# Compliance Guide for Administration of the Low-Income Housing Tax Credit Program

Vermont Housing Finance Agency

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## I. PREFACE

This manual is provided as a reference guide for administration of the federal Low-Income Housing Tax Credit (LIHTC) program. It is designed to answer questions regarding the procedures, rules and regulations that govern LIHTC projects and should be a useful resource for owners, developers, management companies, and on-site management personnel. *Please keep in mind that this manual is to be used as a supplement and not a substitute to existing laws and regulations.* It was produced for use as a procedural tool in the proper operation of Low-Income Housing Tax Credit properties and is not meant to be used or relied upon as the only source of information on LIHTC compliance procedures.

The LIHTC program is a complex tax program based on federal and state statutes and regulations. Owners and management companies of LIHTC properties must be familiar with the following documents and information:

- Section 42 of the Internal Revenue Code of 1986 (as amended) and related regulations at Title 26 of Code of Federal Regulations Subchapter A Part I Section 1.42 et seq.
- IRS Form 8609 and Schedule A
- IRS Form 8823
- IRS 8823 Guide
- HUD Handbook 4350.3
- Fair Housing Amendments Act of 1988
- Violence Against Women Act of 1994
- HR3221: The Housing and Economic Recovery Act of 2008

As with any regulated activity, compliance questions should be discussed with accounting and legal advisors.

Whenever available, address links will be provided to refer to the actual rules, forms and regulations.

# II. CHAPTER 1 - INTRODUCTION

## 1. VERMONT HOUSING FINANCE AGENCY

Vermont Housing Finance Agency (VHFA) is a public instrumentality, which was created by the General Assembly in 1974 to increase the supply of affordable housing for low and moderate income Vermonters. VHFA obtains funds for low-interest mortgages by selling tax-exempt mortgage revenue bonds. Private lending institutions throughout the state originate loans that are then sold to VHFA. Since its inception, VHFA has provided financing assistance for over 28,000 households. In addition, over 9,800 rental units have been created using VHFA financing.

## 2. BACKGROUND

In 1986, Congress enacted the Low-Income Housing Tax Credit program (LIHTC) as part of the Tax Reform Act. The U.S. Treasury Department is responsible for interpreting the statutes governing the LIHTC program. The LIHTC program is authorized and governed by Section 42 of the Internal Revenue Code (the Code). Under the provisions of the Code, each state is required to designate a "housing credit agency" to allocate the federal tax credits.

For Vermont, the Department of Housing and Community Development ("DHCD") has been designated the state housing credit agency. DHCD works in partnership with VHFA and the Joint Committee on Tax Credits to administer the LIHTC program. Vermont's Joint Committee on Tax Credits advises DHCD on tax credit issues. DHCD has contracted with VHFA to be the sole authority to issue tax credits to specific projects in accordance with the State's Qualified Allocation Plan (QAP), which is updated annually and approved by the Governor. DHCD has promulgated rules entitled "Federal Tax Credits for Low-Income Housing; State Allocation System, Joint Committee on Tax Credits."

The LIHTC program reduces the federal tax liability of project owners in exchange for the acquisition, rehabilitation, and/or construction of low-income rental housing units. The dollar amount of tax credits allocated is based on the cost of the project and the number of qualified low-income units that meet federal rent and income targeting requirements as well as the project's compatibility with Vermont's Qualified Allocation Plan. As Vermont's sole issuing authority, VHFA is charged by federal statute with allocating only the amount of tax credits necessary to ensure the economic feasibility and viability for each project throughout the compliance period.

The Omnibus Budget Reconciliation Act of 1990 amended the Code to require that tax credit allocating agencies provide a procedure for monitoring housing developments for compliance with the low-income occupancy requirements of the LIHTC under Section 42(m)(1)(B) of the Code, and for notifying the Internal Revenue Service of any noncompliance. To offset the costs of compliance monitoring, VHFA will annually charge a reasonable fee to the owner.

Final compliance monitoring regulations found at 26 CFR 1.42-5.



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The Housing and Economic Recovery Act of 2008 (HR 3221) enacted July 30, 2008 contains provisions that affect the Housing Tax Credit program and the Tax Exempt Bond program. The changes are reflected in this manual. For your convenience a copy of HR 3221 has been placed on the VHFA website.

## 3. PLACED IN SERVICE DATE

Once the placed in service date is established, the owner can start leasing up the property and begin meeting the minimum set-aside requirements. Below are a few guidelines for establishing the placed in service date for your development:

### a) New Construction Developments

- The placed in service date is the date on which the Certificate of Occupancy is received.

### b) Acquisition/Rehabilitation Developments

- When receiving acquisition credits, the acquisition placed in service date is typically the date of purchase.
- When receiving rehab credits, the rehabilitation placed in service date is achieved once the owner spends at least $6,000 per unit in depreciable costs or 20% of the acquisition costs, whichever is greater.
- The placed in service date must be established within 24 months of receiving the tax credit allocation.
- Projects with acquisition and rehab credits must claim credits within the same calendar year. Tax credits for both acquisition and rehab can be claimed as early as the later of the acquisition date or the start of the year a building rehabilitation is placed in-service. If not claimed that year, credits may be deferred one year.
    - <u>Examples</u>:
      Start claiming on 1/1/2018 if
      Acquisition PIS = 3/10/2017
      Rehab PIS = 10/30/2018
      Start claiming on 3/1/2018 if
      Acquistion PIS = 3/1/2018
      Rehab PIS = 11/30/2018
- Acquisition/Rehab properties are sometimes tricky. There may be existing residents as of the date of acquisition. Acquisition and rehab credits are BOTH satisfied with one set of certification paperwork. This means that once a certification is completed for acquisition, another one does not need to be done separately for the rehab.

  The effective dates for these tenants can be retroactive to the acquisition date, even if the paperwork takes up to 120 days to complete. Income certifications for households who are in-place on the date of acquisition that are completed no more than 120 days before or after the date of acquisition may have an effective date as of the acquisition date. Certifications completed after the 120 days are effective the date the last adult signs the certification.

  In many cases, credits will be claimed going back to acquisition. This can be true for units with households that were in-place at acquisition and that are certified within the 120-day deadline. Even if credits are not going to be claimed the year of acquisition, completing the certifications at acquisition still accomplishes some very important things. First, households that are qualified at acquisition are then protected against disqualification if their income increases in the future. Once a household is certified after acquisition, they are considered a qualified LIHTC household and will not have to move out if their income increases in the future. If an owner/agent waits until later to certify the household, their income may have increased over the limits and they will not be considered a qualified household.

