HUD, the owner is responsible for sending a copy of the clearance to the PCO.

Requests may be filed either by using HUD's Active Partners Performance System (APPS) at hud.gov/program_offices/housing/mfh/apps/appsmfhm, or by emailing the Denver Multifamily HUB office at den.incoming@hud.gov. HUD strongly encourages owners to utilize the APPS system.

Until the necessary 2530 clearance is obtained, CHFA will place a hold on withdrawals from the project's replacement reserve, residual receipts, and operating deficit accounts.



HUD's Processing Guide for Previous Participation Reviews (HUD Notice H 2016-15): hud.gov/sites/documents/16-15HSGN.PDF

Notification to CHFA

When a Risk Share project's management agent changes, the owner must submit a Notification of Change in Contact Information, along with a copy of the new Management Agreement, to the PCO within 30 days of the change.



Notification of Change in Contact Information: chfainfo.com/rental-housing/asset-management/compliance-forms#

Approval to Change Management Agent

Although the owner must submit notice of a change and documentation of HUD's 2530 clearance to CHFA, CHFA's approval to change a Risk Share property's management agent is not required unless the change occurs prior to the CHFA loan closing. See Section 18.2, Management Agent Changes, for more information on notification and approval requirements prior to and after loan closing.

If a Risk Share property also has project-based Section 8 assistance, HUD's approval to change the management agent is required. The owner should contact HUD staff directly at den.incoming@hud.gov, for information on the approval process.

Section 11.6 Risk Share-enhanced Loan Prepayment

CHFA LOAN RS

To prepay a Risk Share-enhanced loan in part or in full, the owner must submit a prepayment request in writing to CHFA's Commercial Loan Services department at least 45 days in advance. CHFA will then prepare and submit form HUD-9807 Insurance Termination Request for Multifamily Mortgage for HUD's approval.

Section 11.7 HUD Handbook References

For FHA-insured projects, in addition to this manual, the following HUD Handbooks will serve as references and provide guidance.

Reference	Title
IG 2000.4	Consolidated Audit Guide for Audits of HUD Programs Chapter 3 – HUD Multifamily Housing Program
HUD Handbook 4350.1	Multifamily Asset Management and Project Servicing
HUD Handbook 4370.1	Reviewing Annual and Monthly Financial Reports
HUD Handbook 4370.2	Financial Operations and Accounting Procedures for Insured Multifamily Projects
HUD Handbook 4590.01	Housing Finance Agency Risk Sharing Program
HUD Handbook 4381.5	Management Agent Handbook

chapter 12

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO HTC — Colorado state HTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Restricted Accounts and Surplus Cash Distributions

Most borrowers receiving CHFA multifamily loan financing are required to maintain certain reserve accounts. Reserve for replacement, lease-up reserve, operating deficit reserve, residual receipts, and other restricted accounts required by the borrower's CHFA Regulatory Agreement, Land Use Restriction Agreement (LURA), and/or Loan Agreement are monitored by the Program Compliance Department and may be maintained by CHFA's Commercial Loan Servicing Department. The majority of these accounts require CHFA's prior approval to withdraw funds.

The following chapter outlines the borrower's responsibilities regarding restricted accounts and requirements for making withdrawal requests. Surplus cash distribution requests are also explained.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
12.1 Reserve for Replacement		✗	✗	✗	✓	✓	✓	✓
12.2 Reserve Withdrawal Requests		✗	✗	✗	✓	✓	✓	✓
12.3 Lease-up Reserve		✗	✗	✗	✓	✓	✓	✓
12.4 Operating Deficit Reserve		✗	✗	✗	✓	✓	✓	✓
12.5 Residual Receipts		✗	✗	✗	✓	✓	✓	✓
12.6 Audit Confirmation Requests		✗	✗	✗	✓	✓	✓	✓
12.7 Reserves Held by Other Financial Institutions		✗	✗	✗	✓	✓	✓	✓
12.8 Surplus Cash Distributions		✗	✗	✗	✓	✓	✓	✓

Section 12.1 Reserve for Replacement

Most multifamily borrowers are required to maintain a reserve for replacement (replacement reserve) as specified in the borrower's CHFA Regulatory Agreement and/or Loan Agreement. The purpose of the account is to help defray the costs of replacing a project's capital items. The majority of replacement reserve accounts are maintained by CHFA's Commercial Loan Servicing Department (CLS) with automated monthly deposits. For accounts maintained by other financial institutions, not CHFA, see Section 12.7, Reserve Accounts Held by Other Financial Institutions.

Monthly Deposits and Increases

Owners are required to make monthly replacement reserve deposits in accordance with the terms of the Regulatory Agreement and/or Loan Agreement. The deposit amount is established when the loan closes and may be subject to change according to the terms of the Regulatory Agreement or Loan Agreement, HUD's Operating Cost Adjustment Factor (OCAF), and/or the Section 8 Housing Assistance Contract, if applicable.

The annual deposit increase requirement, typically at least three percent, is cited in the project's Regulatory Agreement or Loan Agreement. Owners are responsible for ensuring that the deposit increase takes effect on time each year, regardless of whether the reserve account is maintained by CHFA or another finance institution.

Replacement reserve deposit increases for certain CHFA Loans with Section 8 subsidy occur when a rent increase is implemented. The rent increase and the replacement reserve deposit are calculated by the CHFA Section 8 Officer. If more than one requirement is in place, the greater requirement must be implemented.

Minimum Required Balance

Withdrawals can be taken from the replacement reserve once approved by CHFA. However, for all CHFA Loan types, CHFA requires that at least 12 months of contributions always remain in the account. Withdrawal requests that would result in a balance decrease below the minimum will be reduced to maintain the minimum required balance.



CHFA may elect to allow the balance to fall below the minimum required balance in an extreme emergency.

Eligible Items for Reimbursement

The replacement reserve may be used to reimburse the development's operating account or pay directly for any required repair or replacement costs that may be capitalized by the owner in accordance with generally accepted accounting principles consistently applied. However, funds cannot be used to purchase items that were not part of the original investment.

Items and expenses performed as part of routine maintenance are to be paid from the development's operating account and are not eligible for reimbursement from the replacement reserve. Examples include supplies to paint a unit, basic maintenance tools and equipment, maintenance staff labor costs, and individual items not part of a bulk replacement.

To determine eligible items for reimbursement, CHFA generally follows HUD's replacement reserve guidelines published by the Denver Multifamily Hub.



Denver Multifamily Hub Replacement Reserve Guidelines
hud.gov/states/shared/working/r8/mf/reserveguidelines/14

Minimum Replacement Reserve Request

The minimum request for processing a single replacement reserve request is $3,000. Requests below $3,000 may be considered on a case-by-case basis as warranted. Owners and management agents are encouraged to consolidate invoices and submit to CHFA when the aggregate amount is at least $3,000.

Replacement Reserve Request Timeframes

Replacement reserve requests should be submitted to CHFA quarterly.

For time-sensitive year-end requests that require CHFA's approval or fund disbursement by December 31st, requests must be received by CHFA by December 10th with all required information and documentation.

Developments in the HUD Mark-to-Market Program

For developments with loans in HUD's Mark-to-Market program, replacement reserve requests must be submitted by the owner directly to HUD at den.incoming@hud.gov. CHFA will not release reserve funds until an approved form HUD-9250 has been received.



If you are unsure if your property is Mark-to-Market, see CHFA's Insight system or contact your Program Compliance Officer (PCO).

Monthly Statements

For replacement reserve accounts maintained by CHFA, reserve deposits and balances are stated on the monthly multifamily loan or billing statement issued by CHFA's Commercial Loan Servicing Department. Monthly statements are available for owner to view and download at any time in CHFA's Insight System. Upon request, monthly statements may also be mailed to the owner or management agent in hard copy.



Insight login page: echfa.com/Insight/login

To register for an Insight account, go to the Insight login page and click the request a new user account link.

Section 12.2 Reserve Withdrawal Requests

CHFA LOAN HHF CO CM FUND RS

With CHFA's written approval, withdrawals can be taken from the project's reserve for replacement, operating deficit reserve, or lease-up reserve as outlined in the development's Regulatory Agreement and/or Loan Agreement. Below is a summary of the items to be included in the reserve request and submitted directly to the Program Compliance Officer (PCO).



The development, management agent, and owner must be in compliance, current on submissions, and in good standing with CHFA programs to obtain consent for a withdrawal request.

Item	Links and Additional information
Replacement Reserve Request Form	▪ chfainfo.com/rental-housing/asset-management/compliance-forms# ▪ All questions must be answered. ▪ If there are any outstanding submissions or any unresolved review or audit findings, the form must include an explanation. ▪ Must be signed by the owner or management agent ▪ Use this form for replacement reserve, operating deficit, and lease-up reserve requests.
Replacement Reserve Itemization Form	▪ chfainfo.com/rental-housing/asset-management/compliance-forms# ▪ Spreadsheet must be completed in full, including the following for each expense. ○ Item description ○ Supplier name and phone number ○ Purchase date ○ Invoice number ○ Purchase amount to be reimbursed ○ Location or unit number ▪ Expense amounts and other information must match the supporting documentation supplied. ▪ Spreadsheet total must match the total on the Replacement Reserve Request form.
Supporting Documentation for Each Expense	▪ Examples: invoices, receipts, bids ▪ The specific unit number or location for each expense must be noted on the invoice, receipt, etc. ▪ For receipts or invoices with multiple items, each item included in the request must be highlighted or circled. ▪ Documentation must be no more than one year old.

Item	Links and Additional information
Written Approval of the Limited Partner or Investor Member	▪ Applicable only if such approval is required by the Regulatory Agreement and/or Loan Agreement.
Three Written Bids Along with Specifications, Contracts, and Other Pertinent Information	▪ Applicable only if any single expense/item is $10,000.00 or more. ▪ If three bids are impossible to obtain (e.g. in some rural areas or for highly specialized work), the request must include a thorough explanation.
Form HUD-9250	▪ hud.gov/sites/documents/9250.PDF ▪ Applicable only if the development is in HUD's Mark-to-Market program. ▪ Must be signed by the HUD Account Executive.

Reserve Request Processing Time and Format

Upon receipt of a complete request, including all required information on the forms and sufficient back up documentation, the PCO will notify the owner whether the request is approved or declined. Funds will be disbursed via check within 30 days. If a request is incomplete, CHFA will notify the owner and hold the request until a full submission is received.



CHFA issues reserve funds in the form of a check to the ownership entity. Funds will not be issued via a wire transfer except in emergencies.