- Instructions for newly placed in service LIHTC properties with existing residents:
  - **Safe Harbor Test**: Acquisition credits are deferred when the rehab is not placed in service the year of acquisition. Both acquisition and rehab credits will begin at the start of the year that the rehab is PIS. Any tenant qualified up through January 31st of that year starts credits for their unit for that entire year. When credits are deferred, units qualified before the start of the credit period with households who are still in-place at the start of the credit period will not need to be re-qualified. If they have been in the property more than 120 days before the start of the first year, however, an "income test" may need to be run on the household at the start of the first credit year. The income test is self-certification by the household as to whether their income has changed since they were initially qualified. The household will provide supporting documentation to allow for new calculations if their income has changed. The household's eligibility to stay is not in question, but the Next Available Unit Rule (NAUR) will be applied to any units that are over the 140% limit at the time of the start of the credit period. Because of how the NAUR works, this only applies to projects that are less than 100% tax credit.
  - **Resyndication – Grandfathering Rule:** (properties with an existing allocation of tax credits that receive an additional allocation): Households determined to be income qualified for pruposes of the IRC §42 credit during the 15 year compliance period may be concurrently income-qualified households for purposes of the extended use period. Any households that were determined to be income eligible under the original credit allocation will continue to be eligible under the new allocation. Student status, however, is not grandfathered. In order to memorialize the placed in service date to confirm the income and rent limits that will be used and to confirm continued student eligibility, a TIC and Student Status certification must be completed for each household in place at the time of acquisition. Similar to other LIHTC Acquisition/Rehab projects, the TICs should be effective on the date of acquisition but can be signed after that date as long as it is within 120 days of the acquisition date.

## 4. CREDIT PERIOD

Owners can claim tax credits annually for a period of ten consecutive years. This period (the "credit period") starts either the year the building is placed in service or the following year. The owner makes this determination on IRS Form 8609.

## 5. COMPLIANCE PERIOD AND EXTENDED USE PERIOD

Developments receiving LIHTC allocations after January 1, 1990, must comply with eligibility requirements for a minimum period of 15 tax years beginning with the first tax year of the building's credit period (the compliance period) and during the period of the extended low-income housing commitment (the extended use period). The extended use period is an additional 15 years (at a minimum), pursuant to an agreement between the owner and VHFA (known as the Housing Credit Housing Subsidy Covenant) that is recorded in the land records of the municipality where the development is located. The Code provides for earlier termination of the extended use period under certain circumstances - consult the Code and your professional advisors for further information.

The main focus of compliance monitoring during the extended use period is to ensure that the properties remain affordable and that the buildings are appropriately maintained. The Extended Use Period Fact Sheet are posted on the VHFA website.



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# III. CHAPTER 2 - RESPONSIBILITIES

## 1. VHFA LIHTC PROGRAM ADMINISTRATOR

VHFA issues tax credits for the construction, rehabilitation, and/or acquisition and substantial rehabilitation of low-income rental housing within the State of Vermont. VHFA's Development Department reviews applications for each proposed development for LIHTC eligibility and economic feasibility prior to the issuance of a tax credit allocation. Based upon the analysis, VHFA recommends to the Joint Committee on Tax Credits the amount of tax credits to be allocated to each project and the terms and conditions for the issuance of the tax credit allocation, all in accordance with the State's Qualified Allocation Plan.

## 2. VERMONT HOUSING FINANCE AGENCY

Once a tax credit allocation is awarded to a development, the development is acquired and/or rehabilitated or constructed. VHFA issues an IRS Form 8609 upon completion and based on a cost certification prepared by the owner's accountant. VHFA will then:

- Provide a Compliance Manual (available in hardcopy format or found on VHFA website) to the owner and/or manager;
- Designate a VHFA contact person to provide answers to compliance questions;
- Distribute annual Income Limit and Rent Limit Charts;
- Review the Owner's Certificate of Continuing Program Compliance, Fair Housing Questionnaire and the LIHTC Questionnaire on an annual basis;
- Review tenant data that is uploaded to VHFA's Web Compliance System (WCS),
- Examine resident eligibility and Tenant Income Certifications (TIC);
- Perform management reviews of tenant files and on-site physical inspection of the development every 1-3 years; The initial management review must occur by the end of the second year after the last building in the development is placed in service;
- Provide owner with a written annual report that summarizes VHFA's compliance monitoring activities; and
- Notify the Internal Revenue Service of non-compliance during the initial 15-year compliance period and after that, enforce compliance of the Housing Credit Housing Subsidy Covenant (the extended low-income housing commitment).

## 3. VHFA LIHTC MONITORING PROCEDURES

Owners of all LIHTC properties must comply with monitoring procedures, as well as complete and submit required reports in a timely manner.

VHFA will be responsible for reviewing web tenant compliance, owner's certifications, tenant certifications, backup documentation, as well as performing physical inspections. Compliance Uploads, Owner's Certificate of Continuing Program Compliance, Fair Housing Questionnaire and the LIHTC Questionnaire must be submitted to VHFA annually with an effective date of 12/31 by the last day of the following February. These reports are reviewed prior to scheduling a site visit and review of files.

The owner must also provide VHFA with a copy of the IRS Form 8609 and Schedule A, as well as IRS Form 3800 (Formerly IRS Form 8586) that is submitted to the IRS the first year the credits are claimed. These reports are reviewed prior to the scheduled site visit and review of files.

The owner must provide VHFA with a copy of the annual partnership audited financial statements.

VHFA will provide maximum income limit and maximum rent charts as a convenience to owners. These limits are set forth by HUD and issued annually (HUD Income Limits). It is the owner's responsibility to calculate rents based on the limits published by HUD and to verify the accuracy of the VHFA-produced income limit and rent charts.

VHFA will create an "Income Averaging Policy" to provide guidance when an owner choses the average income option for the minimum set aside.

The federal regulations require VHFA to perform physical inspections and tenant file reviews on all buildings in a LIHTC development. These inspections and reviews must be performed on at least 20% of the tax credit units or a sample size as stipulated by the IRS in 26 CFR 1.42-5(c)(2)(iii)(B). The initial physical inspection and file review must take place by the end of the second calendar year following the year the last building in the development is placed in service. After the initial inspection and file review, physical inspections and file reviews are completed every three years at a minimum. VHFA reserves the right to monitor more often, if necessary. VHFA will notify owners in writing of the results within 30 days of the review.

The Housing and Economic Recovery Act of 2008 (HERA) requires that VHFA annually collect and submit tax credit data to HUD. The final rule implemented a revision of the Tenant Income Certification (TIC) and requires that specific detailed information on the TIC be electronically transmitted to HUD. HUD is particularly interested in the following information: race, ethnicity, age, family composition, income, rental assistance status, disability status, and monthly rental payments. VHFA has purchased software to address this requirement. This software is referred to as the Web Compliance System (WCS) and it enables property owners/managers to upload tenant data. WCS also allows VHFA to run automatic tax credit compliance checks. Owners and managers may gain access to this system via the VHFA website at WCS. Owners and managers with tax credit software will be able to upload property and tenant data directly into the VHFA software system. Those without software who currently maintain the tax credit information manually will need to input each tenant income certification into WCS.

VHFA will contact each property owner to schedule the on-site inspection and file review. The following information will be reviewed by VHFA staff:

- Qualified basis for all buildings in each LIHTC property for the first year the credit is claimed.
- Initial compliance requirements for the minimum set-aside election for all LIHTC properties. The minimum set-aside represents the minimum number of tax credit units that must be rent-restricted and income-restricted. The minimum set-aside is applied to the development as a whole. This requirement is considered a project

rule. Once an election has been made, it is irrevocable. The minimum set-aside must be met by the end of the first year of the credit period.

- Before the final cost certification, VHFA strongly encourages the property development and management staff to sign off on final square footage amounts so that the applicable fractions on the final proforma are consistent and tie out with the final IRS 8609 form.
- Tenant certifications, leases and backup documentation for all LIHTC units; review of income eligibility of all LIHTC unit occupants by comparison of gross income to appropriate income limits; and calculation and review of rent restrictions.
- Rental activity for the given year for each LIHTC unit, along with review of subsequent changes in income, household composition, student status, transfers within the project, impact of the "140 percent rule" and "vacant unit" credit regulations.
- Inspection of common areas and LIHTC units. (VHFA Inspection Forms)
- Tenant data review in the Web Compliance System and running compliance tests and reports. Reports will be compared to actual tenant files and records.
- Owner's Certificate of Continuing Program Compliance form.
- Physical inspection results.
- Preparation of final report detailing file review findings and any physical defects discovered and issuing such report to owners.
- Preparation of non-compliance reports and follow-up with owners.
- Corrective action, if necessary, based on findings.

A compliance review will be scheduled with each owner, at which time the owner must have the following records and forms available:

- Copy of the original application. Properties that received Tax Credit commitments after 2/3/2012 must accept the Common Rental Application for Housing in Vermont;
- Lease and lease addendums, listing all household members. Note: Leases must have an initial term of at least six months (exceptions are made for SRO developments);
- The Violence Against Women Act (VAWA) is a federal law that provides funding and management requirements designed to protect victims of certain violent crimes. The name of the Act reflects the statistical reality that women are far more often the victims of reported violence, but the provisions of the law apply equally to all victims regardless of gender. VAWA covers victims of domestic or dating violence, sexual assault or stalking. VAWA reauthorizations in 2005 and 2013 progressively added housing provisions. The 2005 version affected Section 8 programs and public housing. The 2013 reauthorization greatly expanded the housing programs covered by the Act to include most of HUD multi-family housing programs, including HOME, LIHTC and Rural Development-funded housing. The final VAWA regulation and forms were released by HUD in November 2016, and follow-up guidance was published in June of 2017. The regulation is directly applicable to HUD programs, including HOME and the Housing Trust Fund. Rural Development also adopted the HUD guidance. For technical reasons, the IRS is unlikely to provide any guidance and the tax credits are not directly at risk if an owner does not apply VAWA rules. However, the VAWA law still applies to LIHTC properties and noncompliance creates legal exposure. VHFA encourages owner/agents to become familiar with the HUD

regulations and forms used at application and other times and apply these to their LIHTC properties. Although lack of compliance with VAWA is not grounds for LIHTC noncompliance and loss of tax credits, there have been violations of VAWA that HUD determined were disparate impact discrimination under the Fair Housing Act based on gender, race or national origin. If HUD finds a VAWA violation to also violate Fair Housing, then credits are at risk. This should make an owner realize the importance of applying VAWA guidance and forms as spelled out by HUD even if the IRS is unlikely to address the matter.

- Initial Tenant Income Certification, including third party verifications (Please note that at the time of the initial certification third party verification must be performed, a copy of the HUD Form 50058 is not acceptable for the initial TIC);
- Annual Tenant Income Recertifications. Should any questions arise during the compliance review as to whether a household was initially eligible, a review of actual move-in data will be requested even if the move-in occurred before the year under review;
- Copies of IRS Form 8609 and Schedule A for each building beginning with the first year credits were claimed;
- Rent cards or lease amendments for each LIHTC unit;
- Backup documentation for utility allowances;
- Records of any units that had changes in family composition, income increases that exceed 140 percent of maximum allowable income limit, vacancy and re-rental data, and transfers within the project;
- Documentation of full-time student status;
- Copy of the Supportive Housing Memorandum of Understanding between VHFA, the owner, and the Service Provider and documentation that identifies the specific units that satisfy the required number of supportive housing units.

If files are incomplete or reports are not submitted, a warning letter will be issued by VHFA to the owner. Failure to respond within the period specified (not more than 90 days), known as the correction period, will result in non-compliance. When non-compliance is identified, or if VHFA becomes aware of a disposition of a building, IRS Form 8823 is submitted to the IRS within 45 days of the end of the correction period.

The IRS has developed a reference guide to help state agencies determine whether findings found during an onsite file review or physical inspection are legitimate non-compliance issues. This guide is referred to as the IRS 8823 Audit Technique Guide. Although it is not a legal authority, it is a very helpful tool when trying to interpret the Section 42 regulations.

LIHTC developments are often financed with multiple subsidies and owners are inundated with multiple compliance reviews. Whenever possible, VHFA will try to coordinate compliance reviews with other agencies. Be sure to notify VHFA if you have been contacted by another monitoring agency to schedule an inspection, which will help us keep tenant and management disruptions to a minimum.