Section 12.3 Lease-up Reserve

CHFA LOAN HHF CO CM FUND RS

For new construction and substantial rehabilitation projects, the owner shall establish and maintain a lease-up reserve account if required by the Regulatory Agreement and/or Loan Agreement. The purpose of the account is to provide the project with a funding source to carry the project to stabilized occupancy as defined in the loan documents. The amount of this fund is established at the time of closing and is set forth in the Regulatory Agreement and/or Loan Agreement. The funds in the account shall be used to cover operating expenses, including debt service, until sustaining occupancy is achieved. When a lease-up reserve fund is required, it shall at all times be under the control of CHFA.

Withdrawals

Withdrawals may be taken from the project's lease-up reserve for specific uses and only as permitted by the development's Regulatory Agreement and/or Loan Agreement. For withdrawals that require CHFA's prior written consent, see Section 12.2, Reserve Withdrawal Requests for the process for withdraw funds from a reserve fund. In addition to all standard items, the borrower must provide CHFA with supporting documentation, such as financial statements.

Section 12.4 Operating Deficit Reserve

If required by the Regulatory Agreement and/or the Loan Agreement, the owner shall establish and maintain an operating deficit reserve fund. The purpose of the account is to support a development's cash flow and, under certain conditions, to fund operating expenses only as permitted by the agreement. The amount of this fund and the required minimum balance are established at the time of loan closing and are set forth in the Regulatory Agreement and/or the Loan Agreement. When an operating deficit reserve fund is required, it shall be assigned to and under the control of CHFA.

Withdrawals

Withdrawals may be taken from the project's operating deficit reserve for specific uses and only as permitted by the development's Regulatory Agreement and/or Loan Agreement. For withdrawals that require CHFA's prior written consent, see Section 12.2, Reserve Withdrawal Requests, for the process for withdraw funds from a reserve fund.

In addition to all standard items, the borrower must provide CHFA with supporting documentation, such as an itemized list of expenses, supporting documentation of expense amounts, financial statements, and the written approval of the Limited Partner or Investor Member, as applicable. CHFA, at its discretion, may require that funds are disbursed directly to a contractor/vendor.

Section 12.5 Residual Receipts

If required by the Regulatory Agreement and/or Loan Agreement, the owner shall establish and maintain a residual receipts fund. When a residual receipts fund is required, it shall be assigned to and under the control of CHFA. Owners are required to make deposits to this account at the end of every annual fiscal period in the amount of the project's surplus cash, after deducting from surplus cash the amount of distributions (see Section 12.8, Surplus Cash Distributions).

Withdrawals

Withdrawals from the residual receipts account may be completed in accordance with the Regulatory Agreement and/or Loan Agreement. For withdrawals that require CHFA's prior written consent, borrowers must submit a Residual Receipts Request form and an explanation of the purpose of the withdrawal to the PCO.



Residual Receipts Request: chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 12.6 Audit Confirmation Requests

All auditor requests related to CHFA multifamily loans, including reserve balances and loan history, should be emailed to CHFA's Commercial Loan Servicing Department at DL-AM-Commercial_Loan_Servicing@chfainfo.com.

Section 12.7 Reserves Held by Other Financial Institutions

In some cases, a CHFA multifamily borrower has established reserve account(s) with a different financial institution to meet their obligation under the CHFA Regulatory Agreement or Loan Agreement. Prior to withdrawing funds from such an account, the owner must obtain CHFA's written approval. Failure to obtain CHFA's approval could result in the development, its owner, and management agent being designated as Not in Good Standing with the CHFA Loan program.

Monthly Statements

If a borrower has established CHFA-required reserve account(s) with a different financial institution, the owner must submit copies of monthly statements to the CHFA PCO. These statements are due to the PCO by the 20th of the month for the previous month.

Withdrawal Requests

To requests funds from an account not held by CHFA, follow the same process described in Section 12.2, Reserve Withdrawal Requests. Once a request is approved, CHFA will issue the owner a letter authorizing the release of funds that specifies the amount to be withdrawn and the expenses to be reimbursed.

Section 12.8 Surplus Cash Distributions

CHFA's approval is required to release surplus cash for certain developments with CHFA multifamily loans, as specified below.

Nonprofit Borrowers

Nonprofit borrowers are permitted to take surplus cash distributions, and the distributions must be used for charitable/public purposes. For nonprofit borrowers, CHFA's approval to release surplus cash is not required.

For-profit Borrowers

Loans Originated Prior to 2007

For-profit borrowers whose loans originated prior to 2007 are permitted to take surplus cash distributions, but the distributions must be approved by CHFA. For-profit owners should refer to CHFA Resolution 80-110, Establishing Maximum Rate of Return on Equity for Partially Assisted Multifamily Housing Facilities.



CHFA Resolution 80-110:
chfainfo.com/arh/asset/LIHTCForms/CHFAResolution_80-110.pdf

Surplus Cash Distribution Requests

For-profit borrowers with loans originated prior to 2007 seeking CHFA approval to release surplus cash are required to submit the Computation of Surplus Cash, Distributions, and Residual Receipts form and, if applicable, evidence that residual receipts have been deposited in the project's residual receipts account. The owner's written request and computation form should be sent directly to the CHFA PCO.

Owners should review the project's Regulatory Agreement and/or Loan Agreement to determine limitations on distributions. In the case of a project subject to distribution limitations imposed by the U.S. Department of Housing and Urban Development (HUD), distributions will be approved only as permitted under applicable HUD regulations.



Computation of Surplus Cash, Distributions, and Residual Receipts form: chfainfo.com/rental-housing/asset-management/compliance-forms#



The development, management agent, and owner must be in compliance, current on submissions, and in good standing with CHFA programs before CHFA will process a request to release surplus cash.

Loans Originated During or After 2007

For-profit borrowers whose loans originated during or after 2007 are not required to obtain CHFA's approval to take surplus cash distributions.

chapter 13

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO HTC — Colorado state HTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program

 Compliance Toolbox Tip

 Reference

 Exception

Tax-exempt Bonds

Due to the tax-exempt status of their financing, tax-exempt bond-financed developments are subject to certain additional Internal Revenue Service requirements beyond Housing Tax Credit and CHFA Loan program requirements. The following chapter outlines those requirements.

✓ Applicable ✕ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
13.1 Tax-exempt Bond Overview		⇆	⇆	✕	⇆	✕	✕	✕
13.2 Tax-exempt Bond Annual Reporting		⇆	⇆	✕	⇆	✕	✕	✕
13.3 Tax-exempt Bond Lease Addendum		⇆	⇆	✕	⇆	✕	✕	✕
13.4 Tax-exempt Bond Student Rule		⇆	⇆	✕	⇆	✕	✕	✕
13.5 Tax-exempt Bond Unit Transfers		⇆	⇆	✕	⇆	✕	✕	✕
13.6 Tax-exempt Bond Noncompliance		⇆	⇆	✕	⇆	✕	✕	✕

Section 13.1 Tax-exempt Bond Overview

TC Y 1-15 PY 15+ CHFA LOAN

As an authorized issuer of tax-exempt bonds, CHFA may issue Private Activity Bonds (PAB) (qualified residential rental bonds) or other forms of qualified tax-exempt bonds to support affordable rental housing developments. Interest payments from tax-exempt bonds are not subject to federal income tax. CHFA issues tax-exempt bonds either on a conduit basis (as a Conduit Issuer) or as a Direct Issuer and Lender. PAB issued for qualified residential rental activities may be used to fund a CHFA loan, both FHA-insured and non-FHA-insured, and/or may be paired with the federal 4 percent LIHTC and the Colorado Affordable Housing Tax Credit.

Due to the bonds' tax-exempt status, developments financed with CHFA-issued PAB are subject to certain Internal Revenue Service (IRS) requirements, in addition to Housing Tax Credit and CHFA Loan program requirements, throughout the Qualified Project Period. The compliance-related IRS requirements discussed in this chapter include the minimum set-aside election, annual reporting, full-time student households, and unit transfers.



To determine if your project has tax-exempt bonds issued by CHFA, see CHFA's Insight system or contact your Program Compliance Officer.

Qualified Project Period

The Qualified Project Period of a tax-exempt bond financed affordable rental development is defined as:

- beginning on the first day that 10 percent of the residential units are occupied, and
- ending on the latest of
    a) the date that is 15 years after the date that 50 percent of the residential units are occupied,
    b) the first day that no tax-exempt private activity bond issued for the project is outstanding, or
    c) the date that any assistance provided for the project under Section 8 of the United States Housing Act of 1937 terminates.



26 U.S.C. § 142(d)(2)(A)

CHFA Compliance Monitoring

For developments receiving tax-exempt PAB financing through CHFA, either as a direct issuer and lender or as a conduit issuer, CHFA begins monitoring the project for compliance with the bond transaction Regulatory Agreement and with Section 142 of the Code once the development has placed in service and/or the permanent loan has funded.

Although the owner's IRS compliance obligations are applicable throughout the entire Qualified Project Period, CHFA's bond-related monitoring ends once the conduit bonds have been redeemed or the PAB-financed loan is paid in full, regardless of whether the project remains in the Qualified Project Period.

Owners of developments for which CHFA issues tax-exempt bonds on a conduit basis should notify the CHFA Program Compliance Officer (PCO) when the conduit bonds have been redeemed. The notification must include confirmation in writing from the bond issue's trustee that includes the following.

- Bond issue name
- Bond issue CUSIP number(s)
- Amount of bonds currently outstanding
- Date the bonds were redeemed

Minimum Set-aside Election

Tax-exempt bond-financed projects must meet and maintain one of two minimum set-aside restrictions to comply with bond financing requirements.

- 20 percent of units at 50 percent of Area Median Income (AMI)
- 40 percent of units at 60 percent of Area Median Income (AMI)

The minimum set-aside election and any additional restrictions are determined at bond closing. The election is made on IRS Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues, and is also outlined in the occupancy requirements indicated in the project's Bond Regulatory Agreement.

CHFA Program Compliance staff monitor compliance with the minimum set-aside through periodic reviews of occupancy and demographic data (via NextGen or TRACS) and regular onsite or electronic compliance reviews.



26 U.S.C. § 142(d)(1)

501(c)(3) Tax-exempt Bonds

Qualified 501(c)(3) bonds are tax-exempt Private Activity Bonds issued by a state or local government entity, the proceeds of which are loaned to and used by a Section 501(c)(3) nonprofit organization in furtherance of its exempt purpose. CHFA may issue 501(c)(3) bonds to qualified developments.