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## 4. OWNER

Each owner has chosen to utilize the LIHTC program to take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met to benefit very low-income residents. A description of these requirements follows:

### a) LIHTC Requirements

Owners have provided comprehensive development information with evidence of overall economic feasibility. Prior to issuance of a tax credit allocation, the owner and the owner's accountant must certify the total development costs. The owner must also certify that all requirements of the LIHTC program have been met. Any violation of the LIHTC Program requirements could result in the loss or recapture of the tax credits previously issued to the owner and any future claims for tax credits.

### b) Proper Administration

Once the development has been placed in service, the owner is responsible for ensuring that it is properly administered, so that it is suitable for occupancy at all times, taking into account local health, safety, and building codes. It is the owner's responsibility to make certain that the on-site management team complies with all applicable rules, regulations, and policies governing the development.

LIHTC developments are very management intensive and require a thorough understanding of the Section 42 regulations. The owner and/or management agent is required to attend compliance training and fair housing training and document that they have received training prior to lease-up. At a minimum, the training should cover key compliance terms, qualified basis rules, determination of rents, tenant eligibility, fair housing, file documentation, next available unit procedures, unit vacancy rules, agency reporting requirements, record retention requirements, and site visits. Be prepared to present documentation of training during the review of the property files. In addition to initial training, to ensure that staff is sufficiently educated and compliant with all LIHTC provisions, a least one member of the owner/management staff must attend tax credit compliance training annually.

### c) Ongoing Administration and Notification

Throughout all phases of development, rent-up and operation, it is the responsibility of the owner to keep VHFA informed of the following: the scheduled placed in service date, the completion of the development, and the date they plan to initially claim credits. They also need to update VHFA on any material changes, such as ownership or management, made at any time during the compliance period.

### d) Non-compliance

VHFA must be notified immediately of any suspected non-compliance. This is the owner's responsibility.

## 5. MANAGEMENT COMPANY AND ON-SITE PERSONNEL

In conjunction with the owner, the management agent and any on-site personnel are tasked with implementing the LIHTC Program requirements correctly. Anyone who is authorized to lease apartment units to residents should be thoroughly familiar with all



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federal laws, rules, and regulations governing certification and leasing procedures, including, but not limited to, the Violence Against Women Act (VAWA) and the Fair Housing Act, which prohibits discrimination. It is also important that the management company provides information, as needed, to VHFA and submits all required reports and documentation in a timely manner.



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# IV. CHAPTER 3 – COMPLIANCE MONITORING

This section of the manual outlines monitoring procedures for developments receiving tax credits. Ongoing compliance is necessary to retain housing tax credits. Therefore, monitoring each project is an ongoing activity that extends throughout the compliance period including the extended-use period.
VHFA reserves the right to change its compliance monitoring method as it deems necessary to ensure compliance with the LIHTC program throughout the project's compliance period and extended use period.

## 1. RECORD KEEPING AND RECORD RETENTION REQUIREMENTS

### a) Record Keeping

Developments containing tax credit eligible units are required to keep records for each qualified low-income building in the project for each year of the compliance period including uploading tenant data using VHFA's Web Compliance System, which documents the following information:

- Total number of residential rental units in the building and total number of LIHTC units in the building (including the total square footage of the market units and the LIHTC units);
- Building Identification Number;
- Placed in service date;
- Tenant's Name, unit number, and number of bedrooms, including square footage of each residential rental unit;
- Number of occupants in each low-income unit;
- Move-in and move-out dates for all residential units;
- Rent charged for each residential rental unit, including tenant portion of rent, rental subsidy and utility allowance;
- Date of initial and annual tenant income certification for each low- income unit;
- Documentation supporting each low-income tenant's income certification:
    - o Copy of the tenant's federal income tax return, IRS Form W-2, or verifications of income from third parties;
    - o Tenant income is calculated in a manner consistent with the determination of gross annual income under Section 8 of the U.S. Housing Act of 1937 (Section 8) (HUD 4350.3), which is not the same as the determination of gross income for federal income tax liability;
    - o For tenants receiving housing assistance payments under Section 8 (tenant-based subsidy), the documentation requirement is satisfied for the second and following years of certification if the public housing authority provides a copy of the HUD 50058 form or a written statement to the owner declaring that the tenant's income does not exceed the applicable income limit. A written certification from the housing authority must include gross income, tenant portion of rent, utility allowance, and effective date and must be signed. In addition, please fill out a Tenant Income Certification (TIC) with the information provided by the public housing authority. The TIC should be signed by both the owner and the resident;
- Character and use of the nonresidential portion of the building included in the building's eligible basis. For example, tenant facilities that are available on a

comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the development;
- Low-income unit vacancies in the building and information showing when, and to whom, the next available units were rented;
- Eligible basis and qualified basis of the building at the end of the first year of the credit period; and
- Records of the move-in and move-out dates of market rate units to verify the Available Unit Rule is implemented properly.

### b) Record Retention

Developments with tax credit eligible units are required to retain all records as described above for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

## 2. CERTIFICATION AND REVIEW PROVISIONS

### a) Certification Provision

Developments with tax credit eligible units must certify at least annually to the VHFA that they met the following requirements for the preceding 12-month period using the Owner's Certificate of Continuing Program Compliance form:

- The project meets the minimum set-aside requirement; there are three minimum setaside options:
  - 20/50 option
  - 40/60 option
  - average income option
- There has been no change in the applicable fraction for any building in the project. If it changes, list the applicable fraction to be reported to the IRS for each building in the project for the certification year;
- The owner has received an annual Tenant Income Certification from each low-income resident and documentation to support that certification;
  - ➢ OR the owner has a 100% tax credit project and is eligible for a recertification waiver and is using self-certification forms only after they have completed an initial Tenant Income Certification from each low-income resident with supporting documentation, and have also completed the recertification at the first anniversary;
- Each low-income unit in the project has been rent-restricted;
- All low-income units in the project are, and have been, for use by the general public and used on a non-transient basis (except for transitional housing for the homeless);
- No finding of discrimination under the Fair Housing Act has occurred for the project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a federal court;