The Internal Revenue Code restricts the ownership and use of all properties financed by a qualified 501(c)(3) bond issue. Owners of developments financed with CHFA-issued 501(c)(3) bonds must certify compliance in the following areas in the annual owner certification (see Section 3.2, Annual Owner Certification Forms).

- The property must be owned by a 501(c)(3) organization or a state or local government throughout the term of the bonds.
- At least 95 percent of net bond proceeds must be used for a "good" use as defined by the Code. "Unrelated trade or business" use and income are not considered "good" use.
- Owners must follow IRS safe harbor rules against private use for service and other management contracts.



26 U.S.C. § 142(a), (b)
26 U.S.C. § 145
Rev. Proc. 97-13

To determine if your project has 501(c)(3) tax-exempt bonds issued by CHFA, see CHFA's Insight system or contact your PCO.

Change of Use

Owners of developments receiving tax-exempt PAB financing through CHFA must notify the CHFA PCO regarding any change of use as it pertains to the use of the bond proceeds.

Ownership Transfers

When there is an anticipated ownership change for any development financed by CHFA, the current owner is required to obtain CHFA's written approval. See Chapter 18, Ownership and Management Agent Changes, for instructions on the transfer approval process.

Developments funded with 501(c)(3) bonds are required to have a qualified 501(c)(3) borrower own the project at all times.

Section 13.2 Tax-exempt Bond Annual Reporting

TC Y 1-15 PY 15+ CHFA LOAN

Developments financed with CHFA-issued tax-exempt bond funds must follow all applicable reporting requirements for the Housing Tax Credit and/or CHFA Loan programs. In addition, such developments are subject to the reporting requirements summarized below.

Annual Owner Certification of Continuing Compliance

Annually, owners must submit a signed certification in which the owner certifies compliance with various Private Activity Bond (PAB) requirements, including use as a qualified residential rental project under Section 142(d) of the Code. See Section 3.2, Annual Owner Certification Forms, for more information.

Additional Certification for Projects Financed with CHFA Tax-exempt Bonds

Owner certifications include additional questions that must be completed by developments that were issued tax-exempt PAB financing by CHFA. Such developments must complete all applicable bond-related questions on the certification.

All projects with CHFA-issued PAB, both via conduit and direct loan, must answer questions regarding:

- IRS Form 8703 filing,
- use as a Qualified Residential Rental Project, and
- compliance with the requirements of the bond documents executed upon issuance of the bonds.

All projects with CHFA-issued PAB that are 501(c)(3) bonds must also answer questions regarding:

- IRS Safe Harbor Contract Rules,
- IRS Form 990 filing, and
- use of bond proceeds and unrelated trade or business use and income.

If applicable bond-related questions are inaccurate, the certification will be returned to the owner for correction.

IRS Form 8703, Annual Certification of a Residential Rental Project

IRS Filing Requirement

Annually by March 31st during the Qualified Project Period, all borrowers receiving tax-exempt PAB financing are required to file with the IRS Form 8703, Annual Certification of a Residential Rental Project, for the previous calendar year. The form certifies whether the project continues to meet the requirements of Section 142(d) of the Code. Failure to file Form 8703 each year during the Qualified Project Period subjects the project owner to an IRS penalty.

26 U.S.C. § 142(d)(7)

CHFA Reporting Requirement

Annually by April 30th while CHFA-issued tax-exempt bonds remain outstanding, the owner is required to submit a copy of the IRS Form 8703 to CHFA via CHFA's secure Insight system. For more information, see Section 3.7, IRS Form 8703.

Properties that receive PAB financing issued by another entity and not CHFA, are not required to submit a copy of IRS Form 8703 to CHFA.

IRS Form 990, Return of Organization Exempt from Income Tax

Most tax-exempt organizations, including 501(c)(3) borrowers, are required to file an annual IRS Form 990, Return of Organization Exempt from Income Tax with the IRS. For CHFA borrowers receiving tax-exempt Private Activity Bond (PAB) financing, the IRS Form 990 must be filed annually in accordance with IRS requirements.

CHFA does not, in general, require the owner to submit a copy of the return to CHFA. However, the owner must submit the return upon request.

If an organization fails to file an annual return or submit a notice as required for three consecutive years, it will automatically lose its tax-exempt status and will be in default on its tax-exempt loan with CHFA.

Section 13.3 Tax-exempt Bond Lease Addendum

TC Y 1-15 PY 15+ CHFA LOAN

All resident leases at developments receiving tax-exempt Private Activity Bond (PAB) financing through CHFA shall contain a clause, among others, wherein the resident agrees that his or her lease may be terminated if any noncompliance by such tenant would adversely affect the federal tax-exempt status of interest on bonds issued to provide funds to make the loan (if applicable).

The Affordable Housing Lease Addendum available on CHFA's website satisfies this requirement.



Affordable Housing Lease Addendum:
chfainfo.com/rental-housing/asset-management/compliance-forms#

Section 13.4 Tax-exempt Bond Student Rule

TC Y 1-15 PY 15+ CHFA LOAN

Projects financed with tax-exempt bond financing are subject to the IRS Student Rule under Section 142(d)(2)(C) of the code, regardless of whether they also have LIHTC. The Student Rule states that a household comprised entirely of full-time students (as defined by the IRS) is ineligible to occupy a unit unless one or more of five criteria is met. As long as at least one household member is not considered a full-time student, the household complies with the Student Rule.

See Chapter 8, Students, for information on student status certification and verification requirements and an explanation of the Student Rule and its exceptions.

For developments with CHFA Loans financed with CHFA-issued tax-exempt bond financing but not LIHTC, CHFA will monitor for compliance with the Student Rule until the year following bond redemption irrespective of whether the project remains in the Qualified Project Period.



26 U.S.C. § 142(d)(2)(C)
26 U.S.C. § 42(i)(3)(D)

Section 13.5 Tax-exempt Bond Unit Transfers

TC Y 1-15 PY 15+ CHFA LOAN

For a multiple-building property, unit transfer rules depend on the property type and the household's current income.

- Developments with both CHFA-issued tax-exempt bond financing [Private Activity Bond (PAB)] and LIHTC are monitored for compliance according to the Housing Tax Credit transfer rules.
- CHFA Loan properties that have CHFA-issued PAB and do not have LIHTC are monitored according to PAB transfer rules.

See Section 7.6, Unit Transfers, for detailed rules on unit transfers.

Section 13.6 Tax-exempt Bond Noncompliance

TC Y 1-15 PY 15+ CHFA LOAN

Noncompliance with tax-exempt bond requirements may cause the bonds to become taxable and trigger an Internal Revenue Service audit. For loans that are pooled, this risk attaches to the entire bond issue and not just the noncompliance of a single project.

Borrowers receiving tax-exempt bond financing must inform CHFA by written notice of any violation of their obligations under the Bond Regulatory Agreement executed at bond closing, including noncompliance with arbitrage or other applicable federal tax requirements. If a violation is discovered by CHFA or by the borrower/project owner and is not corrected sufficiently by the established cure date, CHFA shall declare a default under the Bond Regulatory Agreement.

All other noncompliance with requirements of the Code, the Bond Regulatory Agreement, or this manual will be handled according to Chapter 17, Noncompliance.

chapter 14

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO HTC — Colorado state HTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Post Year 15 Housing Tax Credit Compliance

The purpose of this chapter is to provide owners of Low Income Housing Tax Credit projects with an understanding of how CHFA monitors projects beginning year 16 of the Extended Use Period, after the initial 15-year Compliance Period is complete.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
14.1 Post Year 15 LIHTC Overview		✗	✓	✗	✗	✗	✗	✗
14.2 Post Year 15 LIHTC Compliance Reviews		✗	✓	✗	✗	✗	✗	✗
14.3 Post Year 15 LIHTC Annual Submissions		✗	✓	✗	✗	✗	✗	✗
14.4 Post Year 15 LIHTC Tenant Income Certifications		✗	✓	✗	✗	✗	✗	✗
14.5 Post Year 15 LIHTC IRS Student Rule Monitoring		✗	✓	✗	✗	✗	✗	✗
14.6 Post Year 15 LIHTC Unit Transfers		✗	✓	✗	✗	✗	✗	✗
14.7 Post Year 15 LIHTC Next Available Unit Rule Monitoring		✗	✓	✗	✗	✗	✗	✗
14.8 Post Year 15 LIHTC Ownership Transfers		✗	✓	✗	✗	✗	✗	✗
14.9 Resyndication		✗	✓	✗	✗	✗	✗	✗
14.10 Good Cause Eviction and Rent Increase Protection		✗	✓	✗	✗	✗	✗	✗
14.11 Post Year 15 LIHTC Record Retention		✗	✓	✗	✗	✗	✗	✗
14.12 Post Year 15 LIHTC Noncompliance		✗	✓	✗	✗	✗	✗	✗

Section 14.1 Post Year 15 LIHTC Overview

PY 15+

LIHTC developments are subject to Section 42 of the Code throughout the Extended Use Period. Likewise, the Land Use Restriction Agreement (LURA) remains in effect for the entire Extended Use Period unless the property is acquired by foreclosure or deed-in-lieu of foreclosure (unless it is determined that such an acquisition is part of an arrangement with the taxpayer, a purpose of which is to terminate the Extended Use Period). The Extended Use Period, defined in Section 1.2, Federal LIHTC Program, lasts for a minimum of 30 years.

While the Internal Revenue Service's direct oversight and compliance enforcement is limited to the initial 15-year Compliance Period, CHFA monitors LIHTC developments for compliance with Section 42 and the LURA throughout the Extended Use Period. Affordable housing practitioners use the term "Post Year 15 Period" to refer to the 15-plus years remaining in the Extended Use Period once the 15-year Compliance Period has ended.

CHFA's Post Year 15 LIHTC compliance monitoring ensures that properties comply with Housing Tax Credit requirements until the completion of the Extended Use Period specified in the LURA. CHFA has elected to revise several of its compliance monitoring practices during the Post Year 15 Period, since the IRS no longer oversees compliance with Section 42 at that point. Except for the revised monitoring specifically outlined in this chapter, compliance with all other requirements under the LURA and Section 42 of the Internal Revenue Code of 1986 as amended and the Treasury Regulations thereunder as applicable will continue to be monitored.

Throughout the Extended Use Period, CHFA reserves the right to conduct a review of any building after serving appropriate notice and to examine all records pertaining to the rental of tax credit units.



Post Year 15 properties with other programs such as Section 8, Rural Development, HOME, FHA and CHFA Loan programs, and tax-exempt financing must still comply with the rules associated with those programs.

Determining When the Post Year 15 Period Begins

For all LIHTC developments, the Post Year 15 ("PY15") Period begins with Year 16 of the Extended Use Period. To identify Year 16, you must determine Year 1 of the Extended Use Period. Year 1 is the first year of the Credit Period which is determined by the owner after a building places in service. The owner may elect to begin the Credit Period in either the year in which the building is placed in service or the following year.

Owners must make their election of when to begin the Credit Period on line 10a of the IRS Form 8609 filed with the IRS for each LIHTC building at the beginning of the Credit Period. As stated in the LURA, the owner must provide CHFA with a copy of the completed and signed IRS Form 8609 for each building for the first year of the Credit Period, within 90 days of the owner's filing with the IRS. Below are examples of Year 1 and Year 16 based on receipt of the filed forms 8609 and the owner's 10a election.



Should the owner not provide the completed and filed Form 8609 as required, CHFA'S policy is to determine the start of the Credit Period as the year after the date the last building was placed in service.

IRS Form 8609	Owner's Election on Line 10a	PIS Date	Year 1	Year 15	Year 16 / PY15 Period Begins
Completed form received by CHFA - Yes	Elect to begin Credit Period the first year after the building is placed in service – **No**	June 22, 2004	2004	2018	2019
Completed form received by CHFA - Yes	Elect to begin Credit Period the first year after the building is placed in service – **Yes**	June 22, 2004	2005	2019	2020
Completed form received by CHFA - No	n/a - Unknown	June 22, 2004	2005 (per CHFA policy)	2019	2020

After the Extended Use Period/LURA Expires

For some Housing Tax Credit properties that do not have layered housing programs, income and rent restrictions will end after the Extended Use Period and Land Use Restriction Agreement (LURA) expire. This is a minimum of 30 years after the property's Credit Year start date.

At least one year prior to LURA expiration, CHFA recommends that owners and agents of such properties provide a notice to residents to provide information on any changes that may occur in how the property and residents' leases are managed, including any anticipated rent increases.



If you are unsure whether your LIHTC project has entered the Post Year 15 Period or when its Extended Use Period ends, refer to the LURA in CHFA's Insight system or contact your Program Compliance Officer.

Section 14.2 Post Year 15 LIHTC Compliance Reviews

PY 15+

During the Post Year 15 Period, compliance reviews and physical inspections will be performed at least every five years. At least 10 percent of resident files will be reviewed. At least 10 percent or 10 units, whichever is greater, will be inspected. See Chapter 10, Program Compliance Reviews, for more information.

CHFA reserves the right to inspect additional units, files, and records pertaining to the rental of tax credit units if it is deemed necessary by CHFA staff. In addition, in the event of an ownership or management change, a Housing Tax Credit management review may occur within that year to ensure the new entity is complying with the requirements of the LURA.

Section 14.3 Post Year 15 LIHTC Annual Submissions

PY 15+

Except as outlined below, in the Post Year 15 Period, all submission requirements in the LURA and/or CHFA Regulatory Agreement and per this compliance manual remain in effect. See Chapter 3, Required Submissions, for a detailed summary.

Owner Certification

Annual Owner Certifications (AOCs) of Continuing Program Compliance for the previous calendar year are required for all Housing Tax Credit developments. The certifications are due no sooner than January 1st and no later than February 15th.

As of 2024, CHFA requires that AOCs be submitted within CHFA's secure Insight system. This process requires owner registration to electronically submit and sign within the Insight system. If they do not already have a unique Insight user account, all property owners responsible for signing annual owner certifications should register for their unique user account in Insight by November 30th.

See Section 3.2, Annual Owner Certification Forms, for detailed information.



To register for an Insight account, go to the Insight login page and click the request a new user account link.



If answers to any questions are incomplete or inaccurate, the certification will be returned to the owner for correction.

Annual Post Year 15 LIHTC Monitoring Fees

To offset the cost of monitoring a development during the Post Year 15 Period, CHFA charges a compliance monitoring fee. As stated in the LURA, all LIHTC projects are required to pay annual monitoring fees beginning in Year 16 of the Extended Use Period. For developments in years one through 15 of the Compliance Period, compliance monitoring fees are not due annually, because they are paid in advance for the first 15 years.

Effective November 1, 2015, the Post Year 15 monitoring fee is $25 per tax credit unit, including employee units, not to exceed $2,500. All fees are due on February 15th each year.

The fee will be reviewed on an annual basis to reassess its reasonableness and whether it covers CHFA’s costs of monitoring. The fee is subject to change upon written notice from CHFA.



CHFA encourages owner and management agents to set a recurring annual reminder regarding submissions due February 15th, including the monitoring fee.

CHFA may issue a monitoring fee invoice as a courtesy. However, it is the owner's responsibility to ensure the fee is submitted to CHFA timely, regardless of whether an invoice is received.

Section 14.4 Post Year 15 LIHTC Tenant Income Certifications

PY 15+

Move-in Certifications

For a Post Year 15 LIHTC development, a full certification, including third-party verification of household income and assets (if applicable) continues to be required prior to move-in. See Section 7.3, Move-in Certification, regarding how to complete a full move-in certification.

Annual Recertifications

After move-in, however, for both 100 percent and mixed-income PY15 LIHTC developments, only a basic annual recertification is required for tax credit households beginning with the first annual recertification. For a basic annual recertification, certification of income and assets is not required. Therefore, owners are not required to obtain either a resident questionnaire or third-party verification of income and assets.

Post Year 15 basic annual recertifications must include the following documentation. See Section 7.4, Annual Recertification, on how and when to complete a basic annual recertification.

- Basic Annual Recertification form
- Student Status Certification (if CHFA-issued tax-exempt bonds remain outstanding)
- Affordable Housing Lease Addendum attached to current lease
- Documentation of current tenant rent (e.g., current lease, most recent lease addendum, or most recent tenant rent notification for rental assistance recipients)

NextGen

Basic annual recertifications must still be submitted in NextGen monthly. However, only tenant rent, utility allowance, non-optional charges, rental assistance, and any change in the AMI designation need to be entered.

Interim Certifications

Remember that interim certifications are still required for the Housing Tax Credit and CHFA Loan programs whenever an additional person moves into a unit. When a new member joins the household, that new member must be fully certified, including all the standard move-in forms and verifications. See Section 7.7, Interim Certification, for detailed information.

For units with Section 8, HOME, USDA-RD assistance, etc. or with CHFA Loan financing, the owner must continue to follow recertification verification requirements specific to those programs and may not be permitted to use basic annual recertifications.

Section 14.5 Post Year 15 LIHTC IRS Student Rule Monitoring

Since student status is not one of the defined requirements of the LURA, CHFA no longer monitors compliance with the student rule under IRC Section 42 during the Post Year 15 Period. Therefore, owners are not expected by CHFA to obtain annual Student Status Certifications after the PY15 Period begins.



For developments financed with CHFA-issued tax-exempt bonds, CHFA will continue to monitor compliance with the Student Rule after Year 15 for as long as the bonds remain outstanding.

Section 14.6 Post Year 15 LIHTC Unit Transfers

As of 2024, during the Post Year 15 Period, all unit transfers are allowed without triggering noncompliance, regardless of current household income. When a current qualifying household transfers to another unit, the newly occupied unit adopts that status of the vacated unit, and the vacated unit adopts the former status of the newly occupied unit.



A Unit Transfer Tenant Income Certification (TIC) must be completed to document the transfer, including any changes in rent, utility allowance, and set-aside.

See Section 7.6, Unit Transfers, for detailed unit transfer rules and Section 7.12, Changes in Unit AMI Designation, for the conditions that must be met to change a unit's designation.

This policy applies to all Housing Tax Credit projects, including the following.

- 100 percent LIHTC
- Mixed-income
- Multiple-building election
- Separate-building election

Section 14.7 Post Year 15 LIHTC Next Available Unit Rule Monitoring

Although owners must continue to maintain each LIHTC building's applicable fraction during the Post Year 15 Period, CHFA no longer monitors compliance with the Next Available Unit Rule. A unit occupied by a household that qualified at move-in may retain its designation until it is reoccupied if the unit remains rent-restricted.

Section 14.8 Post Year 15 LIHTC Ownership Transfers

PY 15+

CHFA's prior written consent is required for transfers of ownership or ownership interest related to a LIHTC property. Owners contemplating transfers of ownership must notify CHFA and will receive a Multifamily Request Packet that outlines the requirements of the specific transfer, including a checklist of submittals and fees that must be received before a transfer application will be considered.

See Chapter 18, Ownership and Management Agent Changes, for further instructions and information on the transfer approval process.

Section 14.9 Resyndication

PY 15+

Resyndication occurs when an existing LIHTC project in the Post Year 15 Period receives a second allocation of LIHTC to be acquired and rehabilitated by a new ownership entity. If a new allocation is made, the project must meet all Section 42 requirements. These include compliance with the Student, Unit Transfer, and Next Available Unit rules. See Section 7.10, Resyndication Certification, for key points for the owner and management to keep in mind at resyndication.

Section 14.10 Good Cause Eviction and Rent Increase Protection

PY 15+

"Good cause" for eviction or termination of tenancy is determined by applicable state and local law. The owner should specify what "good cause" is in the lease.

If a LIHTC property's Extended Use Period is terminated early due to foreclosure or deed-in-lieu of foreclosure, the property owner is prohibited from the following two actions for three years following the termination of the Extended Use Period.

- Evicting an existing household from a LIHTC unit or terminating their tenancy within the lease term other than for "good cause," or
- Increasing the gross rent of an existing household in a LIHTC unit in a manner not permitted by IRC Section 42



26 U.S.C. § 42(h)(6)(E)(ii)
IRS Revenue Ruling 2004-82
IRS 8823 Guide, Chapter 26



For questions as to what constitutes good cause under Colorado state law, consult legal counsel.

Section 14.11 Post Year 15 LIHTC Record Retention

PY 15+

Records for the first year of the Credit Period must be retained for a minimum of 21 years, which is equivalent to six years after the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

Owners are required to retain all other records, including resident files, for each building for a minimum of six years after the due date (with extensions) for filing the federal income tax return each year. Resident file retention is based on the year the resident moved out of the unit. The IRS allows records to be kept electronically provided they remain retrievable throughout the required record retention period.