- Each building in the project is, and has been, suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections has not issued a report of a violation for any building or low-income unit in the project. If a violation is reported, state the nature of violation and attach a copy of the violation report and any documentation of correction;
- There has been no change in the eligible basis of any building in the project since last certification submission. If a change has taken place, state the nature of change (e.g., a common area has become commercial space, a fee is now charged for a tenant facility or service formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed to the allocating authority in writing);
- All tenant facilities included in the eligible basis of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings;
- If a low-income unit in the project has been vacant during the year, documentation that reasonable attempts were (or are being) made to rent the unit, or the next available unit of comparable size or smaller, to eligible tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income;
- If the income of tenants of a low-income unit in any building increased above the limit allowed, document that the next available unit of comparable or smaller size in that building was or will be rented to eligible tenants having a qualifying income;
- An extended low-income housing commitment (i.e. Housing Credit Housing Subsidy Covenant) was in effect, including the requirement that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a Section 8 voucher or certificate of eligibility. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment (IRS RR 2004-82);
- During the preceding 12-month period no tenants in low-income units were evicted or had their tenancies terminated other than for good cause and no tenants had an increase in the gross rent with respect to a low-income unit not otherwise permitted under Section 42 of the Code;
- The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" and the nonprofit entity materially participated in the operation of the development (found in the Housing Credit Housing Subsidy Covenant);
- There has been no change in the ownership or management of the project. If a change has taken place, detail the changes in ownership or management.

### b) Review Provision

The Owner's Certificate of Continuing Program Compliance must be submitted annually to VHFA along with the Fair Housing Questionnaire and the LIHTC Questionnaire. This certificate must be completed in order to satisfy the certification



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provision requirements as listed above. VHFA must review the certification for compliance with the requirements of the Code and respond in writing.

## 3. MANAGEMENT POLICIES AND GUIDELINES

Owners should adopt policies and guidelines that apply to the management of developments containing tax credit eligible units. Following are some sample policies and guidelines:

### a) Marketing and Advertising

Marketing is an essential practice for establishing a successful rental development. The marketing or advertising strategy employed must satisfy the development's goal to provide housing for low- and moderate-income tenants. Be sure to refer to your Fair Housing plan that was submitted to VHFA as a requirement of the Qualified Allocation Plan.

### b) Number of Persons Per Unit

There is no required formula governing the number of persons allowed to occupy a unit based on size. It is important, though, to be consistent when accepting or rejecting applications. To avoid any inconsistencies, VHFA recommends the owner include the number of people who will occupy each size unit in the management plan.

When calculating the number of bedrooms a family may need, it is helpful to count:

- All full-time members of the household;
- Children who are away at school, but live with the family during school recesses;
- Children who are subject to a joint custody agreement, but live in the unit at least 50 percent of the time;
- An unborn child (it is important to note that an unborn child is counted when determining household size and income limits);
- Foster children; and
- Live-in Aides.

### c) Resident Manager's Unit:

Facilities that are functionally related and subordinate to residential rental units are considered residential rental property. Examples of such facilities are swimming pools and similar recreational facilities, parking areas and other facilities reasonably required for the project. Units for resident managers or maintenance personnel would be considered facilities reasonably required for a project.

The adjusted basis of a unit occupied by a full-time resident manager is included in the eligible basis of a qualified low-income building, but the unit is excluded from the applicable fraction for purposes of determining the building's qualified basis.

### d) Maintenance

It is the owner's responsibility to conduct an efficient maintenance program to ensure compliance with basic health, safety, and habitability standards that meet local and state codes. The condition and general appearance of the project will be taken into consideration by VHFA during an on-site inspection.

Each building and each unit in the project must be suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards). If the state or local government entity responsible for making building code inspections issues a report of a violation for any building or low-income unit in the project, the nature of the violation must be reported in writing to VHFA and a copy of the violation report must be attached. Also attach any documentation noting that the violation has been corrected to the inspector's satisfaction.

## 4. QUALIFICATION OF APPLICANTS

During the initial visit to the complex, applicants for low-income rent restricted units should be advised that the project has maximum income limits and the anticipated income of all persons expecting to occupy the unit must be verified and included on a Tenant Income Certification prior to occupancy.

### a) The Application

A fully completed application is critical to an accurate determination of eligibility. The information furnished on the application should be used as a tool to determine all sources of income including total assets and asset income. It is management's responsibility to obtain sufficient information on all applicants to completely process the application at the time of submission. The application should include:

- The name, age, relationship, and sex of each person who will occupy the unit (legal name should be given just as it will appear on the Lease and Tenant Income Certification);
- Full-time Student Status verification;
- All sources and amounts of current and anticipated gross annual income expected during the twelve month certification period;
- Assets currently owned and whether family members disposed of assets for less than fair market value during the previous two years; and
- Signature of the applicant(s) and the date the application was completed. It may be necessary to explain to the applicant(s) that all information provided is considered confidential and will be handled accordingly.

### b) General Verification Requirements

To ensure compliance with LIHTC regulations, verification of all sources of income including asset income must be obtained and documented prior to move-in. Management must have verifications prior to the execution of the Tenant Income Certification. Verifications must include information acceptable to the VHFA and be consistent with income determinations under Section 8. Chapter 5 of the Section 8 Handbook 4350.3 details income and asset determination. See Exhibit 5-1 of the 4350.3 handbook for income inclusions and exclusions.

**General verification requirements are to:**

- Verify all regular sources of income for each applicant;
- Obtain written verification of income directly from the source; and



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- Retain all verification documentation for at least three years after an applicant is rejected or after a unit has been vacated. An exception is that initial move-in files must be retained six years beyond the end of the compliance period.

### c) Verification Requirements

All factors affecting income eligibility must be verified.
All verifications must be documented in the applicant/tenant's file and must be kept in a consistent manner that allows the monitoring agent to audit them.
Three methods of verification are acceptable. They are, in order of acceptability:

- Third-Party Verifications:
  - Written: Management must mail, email or fax directly to third-party (should not be hand-carried by the tenant); or
  - Oral: A written clarification must be filled out and signed by the manager and placed in the tenant file (direct contact with a reliable source).
- Review of documents sourced from electronic data bases, such as The Work Number and other state government databases, only when third party verification is not possible.
- Tenant certification (notarized statement), when third-party verification or review of electronic database documents are not possible or are delayed beyond four weeks, but only after follow up attempts have been made.

VHFA is not authorized to review income or asset information received through the Employment Income Verification (EIV) or TRACS system. If the project has tax credits and Section 8 assistance, third party verifications must be obtained to satisfy the tax credit regulations. EIV information must not be located in the tax credit file.