26 C.F.R. 1.42-5(b)

Section 14.12 Post Year 15 LIHTC Noncompliance

PY 15+

All noncompliance with federal statutes and regulations, the LURA, and the CHFA program requirements specified in this manual must be sufficiently corrected and documented by the owner within CHFA's required timeframes. When potential or confirmed noncompliance is identified, the Program Compliance Officer will notify the property owner and management agent and specify a correction period. By the end of the correction period, the owner must submit a complete response, including supporting documentation if the noncompliance has been cured.

If the owner of a Post Year 15 LIHTC development fails to provide a complete and accurate response by the end of the correction period, CHFA will designate the development, owner, and management agent as Not in Good Standing with CHFA Programs.

See Chapter 17, Noncompliance, for detailed information, including the consequences associated with the Not in Good Standing designation.

chapter 15

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
- PY 15+ — LIHTC Post Year 15
- CO HTC — Colorado state HTC
- CHFA LOAN — CHFA Multifamily Loan
- HHF CO — Colorado Healthy Housing Fund
- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Developments with Multilayered Programs

The following chapter outlines CHFA's guidance regarding multifamily developments operating under multiple affordable housing programs. It also includes information on the Project-based Section 8 program monitored by CHFA and referral information for affordable housing programs not monitored by CHFA.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
15.1 Multilayered Development Guidance	✓							
15.2 Housing Tax Credit /CHFA Loan and Project-based Section 8	✓							
15.3 Affordable Housing Programs Not Monitored by CHFA	✓							

Section 15.1 Multilayered Development Guidance

ALL PROG

Many Colorado developments in the Housing Tax Credit and CHFA Loan programs also operate under other affordable housing programs, including the following.

- Federal Home Loan Bank
- FDIC - RTC
- U.S. Department of Housing and Urban Development
    - Community Development Block Grant (CDBG) programs
    - HOME Investment Partnerships Program (administered by local or state authorities)
    - Housing Trust Fund
    - Project-based Section 8 Rental Assistance
    - Section 8 Housing Choice Vouchers (tenant- or project-based)
    - Section 8 Moderate Rehabilitation
    - Section 8 Rental Assistance Demonstration (RAD)
- USDA Rural Development - Section 515
- Other city, county, and state affordable housing programs

Among these different programs, there are variations and sometimes inconsistencies in program rules. When there are multiple programs associated with a housing development, CHFA advises owners to ensure they comply with all requirements, with particular attention to the most restrictive requirements. In many cases, following the most restrictive requirement will satisfy multiple programs. However, in some cases where rules differ significantly (e.g., regarding students), the owner must ensure that each rule is applied properly to maintain compliance with each program.



To maintain compliance, it is critical that multilayer property owners and management understand the rules and regulations of all applicable programs.

Section 15.2 Housing Tax Credit/CHFA Loan and Project-based Section 8

ALL PROG

In Colorado, CHFA serves as the Performance-based Contract Administrator (PBCA) for HUD's Project-based Section 8 program and as the allocator and monitor for the federal LIHTC Program. With some exceptions, CHFA monitors multifamily projects that receive CHFA Loan financing for compliance according to the Housing Tax Credit Program. Therefore, staff within CHFA's Asset Management Division can advise owners on requirements of these programs and the differences between them.

Project-based Section 8 Compliance Contacts

For questions related to Project-based Section 8 compliance, please use the following contacts.

CHFA Section 8 Officer

- See CHFA's Insight System to identify the Section 8 officer assigned to each property in CHFA's portfolio.

HUD Multifamily Account Executive

- Most questions for HUD should be emailed to the Denver HUD Multifamily Office's at den.incoming@hud.gov.
- For HUD's list of Account Executive assignments in Colorado, visit this HUD webpage and select the list for Colorado: hud.gov/states/shared/working/west/mf/ownmgmt/ae.

Examples of Housing Tax Credit/CHFA Loan Program vs. Project-based Section 8

Below are examples of some key areas where the LIHTC/CHFA Loan and Project-based Section 8 programs differ. Refer to the HUD Handbook 4350.3 for a detailed explanation of all Project-based Section 8 requirements.



HUD Handbook 4350.3
hud.gov/program_offices/administration/hudclips/handbooks/hsgh/4350.3

Topic	Housing Tax Credit/CHFA Loan	Project-based Section 8
Certification Form	Tenant Income Certification (TIC)	Form HUD-50059
Income Limits	HUD Multifamily Tax Subsidy Projects (MTSP) Income Limits	HUD Income Limits for the Public Housing and Section 8 Programs
Tenant Rent	Not based on actual household income	Based on actual (adjusted) household income
Deductions from Income	Not permitted	Required
Enterprise Income Verification (EIV)	Not directly permitted for the Housing Tax Credit program. However, LIHTC/Section 8 owners may use CHFA's Summary of EIV Third-party Verification for Annual Recertifications form.	Required for most income at annual recertification
Child Support Affidavit	Required unless both parents are household members	Not required
Over Income Households	Unit must remain rent restricted. Follow Next Available Unit Rule.	Household must pay contract (market) rent.

Topic	Housing Tax Credit/CHFA Loan	Project-based Section 8
Citizenship Status	No restrictions Declaration of citizenship or immigration status is not required.	Rental assistance restricted to U.S. citizens or nationals and noncitizens who have eligible immigration status. All family members must declare their citizenship or immigration status.
Student Rule	26 U.S.C. § 42(i)(3)(D)	24 C.F.R. § 5.612
Annual Recertification Notice to Tenants	Not required	Required
Interim Certifications Due to Changes in Household Income	Not required	Required
Utility Allowance Sources	Unless property has a USDA-RD or Section 8 contract or is otherwise HUD-regulated, multiple options allowed.	Owners must prepare property-specific allowances for approval by the PBCA.
Initial Lease Term	6-month minimum	12-month minimum
Background Checks: Criminal/Sex Offender/Credit	Not required	Required
Identification: SS card, Photo ID, Birth Certificates	Not required	Required

Section 15.3 Affordable Housing Programs Not Monitored By CHFA

ALL PROG

Other affordable rental housing programs in Colorado are administered by the HUD Multifamily West Region Office based in Denver, USDA Rural Development, FDIC, the Colorado Division of Housing – Department of Local Affairs, local governments, public housing authorities, and direct service providers. For all other affordable housing programs not administered by CHFA, CHFA is unable to advise on compliance requirements.

Below is a summary of administrators for the programs most frequently layered with Housing Tax Credits and CHFA Loans. Owners and management should refer to the appropriate program administrator with compliance questions.

Program	Administrator(s)	Website
Community Development Block Grant (CDBG) Programs	▪ Colorado Department of Local Affairs (DOLA) ▪ Local governments	▪ cdola.colorado.gov/community-development-block-grant-cdbg ▪ hudexchange.info/grantees/#/byState ▪ hud.gov/states/colorado/community/cdbg

Program	Administrator(s)	Website
Federal Home Loan Bank Affordable Housing Program	Federal Home Loan Bank Topeka	fhlbtopeka.com/ahp
HOME Investment Partnerships Program	▪ Colorado DOLA ▪ Local governments (participating jurisdictions)	▪ cdola.colorado.gov/home-program ▪ hudexchange.info/grantees/#/byState ▪ hud.gov/states/colorado/community/home
Housing Trust Fund	Colorado DOLA	cdola.colorado.gov/national-housing-trust-fund-htf
Resolution Trust Corporation (RTC)	▪ FDIC ▪ Phoenix Revitalization Corporation (PRC)	▪ fdic.gov/buying/owned/affordable/ ▪ phxrevitalization.org/housing/ahdp.htm
Section 8 Housing Choice Vouchers	▪ Colorado DOLA ▪ Public Housing Authorities ▪ Service Providers	▪ cdola.colorado.gov/office-of-rental-assistance/housing-voucher-programs ▪ hud.gov/states/colorado/renting/hawebsites
Section 8 Rental Assistance Demonstration (RAD)	HUD Multifamily Housing – West Region	hud.gov/states/shared/working/west/mf/ownmgmt/ae
USDA Rural Development - Section 515	USDA Rural Development state and local offices	rd.usda.gov/contact-us/state-offices/co

chapter 16

Legend

ALL PROG — All Programs

TC Y 1-15 — LIHTC Years 1-15

PY 15+ — LIHTC Post Year 15

CO HTC — Colorado state HTC

CHFA LOAN — CHFA Multifamily Loan

HHF CO — Colorado Healthy Housing Fund

CM FUND — Capital Magnet Fund

RS — Risk Sharing Program

Compliance Toolbox Tip

Reference

Exception

Post Loan Payoff

In some cases, a CHFA Loan is paid in full while the Regulatory Agreement remains in effect. During this period after loan payoff, the CHFA Asset Management Division will continue to monitor the development as required by the Regulatory Agreement. This chapter outlines what takes place after a CHFA Loan is paid in full, and the owner's obligations for post loan payoff compliance.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
16.1 Post Loan Payoff Period		✗	✗	✗	✓	✓	✓	✓
16.2 Post Loan Payoff Compliance Monitoring		✗	✗	✗	✓	✓	✓	✓

Section 16.1 Post Loan Payoff Period

CHFA LOAN HHF CO CM FUND RS

All multifamily developments financed with a CHFA Loan have an associated CHFA Regulatory Agreement with a specified term or a "Qualified Project Period" (QPP), during which the CHFA Regulatory Agreement remains in effect (See Section 1.6, CHFA Loans).

- If a CHFA Loan is paid in full after the specified term, the CHFA Regulatory Agreement will expire and no further compliance related to the Regulatory Agreement is required.
- When a loan is paid in full during the specified term or QPP, the Regulatory Agreement will continue to be in effect until the specified term or QPP ends. For Regulatory Agreements with a QPP, CHFA must determine if the QPP is satisfied after loan payoff.
- For developments with a Regulatory Agreement that remains in effect after loan payoff, the remainder of the specified term or QPP is referred to as the **Post Loan Payoff Period**. During this period, the Program Compliance Officer (PCO) will continue to monitor the development in accordance with the requirements of the Regulatory Agreement as explained later in this chapter.

Regulatory Agreement Release

For a CHFA multifamily loan financed with tax-exempt bonds, the Regulatory Agreement will have a QPP. CHFA will make a determination of the QPP and eligibility of release of the Regulatory Agreement upon request by the owner. Requests may be submitted in writing to CHFA's Multifamily Asset Manager.

If CHFA approves the release of the Regulatory Agreement, a termination may be executed, and no further compliance related to the Regulatory Agreement is required.



Although a CHFA Loan Regulatory Agreement may expire or be released, owners must ensure that requirements associated with any other CHFA-monitored programs, such as Housing Tax Credits, other CHFA Loan programs, and Project-based Section 8, continue to be met.

Reserve Accounts

Upon loan payoff, it is the responsibility of the property owner to request closure of any CHFA-managed reserve accounts. Requests may be submitted in writing to the PCO. Upon receipt of an owner's closure request, the PCO will evaluate the property's compliance status. Once a request is approved, the remaining reserve funds will be released to the owner.



The development, management agent, and owner must be in compliance, current on submissions, and in good standing with CHFA programs to obtain consent for the release of a reserve account.

Section 16.2 Post Loan Payoff Compliance Monitoring

In cases where a multifamily loan is paid in full and the Regulatory Agreement remains in effect, the PCO will monitor the property's program compliance in the Post Loan Payoff Period as follows. If the development operates under another program monitored by the CHFA Asset Management Division, that program's monitoring practices will be applied in lieu of separate CHFA Loan program monitoring, as specified below.

Project Type	Monitoring Type	Management Reviews	Annual Submissions
No Other CHFA-monitored Programs	Post loan payoff program compliance	Post loan payoff program file review and physical inspection every five years	▪ Owner Certification of Continuing Loan Program Compliance ▪ NextGen data ▪ IRS Form 8703, if applicable. The last Form 8703 due will be the form filed for the calendar year in which the loan was paid off. ▪ Budgets not required. ▪ Audited financial statements not required.
LIHTC: Years 1-15	Full LIHTC compliance	Housing Tax Credit file review and physical inspection every three years	Housing Tax Credit Years 1-15
Post Year 15 LIHTC	Post Year 15 LIHTC compliance	Post Year 15 Housing Tax Credit file review and physical inspection every five years	Post Year 15 Housing Tax Credit
Project-based Section 8 Rental Assistance	Section 8 compliance	Management and Occupancy Review (MOR) as scheduled by HUD and CHFA	Section 8
Moderate Rehabilitation (Mod Rehab)	Mod Rehab compliance	Mod Rehab file review and physical inspection every year	Mod Rehab



See Chapter 3, Required Submissions, and Chapter 10, Program Compliance Reviews, for detailed information.

chapter 17

Legend

- ALL PROG — All Programs
- TC Y 1-15 — LIHTC Years 1-15
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- CO HTC — Colorado state HTC
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- CM FUND — Capital Magnet Fund
- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Noncompliance

It is the property owner's responsibility to ensure compliance with Housing Tax Credit and CHFA Loan requirements. CHFA's Multifamily Program Compliance Department supports property owners and management agents with training and guidance to help them avoid noncompliance. When noncompliance is identified, CHFA will notify the property owner and agent, ensure the noncompliance is corrected timely and, when applicable, report it to the IRS, Colorado Department of Revenue, and/or HUD. This chapter outlines cure timelines and the consequences of failure to cure and patterns of noncompliance.

✓ Applicable ✕ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
17.1 Types of Noncompliance	✓							
17.2 Consideration of Noncompliance	✓							
17.3 Noncompliance Process	✓							
17.4 Potential Consequences of Noncompliance	✓							
17.5 Noncompliance Reporting		✓	✓	✓	⇆	✕	✕	✓
17.6 Not in Good Standing with CHFA Programs Designation	✓							
17.7 Owner and Management Agent Fraud	✓							
17.8 Tenant Fraud	✓							

Section 17.1 Types of Noncompliance

ALL PROG

Noncompliance Examples	Noncompliance Examples
Incomplete tenant file documentation that does not meet standard of the Housing Tax Credit and/or CHFA Loan programs	Inaccurate, incomplete, or missing submissions
Leasing low-income units to non-qualified households (e.g. over-income, non-qualified students, etc.)	Failure to pay monitoring fees
Charging gross rent in excess of applicable maximum rent	Failure to maintain the AMI set-asides required by the LURA or Regulatory Agreement
Incorrectly calculated or outdated utility allowances	Failure to follow NAU rule, Vacant Unit rule, etc.
Charging impermissible fees	Failure to maintain units, common areas, buildings, or site in a decent, safe, and sanitary manner and in good repair
Failure to comply with program compliance review notification period	Failure to make and maintain vacant units ready for occupancy in a reasonable amount of time
Failure to submit complete and satisfactory corrections to close out file review and physical inspection findings timely	Pattern of accepting fraudulent information (owner/agent)
Intentionally providing fraudulent information (applicant/resident)	Forging signatures and falsifying documents
Failure to notify CHFA of a management agent change	Failure to obtain CHFA's written consent prior to an ownership transfer

Section 17.2 Consideration of Noncompliance

ALL PROG

Requests for Tax Credits, CHFA Multifamily Loans, and Ownership Transfers

An applicant's track record and ability to demonstrate capacity sufficient to operate a multifamily project is considered a key factor when awarding tax credit allocation, approving a new multifamily loan, or approving an ownership transfer. Therefore, CHFA evaluates the development team or proposed new owner to identify if it has a history of chronic and/or substantive noncompliance with CHFA including submission of fees, reports, and required documents within the established timeframes.

Applications will not be accepted or approved and transfers will not be approved if there are any uncorrected IRS Forms 8823 or if there is any other uncorrected noncompliance with the provisions of any Land Use Restriction Agreement (LURA), CHFA Regulatory Agreement, or similar document on any projects that are owned or managed by the applicant or the applicant's management agent. The same restriction applies if the applicant or the applicant's management agent is designated as Not in Good Standing with CHFA Programs.

Section 17.3 Noncompliance Process

ALL PROG

All noncompliance with federal statutes and regulations, the LURA, the CHFA Regulatory Agreement, as well as CHFA program requirements specified in this manual must be sufficiently corrected and documented by the owner within CHFA's required timeframes. For Housing Tax Credit properties, violations of federal requirements may or may not have to be reported to the IRS and the Colorado Department of Revenue, depending on the type of violation, when it occurred, who detected it, and when it was corrected. For developments with 542(c) Risk Share-enhanced loans, violations of program requirements will be reported to HUD when required.

When potential or confirmed noncompliance is identified, the Program Compliance Officer (PCO) will notify the property owner and management agent and specify a correction period. By the end of the correction period, the owner must submit a complete response, including supporting documentation if the noncompliance has been cured.

When a complete response is received, CHFA will confirm whether the noncompliance has been resolved (or if the owner was always in compliance) and determine if any of the specific findings or deficiencies must be reported to other agencies. If the PCO determines that any corrected or outstanding noncompliance is reportable, the PCO will notify the owner and allow a period to submit any documentation they request to be attached to the filing. CHFA may also designate the development, owner and management agent as Not in Good Standing with CHFA Programs.

If the owner fails to provide a complete and accurate response by the end of the correction period, CHFA will determine if the noncompliance must be reported to other agencies. In addition, CHFA will designate the development, owner, and management agent as Not in Good Standing with CHFA Programs.

Section 17.4 Potential Consequences of Noncompliance

ALL PROG

Type of Consequence	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
General								
100% file audit and/or physical inspection by a third-party at the owner's expense	✓							
Requirement to hire a professional consultant at the owner's expense	✓							
Staff training at the owner's expense	✓							
External Reporting								
IRS Form 8823 filing		✓	✗	✗	✗	✗	✗	✗
Colorado Department of Revenue filing		✗	✗	✓	✗	✗	✗	✗
Notification to IRS of tax-exempt bond program violations		⇆	⇆	✗	⇆	✗	✗	✗
Notification to HUD resulting in a flag in the owner and agent's previous participation history		✗	✗	✗	✗	✗	✗	✓

Type of Consequence	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
Not in Good Standing with CHFA Programs Designation (can result in any of the following actions)								
Additional and/or more frequent monitoring	✓							
Requirement to change management agent or site staff	✓							
Disqualification from consideration for future CHFA financing and Housing Tax Credit allocations	✓							
Denial of ownership transfer requests	✓							
Prohibition of any modification to existing financing terms		✗	✗	✗	✓	✓	✓	✓
Suspension of reserve withdrawals		✗	✗	✗	✓	✓	✓	✓
Additional reporting requirements	✓							
CHFA may secure the appointment of a receiver to operate the project in compliance with the LURA or Regulatory Agreement.	✓							
CHFA may declare a default under the LURA or Regulatory Agreement and may apply to any court, state or federal, for specific performance of the LURA or an injunction against any violation of the LURA.	✓							

Section 17.5 Noncompliance Reporting

TC Y 1-15 PY 15+ CO HTC CHFA LOAN RS

LIHTC Developments: Years One Through 15

CHFA is required to report any noncompliance of which it becomes aware to the IRS, without regard to whether the identified outstanding noncompliance is subsequently corrected. Therefore, in some instances, CHFA may be required to file an IRS Form 8823 even though the noncompliance has already been resolved.



26 C.F.R. § 1.42-5(a)

CHFA's policy is to report to the IRS any noncompliance that constitutes the following:

- Violation of IRC § 42 as amended or Treasury Regulations thereunder;
- Violation of the LURA that is reportable under IRS guidelines; and/or
- Violation of local health, safety, or building codes.



The IRS allows an exception to its reporting requirement. If the owner identifies and corrects noncompliance prior to CHFA's notification of an upcoming compliance review, CHFA is not required to report it to the IRS.

Once the PCO determines that an IRS Form 8823 filing is required to report corrected or uncorrected noncompliance, the PCO will notify the owner and management agent and provide the dates by which the filing will be made and by which the owner and management agent may submit any additional documentation they request to be attached to the filing. Once completed, a copy of the 8823 filing will be forwarded to the owner and management agent.



8823 filings are due to the IRS no later than 45 days after the end of the correction period.

Uncorrected and "Back in Compliance" Forms 8823

When an uncorrected Form 8823 is filed, it is the responsibility of the owner to submit documentation to CHFA confirming that the noncompliance has been remedied. If the owner provides CHFA with documentation showing that correction occurred within three years after the end of the correction period, the PCO will submit a "back in compliance" Form 8823 to the IRS to report the correction of previously reported noncompliance.

Denial or Recapture of LIHTC

After an IRS Form 8823 is filed, the IRS determines the impact on current and previously claimed LIHTC. CHFA is not involved in the determination and cannot advise owners and agents in this area. Please consult your tax accountant for specific guidance.

Colorado State HTC Developments: Years One Through 15

State Housing Tax Credits (state HTC) include the Colorado state Affordable Housing Tax Credit (AHTC or state credit), Middle-income Housing Tax Credit (MIHTC), and Transit-oriented Communities credit (TOC credit). For developments with state HTC, whenever CHFA files an IRS Form 8823, CHFA will forward the 8823 filing to the Colorado Department of Revenue. The owner shall also provide the Colorado Department of Revenue and the PCO with any determination from the IRS regarding loss of credits.