### d) Effective Term of Verification

Verifications are valid for 120 days from the date of receipt by the owner (not the effective date of the Tenant Income Certification).
If verifications are more than 120 days old from the effective date of the tenant income certification, new written verifications must be obtained.
Time limits do not apply to information that does not need to be re-verified annually (age, disability status, family membership and citizenship status).

### e) Acceptable Forms of Verification

Owners are required to develop verification forms and procedures that comply with these requirements. Acceptable forms of verification for specific types of income situations can be found in the HUD 4350.3 handbook Appendix 3.

## 5. ANNUAL INCOME

Annual Income is the gross amount of income anticipated to be received by all adult members of the household during the 12 months following the date of certification or recertification. Current circumstances should be used to project income, unless verification forms or other verifiable documentation indicate that an imminent change will occur.



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Please refer to Chapter 5 of the HUD Handbook 4350.3 for further guidance, clarification and detailed descriptions of what is included and excluded in annual income.

Please note that the Section 8 allowances and adjustments to income (i.e. elderly deductions, child deductions, medical expenses and childcare expenses) are not applicable to LIHTC projects. The LIHTC program uses gross income (not adjusted income) to qualify potential households.

### a) Computing Annual Income

- Use current circumstances to anticipate income, unless verification forms indicate an imminent change.
- All income is to be converted to an annual figure.
- Annualize full-time employment income as follows:
  - Multiply hourly wages by the number of hours worked per year (2080 hours for full-time employment with no overtime).
  - Multiply weekly wages by 52.
  - Multiply bi-weekly wages by 26.
  - Multiply semi-monthly wages by 24.
  - Multiply monthly wages by 12.
- To annualize anything other than full-time income, multiply the wages by the actual number of hours or weeks the person is expected to work. If a family indicates that income might not be received for the full 12 months, the income must still be annualized and the family must be advised to report any subsequent change.
- Some circumstances present more than the unusual challenges to estimating anticipated income. Examples of challenging situations include a family that has sporadic work or seasonal income or the tenant, who is self-employed. Follow HUD's recommendations of the approach to estimating this type of income. This can be found in Chapter 5-5 of HUD 4350.3 handbook.

## 6. ASSETS

Owners must obtain information regarding the tenant's assets and the income derived from these assets at the time of initial certification and again at recertification.

The IRS issued Revenue Procedure 94-65, informing the owner of low income tax credit units that they may satisfy the documentation requirement for income from assets for a low-income tenant whose Net Family assets do not exceed $5,000 by annually obtaining a signed, sworn statement. A signed and dated "Under $5,000 Asset Certification" form must be in the tenant's file to satisfy this requirement. The form may be used after the initial year of verification of assets. Please note that this only applies to LIHTC developments. Section 8 and Rural Development properties still require verification of all assets.

If the tenant certifies that total assets are more than $5,000 in value, these assets must be verified.

Please refer to Chapter 5-7 and Exhibit 5-2 of the HUD Handbook 4350.3 for further guidance, clarification and detailed descriptions of assets to be included and excluded, as well as valuing assets and determining imputed income from assets.

## 7. INCOME CERTIFICATION GUIDELINES

### a) Tenant Income Certifications

If the applicant meets the eligibility requirements, an initial Tenant Income Certification must be completed, signed and dated. The form is a legal document which, when fully executed, qualifies the applicant to live in the LIHTC set-aside units in the development. A standardized form is required for the LIHTC program. The Tenant Income Certification should be complete and include:

- Effective date and move-in date;
- Property name, address, county, building identification number, unit number and number of bedrooms;
- The name, age, relationship, Social Security number, sex and full-time student status of each person who will occupy the unit;
- Gross annual income and income from assets;
- Tenant-paid rent, utility allowance, gross rent, subsidy amount, and other non-optional charges;
- Maximum LIHTC income limits and rent limits;
- Date and signatures of all adult members of household;
- Owner and/or owner representative signature and date.

### b) Additional Income Certification Guidelines

- Management should instruct the prospective low-income resident to sign and date the Certification.
- No one may live in a unit in the development unless (s)he is included on the lease.
- In the event a roommate or family member vacates the unit, the unit will remain as a qualified set-aside as originally certified. The resident file should be documented when any household member vacates the unit.
- Early in their initial visit to the project, applicants for low-income rent restricted units should be advised that there are maximum income limits and eligibility requirements that apply to these units. Management should explain to the applicants that the anticipated income of all persons expected to occupy the unit must be verified using 3rd party income verification and included on a Tenant Income Certification prior to occupancy.
- Upon each anniversary of the resident's move-in date, each resident's anticipated income must be re-verified and a TIC must be completed. This needs to be done to determine that the unit is still occupied by an eligible household. The first annual recertification must be completed no later than twelve months after the move-in and then subsequently by annual recertifications.
- Amended legislation waives the annual recertification requirement for 100% low income tax credit properties. Other funding sources such as Section 8, HOME, and RD still require annual income certifications, however, as with all requirements, the most stringent will apply. VHFA requires an initial tenant

income certification and then a recertification at the tenant's first year anniversary. This ensures the tenant was initially eligible, and allows VHFA to review any changes in the household composition. Thereafter the annual recertification would be waived, when permitted by other funding sources. Please note although the verification process is waived, a Resident Annual Self Certification, which includes tenant income, student status and household composition must be completed. This information needs to be collected in order to apply the available unit rule. Since the available unit rule is statutory, it doesn't go away when applying the waiver.

- A Housing Choice Voucher is a form of tenant-based section 8 rental assistance provided by a local Public Housing Authority (PHA) to individual households. The PHA is responsible for collecting 3rd party verfications for income and assets. If documentation is received by an owner/agent from the PHA stating the household's income and composition, the documentation is considered third-party verified. The HUD 50058 certification form may be used as verification of income for LIHTC income certification. If it is not possible to obtain the 50058 from the PHA, a signed statement from the PHA indicating all household members and the household's gross annual income may also be used to verify income. Note: student status paperwork and a signed TIC must also be included in the file.
- A Subsidized Housing Unit is project based rental assistance provided by either Housing and Urban Development or Rural Development. This subidy is tied to the property. These federal projects require use of EIV.

### *(1) Adding a Household Member*

- In the event the resident in a tax credit unit later wishes to have an additional person move into the unit, the following steps must be taken:

1. The prospective resident must complete an application as required of the initial resident;
2. Since Interim Recertifications are not processed in LIHTC developments, the potential applicant should be screened to make sure they have good references and would make a good tenant. The new household member must be added to the lease, but verification of income and assets is not required until the annual recertification is due. Although it is highly recommended that the tenant complete a self-certification of income.
3. Additional persons may not be permitted to move into a unit until after the first six months of the lease;

### *(2) Maximum Income Limits*

The U.S. Department of Housing and Urban Development (HUD) annually publishes the median income limits at 50% of median income (HUD Income Limits), otherwise known as 'Very Low-Income". VHFA will provide updated limits annually upon receipt of HUD published limits. Please note that the owner is responsible for calculating income and rents; be sure to check VHFA's charts for accuracy. You are allowed 45 days from the HUD issue date to implement the new income limits.

HUD also publishes the 30% area median income limits and the 80% income limits (HUD Income Limits) for some of the mixed-use developments.

The VHFA created a chart of maximum income and rent limits that may be utilized by management or to understand the methodology used to arrive at these limits, see the examples below.

EXAMPLE:

- To determine the maximum income level at 60 percent of median income, multiply the current HUD published maximum income limit at 50% by 1.2.

1. In 2016, a 4-person household in Addison County has a maximum income limit of $35,500 at 50% of median income
   - $35,500 x 1.2 = $42,600 (maximum income limit at 60% of median)

### *(3) Rents Based on Bedroom Size*

Projects with tax credit allocations or tax-exempt bond financing after 1990 use rents based on bedroom size (Income and Rent Chart).

EXAMPLE:

- To determine the maximum rent level at 50% and 60% of median income:

  1. Multiply the number of bedrooms by 1.5 to determine the size of household (see table below);

| BEDROOM SIZE | SIZE OF HOUSEHOLD |
|---|---|
| 0 | 1 |
| 1 | 1.5 |
| 2 | 3 |
| 3 | 4.5 |
| 4 | 6 |

  2. Go to the income chart and find the appropriate family size and then multiply by 30% and divide by 12 months.

- Below is the maximum rent calculation for both a one and two bedroom unit in Addison County using 2016 income limits at both 50% and 60% of median income.

  1. 1 Bedroom (50%):
     Table above shows that 1BR = 1.5 persons or
     1 person income limit + 2 person income limit ÷ 2 = Average
     $24,850 + $28,400 ÷ 2 = $26,625
     - $26,625 x 30% ÷ 12 = $665 (maximum rent at 50% of median)

  2. 1 Bedroom (60%):
     Table above shows that 1BR = 1.5 persons or
     1 person income limit + 2 person income limit ÷ 2 = Average

$29,820 + $34,080 ÷ 2 = $31,950

- $31,950 x 30% ÷ 12 = $798 (maximum rent at 60% of median)

3. 2 Bedroom (50%):
   Table above shows that 2BR = 3 persons
   $31,950
   - $31,950 x 30% ÷ 12 = $798 (maximum rent at 50% of median)

4. 2 Bedroom (60%):
   Table above shows that 2BR = 3 persons
   $38,340
   - $38,340 x 30% ÷ 12 = $958 (maximum rent at 60% of median)

### *(4) Maximum Rents*

As stated above, in order to be a rent-restricted unit, gross rent must not exceed 30% of the applicable income limit. The tenant's portion of rent plus utility allowances must be less than or equal to the maximum tax credit rent (gross rent) to ensure compliance with the tax credit program. Gross rent does not include: Section 8 assistance payments, RD rental assistance, overage paid to RD by the owner, tenant services paid by the owner or optional tenant services paid by the tenant.

Maximum tax credit rents change as new income limits are published. To ensure that rents will not be reduced due to a decrease in income limits, the IRS published Revenue Procedure 94-57 to set a rent floor. The rent floor procedure provides that rents will never be less than the first year of the credit period.

### *(5) Section 8 Assistance*

Some Section 8 developments have current rents that are higher than the maximum tax credit rent. The IRS regulations have taken this into consideration (42(g)(2)(B)(i)). The tenant's portion of rent in a Section 8 unit, where federal rental assistance is reduced as tenant's income increases, may increase above the maximum tax credit rent. The rule states that as long as the household is receiving at least one dollar of subsidy and the federal government's burden is being reduced then rent can be charged above the tax credit maximum.

### *(6) Rural Development Rental Subsidy*

In Rural Development properties, "overage' results when 30% of the household income produces a rent that exceeds the RD Basic Rent.
If a household's rent increases due to an increase in income, the household cannot be charged more than the maximum LIHTC rent in order to comply with tax credit regulations.
The one exception (42(g)(2)(B)(iv) to the rule applies to projects that received tax credit allocations in 1991 or later. In such instances, rents exceeding the maximum LIHTC rent can be charged, but only to the extent that the "overage" is paid to RD.

### (7) Tenant Services

Any charge for tenant services or facilities that is required as a condition of occupancy will be considered a non-optional fee and included in gross rent. (§1.42-11)

- Any fee that is non-optional and charged to residents as a condition of occupancy must be included in the gross rent and indicated in the lease.
- Charging an application fee is acceptable if the fee is reasonable. The fees charged must be for reimbursing owners for actual average out-of-pocket costs paid when screening. They should not be designed to make a profit or to discourage applicants from applying to a property or requesting a service or reasonable accommodation.
- Optional services are not required as a condition of occupancy and therefore would be excluded from gross rent.

### (8) Utility Allowances

If utilities are paid directly by the tenant, then include the utility allowance in the gross rent. Please note that telephone, cable TV and internet costs are not included in the utility allowance. Also, **utility allowances are not available if tenant payments for utilities are made by or through the owner.** This includes sub-metering, where the owner pays the utility company and bills the tenant for the usage.
There is often a lot of confusion about which procedures are acceptable when determining the proper utility allowances for any housing credit property. According to IRS regulations, which were updated and published in the Federal Register on July 29, 2008 (§1.42-10), the following are the utility allowance guidelines:

- For Rural Development (RD) units, use the RD utility allowance schedule.
- For Section 8 project-based units, use the HUD utility allowance schedule.
- For Section 8 certificate or vouchers units, use the local public housing authority utility allowance schedule.
- For all other units there are five options, the owner must:
  1. use the local PHA utility allowance schedule; or
  2. obtain a utility company estimate; or
  3. obtain a housing credit agency utility cost estimate provided the agency agrees to provide the estimate (this option may be obtained anytime during the extended use period); or
  4. calculate the utility estimate using HUD's Utility Schedule Model (Exhibit 4-1), at Website: Click on HUD Utility Model); or
  5. hire an unrelated qualified professional (approved by the credit agency) to calculate utility estimate using an energy consumption model.