Denial or Recapture of State HTC

After an IRS Form 8823 is forwarded, the Colorado Department of Revenue determines the impact on current and previously claimed tax credits. CHFA is not involved in the determination and cannot advise owners and agents in this area. Please consult your tax accountant for specific guidance.

Developments Financed with CHFA-issued PAB

For developments with CHFA-issued tax-exempt bonds, CHFA will determine the appropriate reporting and actions, including use of the Tax-Exempt Bond Voluntary Closing Agreement Program, to address noncompliance that may constitute a violation of IRC § 142 or any event of noncompliance with arbitrage or other applicable federal tax requirements.

Developments Financed with 542(c) Risk Share-enhanced Loans

For developments with 542(c) Risk Share-enhanced loans, if required, violations of program requirements will be reported to HUD. This may result in a flag in the owner and agent's previous participation history, as well as other consequences outlined above.

Section 17.6 Not In Good Standing with CHFA Programs Designation

ALL PROG

When owners and agents are consistently noncompliant and/or do not comply by the end of the correction period, the owner, agent, and property will all be designated as Not in Good Standing with CHFA programs. Once such a designation has been made, CHFA will notify the owner and management agent in writing.

Regardless of any outstanding Not in Good Standing designation, CHFA will continue all compliance monitoring of the property, owner, and agent.

After a Not in Good Standing designation is made, it is the responsibility of the owner and management agent to submit documentation to CHFA confirming that the noncompliance has been remedied. If the owner and management agent provide CHFA with satisfactory documentation showing that the development is back in compliance, CHFA will issue a letter removing the designation.

Section 17.7 Owner and Management Agent Fraud

ALL PROG

When potential fraud by the owner and/or management agent is detected, CHFA may require the owner and management agent to conduct or engage a third-party auditor to conduct a 100-percent file audit or inspection to determine the extent of the fraud.

If fraud is confirmed, the owner will be required to correct any resulting noncompliance, submit a written action plan to prevent the fraud from recurring and, going forward, to report to CHFA on its implementation. The property, owner, and/or management agent may also be designated as Not in Good Standing with CHFA Programs.

LIHTC developments: Years 1-15

If CHFA becomes aware of an apparent fraudulent act by the owner, management agent, or other party associated with the LIHTC property, or a party responsible for providing income/asset verification for tenants, CHFA may submit Form 3949-A, Information Referral to the IRS.

Section 17.8 Tenant Fraud

ALL PROG

Owners of all Housing Tax Credit and CHFA Loan developments should demonstrate due diligence to prevent tenant fraud. If misrepresentation of income or other information is suspected, the owner should take additional steps to verify the accuracy of information provided by the tenant. If an owner discovers that a tenant has deliberately misrepresented their income level, student status, household size, or any other item used to determine eligibility, the owner should consult state or local landlord-tenant laws to determine whether the tenant can be asked to vacate the unit.

IRS Reporting

Owners must report suspected or known misrepresentation of income to the IRS' Whistleblower Office using IRS Form 211, Application for Award for Original Information. The IRS may consider the difference between the market-rate rent and the restricted rent to be taxable income for a resident found to have committed fraud.

LIHTC Developments: Years 1-15

Tenant fraud detected prior to the scheduling of a compliance review

The IRS will not consider there to have been reportable noncompliance if the LIHTC owner discovers and addresses tenant fraud prior to receiving notification that a compliance review has been scheduled, notifies CHFA timely of their actions, and satisfies CHFA of the following:

- the tenant provided false information;
- the owner did everything a prudent person would do to avoid fraudulent tenants (due diligence) and has implemented any needed changes to avoid future problems;
- the tenant has vacated the unit (if possible); and
- there is no pattern of accepting fraudulent tenants.



To avoid possible credit loss, LIHTC owners must immediately report any suspected deliberate misrepresentation or fraud by a tenant to the development's PCO.



Refer to the IRS 8823 Audit Technique Guide, Chapter 25, for further informal guidance.

Tenant fraud detected during a compliance review

If the LIHTC owner does not discover and address tenant fraud prior to receiving notification that a compliance review has been scheduled, CHFA must report any associated noncompliance with Section 42 or IRS regulations to the IRS on Form 8823.

chapter 18

Legend

- ALL PROG — All Programs
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- RS — Risk Sharing Program
- Compliance Toolbox Tip
- Reference
- Exception

Ownership and Management Agent Changes

The following chapter addresses CHFA's requirements when ownership or management of a Housing Tax Credit or CHFA Loan development is transferred to a new entity.

✓ Applicable ✗ Not Applicable ⇆ Possibly Applicable

Section	All	Tax Credit			Loan			
Program Type	ALL PROG	TC Y 1-15	PY 15+	CO HTC	CHFA LOAN	HHF CO	CM FUND	RS
18.1 Ownership Changes	✓							
18.2 Management Agent Changes	✓							
18.3 Contact Information Updates	✓							

Section 18.1 Ownership Changes

ALL PROG

Requirement for CHFA's Written Consent

Throughout the LIHTC Extended Use Period and the term of the CHFA Regulatory Agreement, owners of all developments financed with Housing Tax Credits and/or CHFA Loan programs must advise CHFA in writing prior to any building disposition, including transfers of partial interest in the ownership entity and sales of ownership entities. If an owner is considering disposing of a building or an interest in a building, CHFA's written consent is required prior to any such transfer. Transfer fees may also be required.

CHFA will consent to the transfer only if the purchaser is, in CHFA's discretion, reasonably expected to continue to operate the property as a qualified low-income building for the duration of the Extended Use Period and/or term of the Regulatory Agreement, as applicable. Owners are advised to review the project Land Use Restriction Agreement (LURA) and/or CHFA Regulatory Agreement, as applicable, for any additional requirements.



The development, management agent, and owner must be in compliance, current on submissions, and in good standing with CHFA programs at the time of the proposed transfer to obtain consent for an ownership transfer.

Process to Request an Ownership Transfer

To begin the process for requesting CHFA's consent to an ownership transfer, the current owner must notify in writing both the Program Compliance Officer (PCO) assigned to the property and the CHFA Multifamily Asset Manager. Upon the owner's notification to CHFA of an impending transfer, the CHFA Multifamily Asset Manager will provide a Multifamily Request Packet that outlines the requirements of the specific transfer. The owner and applicant will be required to complete forms in the packet and provide authorization to CHFA to process the request. The packet will provide guidance, including a checklist of submittals and fees that must be received before a transfer application will be considered.

Depending on the new owner's or management agent's experience with Housing Tax Credits and CHFA Loan compliance in Colorado, CHFA may require, as conditions to the transfer consent, that CHFA-administered compliance training is completed and/or that a consultant is engaged to approve tenant certification files for a period of time.



In the event of an ownership change, a program compliance review may occur within that year to ensure the new entity is complying with the requirements of the LURA, Regulatory Agreement, etc.

Considerations for LIHTC Developments

- For LIHTC developments in the 15-year Compliance Period, CHFA is required to file an IRS Form 8823, which includes the new owners tax identification number, for all building dispositions to advise the IRS of a change in ownership.
- When a transfer will take place during the Compliance Period, CHFA recommends the LIHTC development owner consult a tax accountant or attorney to avoid the possibility of recapture.

Considerations for CHFA Multifamily Loan Developments

- If a project undergoing an ownership transfer is financed with a CHFA Loan that will not be paid off as part of the transfer, a separate loan assumption will be required in addition to the transfer consent.
- When an ownership transfer involves the full payoff of a CHFA Loan during the loan term or Qualified Project Period, the development may be subject to ongoing program compliance requirements in the Post Loan Payoff Period. See Chapter 16, Post Loan Payoff, for more information.

LIHTC Developments – General Partner and Managing Member Changes

LIHTC property owners must notify the PCO assigned to the property in writing of all General Partner or Managing Member changes within the development's ownership entity within 30 days.

Section 18.2 Management Agent Changes

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Changes After the First Credit Year or After CHFA Multifamily Loan Closing

After the first year of the Credit Period for LIHTC projects and after closing for CHFA Loan developments, CHFA's approval to change the management agent is not required. Nevertheless, whenever the owner makes a change in management agent, they are required to submit a Notification of Change in Contact Information form signed by the owner to the PCO who monitors the property within 30 days of the change.

In the event of a management change, a program compliance review may occur within that year to ensure the new management agent is complying with the requirements of the LURA, Regulatory Agreement, etc.



Notification of Change in Contact Information: chfainfo.com/rental-housing/asset-management/compliance-forms#

LIHTC Developments: Changes Prior to the End of the First Credit Year

When a LIHTC project owner makes a change in management agent before the end of the first year of the Credit Period, CHFA's approval of the new agent is required. Specifically, the owner or agent must submit the following to the PCO who monitors the property at least 30 days before the change is scheduled to occur.

- Notification of Change in Contact Information form signed by the owner
- LIHTC Property Management Questionnaire
- Training certificate(s) for the date(s) when the new site contact, management agent, and any compliance staff who work on tenant certifications last attended Housing Tax Credit training, including CHFA's Advanced Housing Tax Credit class through the chfareach program.
- Confirmation that the new site contact, management agent, and any compliance staff who work on tenant certifications have reviewed the CHFA Multifamily Program Compliance Manual and are familiar with Colorado-specific Housing Tax Credit program requirements.

CHFA may require training for companies or managers with limited experience managing LIHTC developments in Colorado.



Housing Tax Credit Property Management Questionnaire:
chfainfo.com/rental-housing/housing-credit/application

CHFA Multifamily Loan Developments: Changes Prior to CHFA Loan Closing

When the owner makes a change in management agent before a CHFA multifamily loan closing, CHFA's approval of the new agent is required. Specifically, the owner or agent must submit the following to both the PCO assigned to the property and CHFA's Multifamily Asset Manager at least 30 days before the change is scheduled to occur.

- Notification of Change in Contact Information form signed by the owner
- Property Management Agreement
- Property Management Plan
- Lease Form with Addenda
- Confirmation that the new site contact, management agent, and any compliance staff who work on tenant certifications have reviewed CHFA's Multifamily Program Compliance Manual and are familiar with CHFA Multifamily Loan program requirements.

CHFA may require revisions to these documents prior to closing if the required elements are not found or are in need of revisions. In addition, CHFA may require training for companies or managers with limited experience managing developments with CHFA multifamily loans.