For options 2-5 above, please note that the owners are required to provide copies of the proposed new utility allowances to the tenants 90 days before the date the new utility allowances will become effective. Also, owners must provide a copy of the proposed utility allowances to the housing credit agency.



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The final rule (7/29/08) makes allowances for new buildings. The reviews, updates and initial implementation of utility allowances aren't required until the earlier of:

1. the date the building is 90% occupied for 90 days; or
2. the end of the first year of the tax credit period.

Property owners are required to pay for all costs associated with obtaining estimates in options 2-5.
These utility allowances are applied throughout the buildings' 15-year compliance period and must be reviewed and updated at least annually.

### *(9) Available Unit Rule*

- If a household's income increases above 140% of the income limit, the unit continues to be treated as a low-income unit as long as the rent remains restricted (§1.42-15). This general rule only applies if the household's income initially met the income requirements and the unit continues to be rent-restricted. All available comparable units in the building, not only the next available comparable unit, must be rented to qualified residents to retain the low-income status of the over-income units.
    - Comparable unit means a residential unit in a low-income building that is comparably sized or smaller than the over-income unit. To determine comparable size, a comparable unit must be measured (bedroom size or square footage) by the same method used to determine qualified basis for the credit year in which the comparable unit became available.
- When a current low-income tax credit household moves to a different unit within the same building, the units exchange status. In other words, a transfer within the same building is no longer treated as a new household.
- When a current low-income tax credit household moves to a unit in a different building, the household is considered a new household and must treated as a new move-in.
- When a unit has a reservation that is binding under local law it is no longer considered available for rent.
- The available unit rule applies separately to each building in the project.
- When any available comparable unit is rented to a nonqualified resident, all over-income units for which the available unit was a comparable unit (within the same building) lose their status as low-income units.
- With the enactment of the Housing and Economic Recovery Act of 2008 (HR 3221), both the tax exempt bond program and the low income housing tax credit program apply the available unit rule on a building by building basis.

### *(10) Treatment of Vacant Units*

When a unit becomes vacant, the unit maintains the status of the former household. Therefore, if the former household was tax credit eligible, the vacant unit continues to be counted as a tax credit unit.

IRS regulation 26 CFR 1.42-5(c)(1)(ix) states:

"If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent the unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income."

- As previously stated: Comparable unit means a residential unit in a low-income building that is comparably sized or smaller than the vacant unit. To determine comparable size, a comparable unit must be measured (bedroom size or square footage) by the same method used to determine qualified basis for the credit year in which the comparable unit became available.
- Make sure that reasonable attempts are being made to market the vacant tax credit unit. The tax credit unit or a comparable unit in the project must be rented to a qualified resident before any market units are rented.
- If you have a binding legal agreement or a signed lease on any unit (yet the resident has not yet moved in), this unit is no longer considered available or vacant.
- The vacant unit rule is applied on a project wide basis. That means that when a tax credit unit becomes vacant, all comparable units in the project must be rented to tax credit eligible residents before any market units are rented.

### *(11) Full-time Students*

A full-time student is defined as any individual who has been, or will be, a full-time student at an educational institution, other than correspondence school, with regular facilities and students for a minimum of five months of the year in which the application is submitted.

An individual who attends school all or part of any 5 months of the calendar year, not necessarily consecutively, is considered a full-time student. A person who attended school full-time during any part of five months of a calendar year is a student throughout the remainder of the calendar year, even after they are out of school; this is sometimes referred to as the "5-month look-back."

It is important to note that household members counted for the student rule include all members, regardless of age (including minor children and unborn children). Although unborn children are explicitly counted for income limit purposes, the Code is silent regarding the student rule and unborn children. Thus, VHFA has determined that a single pregnant woman who is a full-time student does meet an exception as a full-time student household; the unborn child counts as a non-student for the single parent-dependent-child exception.

Both the Student Verification form and the Full-Time Student Eligibility Form form are helpful tools in determining full-time student status.

- Units occupied entirely by full-time students are generally ineligible to qualify for tax credits. Exceptions for full-time students are made in a few cases as follows:



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  - all household members are full-time students, and such students are married and file a joint tax return;
  - the household consists of single parents and their children, and such parents and children are not dependents of another individual;
  - at least one member of the household receives assistance under Title IV of the Social Security Act (i.e., AFDC assistance);
  - at least one member of the household is enrolled in a job training program receiving assistance under the Job Training Partnership Act or similar federal, state, or local laws;
  - full-time student formerly in foster care.

- For purposes of qualifying student households, the following should be considered :
  - A single person household is ineligible if (s)he is a full-time student at the time of initial occupancy or will be at any time during the certification period (unless the individual meets one of the student exemptions);
  - a household of students is eligible if it includes at least one part-time student or meets one of the student exceptions; Be sure to complete a third party verification
  - a household containing full-time students and at least one child (who is not a full-time student) is an eligible household;
  - Temporary Assistance for Needy Families is an acceptable Title IV program exception.

With the enactment of the Housing and Economic Recovery Act of 2008 (HR 3221), both the tax exempt bond program and the low income housing tax credit program are now consistent with how they apply the student rule.

In addition, agencies should encourage LIHTC property managers to utilize a lease provision in all LIHTC Credit properties requiring tenants to notify management of any change in student status.

### c) Recertifications

A new Tenant Income Certification must be done annually; each resident must be recertified within 12 months of the effective date of the last Tenant Income Certification. Failure to recertify within the 12 month period is a reportable noncompliance finding.

Interim certifications are not a requirement of the LIHTC program.

## 8. CONCLUSION

This manual was written to explain and to standardize the administration of the Low-income Housing Tax Credit Program for projects located in Vermont. It is intended to answer questions most frequently asked about the program, but is not a substitute for the current regulations under Section 42 of the Internal Revenue Code.



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The requirements presented must be met fully and consistently in order to retain the tax credits. If there are any questions that have not been fully answered, please feel free to contact the person at VHFA listed below.

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