Management Agent Changes for Developments with Risk Share-enhanced Loans

Although CHFA's approval is not required after loan closing, prior to making any management agent change, owners of projects with Risk Share-enhanced loans must obtain HUD's approval of the new management agent's eligibility to participate in HUD programs. To obtain eligibility approval, the owner must initiate a Previous Participation Review by HUD (i.e., 2530 clearance process). See Chapter 11, Risk Sharing Program, for further information on this process.

Section 18.3 Contact Information Updates

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The current property manager, management agent, and ownership entity contact information associated with each Housing Tax Credit or CHFA Loan program development is maintained in CHFA's Insight system. To alert CHFA of any updates in contact information, please submit a Notification of Change in Contact Information form to the PCO who monitors the property within 30 days of the change.



Notification of Change in Contact Information: chfainfo.com/rental-housing/asset-management/compliance-forms#

glossary

The following words or terms as used in this manual shall have the following meaning.

Term	Definition
4 Percent Annual Credit	The approximate applicable percentage used to calculate the annual amount of tax credits given for the cost of constructing a new building or substantially rehabilitating an existing building with a federal subsidy or the cost of buying an existing building for which substantial rehabilitation expenditures also are incurred; the actual applicable percentage is determined each month by the Department of Treasury based on current interest rates. This percentage is then multiplied by the qualified basis to determine the actual annual tax credits. In this case, the aggregate amount of tax credits would have a present value of 30 percent of the qualified basis.
9 Percent Annual Credit	The applicable percentage (fixed permanently at 9 percent) used to calculate the annual amount of tax credits given for the cost of constructing a new building or substantially rehabilitating an existing building; this percentage is then multiplied by the qualified basis to determine the maximum amount of annual tax credits. In this case, the aggregate amount of tax credits would have a present value of 70 percent of the qualified basis.
Act	The Colorado Housing and Finance Authority Act, part 7 of article 4 title 29 of Colorado Revised Statutes, as amended and supplemented from time to time
Applicable Fraction	The proportion of units or square footage occupied by qualifying low-income households; this is one factor used in calculating the amount of tax credit an owner can claim for a building.
Applicable Percentage	The type of annual credit (4 percent or 9 percent) that was allocated
Assets	Items of value that can be turned into cash
Average Income Test	Minimum set-aside requirement in which at least 40 percent of a development's units are both rent-restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective unit. (I) Designation The taxpayer shall designate the imputed income limitation of each unit taken into account under such clause. (II) Average test The average of the imputed income limitations designated under subclause (I) shall not exceed 60 percent of area median gross income. (III) 10-percent increments The designated imputed income limitation of any unit under subclause (I) shall be 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, or 80 percent of area median gross income.

Term	Definition
Bonds	The obligations of CHFA issued to provide funds to make a loan, including any refunding obligations
Compliance Period	The 15-year period, beginning the first year of the Credit Period, in which the project must meet LIHTC program requirements to avoid the recapture of tax credits
Credit Period	The 10-year period during which tax credits are claimed; the Credit Period begins the year the project is placed in service or, at the election of the taxpayer, the year after the project is placed in service.
Deep Rent Skewed Projects	IRC Section 142(d)(4)(B) - If an owner elects to have a project treated as a deep rent skewed project, the following requirements must be met: • Fifteen percent of the low-income units in the project must be rent-restricted and occupied by households whose income does not exceed 40 percent Area Median Income. • The gross rent of each low-income unit in the project must not exceed 50 percent of the average gross rent of the comparable unrestricted units if there are any. • The Available Unit Rule defines an over-income unit in a deep rent skewed project as a low- income unit in which the aggregate income of the occupants of the unit increases above 170 percent of the applicable income limitation.
Distribution	Any withdrawal or taking of cash or any assets of the project excluding payments of debt service on the loan (and the second mortgage loan) and the payment of reasonable expenses incident to the operation and maintenance of the project
Educational Institution	An educational institution is one that maintains a regular faculty and curriculum, and has an enrolled body of pupils or students in attendance at the place where its educational activities are regularly convened. An educational institution includes kindergarten; elementary and middle schools; junior and senior high schools; colleges; universities; and technical, trade, and mechanical schools. It does not include on-the-job training courses or correspondence courses.
Eligible Basis	A new project's adjusted basis; generally, the eligible basis is composed of the eligible development costs minus the cost of land. Eligible basis for acquisition credit is the eligible costs of acquiring a building. Eligible basis for rehab credit is the eligible rehab expenditures aggregated over 24 months, which are chargeable to the development's capital account.

Term	Definition
Extended Use Period	Owners of developments receiving an allocation of credits on or after January 1, 1990, are subject to a Land Use Restriction Agreement (LURA) between the owner and CHFA that requires the development to comply with the program requirements for the entire Extended Use Period. The Extended Use Period is the period beginning on the first day of the 15-year Compliance Period on which such building is part of a qualified low-income housing project and ending on the later of: (1) 15 years after the close of the 15-year Compliance Period, or (2) the date specified by the agency in the LURA.
Financing Documents	All documents and instruments executed by the mortgagor or borrower or CHFA in connection with financing of the project
Floor Space Fraction	The total square footage of the residential low-income units divided by the total square footage of all the residential rental units in the building
Full-time Student	A full-time student is an individual whose enrollment status is determined to be full time by the educational institution he or she attends. Students who are enrolled full time for at least five months during a calendar year may not be eligible to occupy a tax credit unit unless certain exceptions are met. The five calendar months need not be consecutive. Enrollment during any point in a month counts as a full month. For example, a student enrolled from January 21 through May 2 has been enrolled for five calendar months per IRS guidance.
Gross Rent Floor	Revenue Procedure 1994-57 - This ruling allows the owner to establish floor rent amounts that will not be affected by fluctuations in the annual income limits and rent ceilings. Developments with established gross rent floors will not be required to charge gross rents (rent plus utilities) below their floor amounts. Owners of developments that received an allocation of credits or determination letters on or after October 6, 1994, may elect to establish the gross rent floor as the maximum rents in effect either on the date the development was placed in service or on the date the development received an allocation. This election is irrevocable and must be made by the owner and submitted in writing to CHFA no later than the development's placed-in-service date. For developments that received an allocation of credits prior to October 6, 1994, the owner and CHFA may use a date based on a reasonable interpretation of the Code.
HUD	The United States Department of Housing and Urban Development
Lease-up Reserve Fund	A separate account for New Construction or Substantial Rehabilitation projects held in the name of the project established for the purpose of paying for or reimbursing the owner for operating expenses, including debt service during the period of lease-up.

Term	Definition
Low-income Unit (LIHTC program)	A unit that is rent-restricted and occupied by a household who qualifies under the applicable set-aside restriction of 50 percent or 60 percent of the area median income. For LIHTC buildings with the Average Income Test set-aside restriction, the applicable restriction may be 20, 30, 40, 50, 60, 70, or 80 percent Area Median Income.
Minimum set-aside	Minimum compliance qualification designation for a tax-exempt bond-financed project or a LIHTC-financed project.
Mixed-income Development	A development for which the owner has set aside fewer than 100 percent of the units for low-income households. As a result, mixed-income developments have both low-income units and unrestricted or market-rate units.
Mortgage	The deed of trust, mortgage or other instrument securing the promissory note
Note	The promissory note of the mortgagor or borrower, secured by the mortgage, evidencing the mortgagor's obligation to repay the loan
Operating Deficit Reserve Fund	A separate account or irrevocable letter of credit established for the purpose of paying or reimbursing the owner for reasonable expenses incident to the operation and maintenance of the project. This may include mortgage payments.
Owner	The general partner or developer of a project; for the purposes of this manual, the term is used to encompass the owner's legal and business representatives as well, including his/her accountant, property manager, property management company, and/or onsite leasing staff.
Owner/Borrower/ Mortgagor	The entity named in the first paragraph of the Land Use Restriction Agreement (LURA), Regulatory Agreement, and/or Loan Agreement
Placed-in-Service Date	The date a building is considered for tax purposes to be ready for occupancy, usually when a building receives its Certificate of Occupancy (CO) or Temporary Certificate of Occupancy (TCO)
Private Activity Bond	Tax-exempt bonds issued by or on behalf of local or state government for the purpose of providing special financing benefits for qualified projects that have some public benefit (e.g. residential rental projects). The financing is most often for projects of a private user, and the government generally does not pledge its credit.
Project	The real property, the improvements from time to time constructed thereon, and all other assets used in connection with the operation of the real property and such improvements and owned by the mortgagor of whatsoever nature or wheresoever situated

Term	Definition
Qualified Basis	An amount related to the cost of a building that is used in calculating the amount of tax credits awarded for that building. A building's qualified basis is determined by multiplying the building's eligible basis by its applicable fraction. The qualified basis is determined each year as fluctuations may occur with the applicable fraction.
Qualified Project Period	The period that the project is subject to the rent and occupancy restrictions of the Regulatory Agreement; refer to the Regulatory Agreement for definition
Rent	Tenant-paid rent (excluding any Section 8 or other rent subsidy) plus the tenant-paid utility allowance and any non-optional fees
Replacement Reserve Fund	A separate account held in the name of the project established for the purpose of paying for or reimbursing the owner for the payment of any required repair or replacement costs that can be capitalized by the owner in accordance with generally accepted accounting principles
Residual Receipts	Any cash remaining at the end of an annual fiscal period after deducting from Surplus Cash the amount of Distributions, as determined by the annual audit
Resolution	The resolution of CHFA or the indenture of trust pursuant to which the bonds are issued and secured
Second Mortgage Loan	The loan made to the mortgagor by CHFA from monies other than proceeds of the bonds, evidenced by a promissory note and secured by a deed of trust for the benefit of CHFA creating a second lien against the real property and the project and the revenues therefrom
Section 42	The section of the Internal Revenue Code that applies to the LIHTC program (also referred to as 26 U.S.C § 42 or IRC Section 42)
Section 142	The section of the Internal Revenue Code that applies to tax-exempt bonds (also referred to as 26 U.S.C § 142 or IRC Section 142)
Surplus Cash	Any cash remaining at the end of each annual fiscal period
Tax-exempt Bonds	The obligations of CHFA issued to provide funds to make a tax-exempt loan, including any refunding obligations. The interest payments from tax-exempt bonds are not subject to federal income tax. Therefore, loans made with tax-exempt bond funds have special rules for project management.
Trustee	The corporate fiduciary designated as Trustee under the Resolution
Unit Fraction	The total number of residential low-income units divided by the total number of all residential rental units in the building
Verification of Employment	Form authorizing third-party disclosure of an applicant's employment income