

LIHTC Compliance Manual

REVISION LIST

Revised October, 2018:

Each time a revision is made to the Tax Credit Compliance manual, it will be listed here. Revisions will occur as needed and not just at specified period of time.

Chapter 1: Rules, Requirements, and Resources:

- a). Deleted hard copies of IRC 42 and Chapter 36 rules from chapter and provided links to the following: IRC Section 42, OHFA Chapter 36 Program Rules, HUD 4350.3 Chapter 5, Guide for Completing Form 8823.

Chapter 2: OHFA's Responsibilities:

- a). Added a common non-compliance issue / items stored inside oven

Chapter 3: Owner's Responsibilities:

- a). Added current dates for examples of Quarterly Owner Certification
- b). Management change / added language regarding new mgmt. requirements
- c). Ownership transfer / there will be a non-refundable transfer fee
- d). Occupancy Rules / Added the 3 set-aside options
- e). Compliance with Fair Housing Laws / Added information regarding trash receptacles needing to be accessible on an accessible route
- f). Added Violence Against Women Act information
- g). Employee, Manager, Exempt Staff Units / Deleted requirement language for owner to pay rent. OHFA will no longer monitor this as a requirement; therefore this is an Owner decision
- h). Changed requirement for Special Needs Units - Targeted Population / The owner will no longer be required to keep a unit promised as such vacant for 1 year until the unit is rented to another household. The unit will have to be vacant 90 days before being rented to a household without the need. However, on-going due diligence must be provided. The owner must have a plan in place.
- i). Changed Service Animals to Assistance Animals
- j). Placing a Property in Service / Added Re-syndication - Additional Credit section
- k). Added an OHFA sponsored training may be required prior to obtaining Form 8609's. State specifics should be addressed as such in the class.
- l). Re-numbered and re-lettered to match corresponding subject
- m). Added definition for Special Needs Housing

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Revised October, 2018 (continued):

Chapter 4: Rent Restrictions and Lease Requirements:

- a) Added to HUD Hold Harmless “HERA Special” Limits / Sites PIS 1-1-09 or later can use the greater of PIS limits or any year thereafter, whichever is higher.
- b) Rents for TC Unit with Over-Income Tenants – Mixed Income Developments / The applicable fraction must be restored or maintained before lifting restricted rent.
- c) Utility Allowances – Regarding HUD regulated buildings / Changed “...if rents and UA’s are subject to review” to “...if rents and U’s are regulated by HUD”
- d) Utility Allowance Options / Deleted “Owners should instruct personnel which method is used to determine the allowance for their property”. Long ago there was an irrevocable change.
- e) Utility Allowance Options / Deleted “If the resident rent is not affected, a new TIC does not need to be completed”. OHFA does not require a new TIC be completed if the current TIC needs changed. Draw one-line through and have initialed by both tenant and staff
- f) Utility Company Estimate / Added this is not management staff averaging actual utilities. This is an estimate provided by the utility provider based on their methodology.
- g) HUSM & Energy Consumption Model / Added OHFA must approve if these methods are not provided by a licensed engineer.

Chapter 5: Determining Tenant Eligibility:

- a) Deleted the word “guaranteed” from income to count. Needs to be anticipated and verifiable
- b) Corrected both sample asset worksheets
- c) Updated recertification examples with more current dates

Appendices:

Appendix N / Added Violence Against Women Act Forms, HUD-91067, 5380, & 5382

Appendix O / Add Management Change Checklist

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Revised February, 2019:

Chapter 3: Owner's Responsibilities:

- a) Management change / added language regarding mgmt. transfers
- b) Placing a property in service / Resyndications – Added language that a new Regulatory Agreement aka LURA does not automatically supersede the old agreement

Appendix O / Added language to Management Change Checklist

Revised August, 2019:

Disaster Area Temporary Relief / added link to LIHTC compliance web page that contains the following:

1. IRS Rev-Proc 2014-49
2. Owner's Request to Provide Emergency Housing
3. Displaced HH Affidavit
4. Self-Certification of Income
5. Addendum to Lease

Chapter 2: OHFA's Responsibilities:

- a) Review to include / waiting list policy
- b) Review to include / list of denied applicants with reason
- c) Review to include / outstanding service requests
- d) Most common noncompliance issues / Added a note stating residents will need to initial and date anytime a change is made on the TIC that will impact them (i.e. rent or UA change).

Chapter 3: Owner's Responsibilities:

- a) Reports / Added Due Dates clarification
- b) Record Keeping / Added Authorization to Assist information
- c) O. Homeless Unit / deleted this section due to duplication of information. This information can be found under Q. Definitions for Special Needs Units - Targeted Populations.
- d) P. Special Needs Units - Targeted Populations / clarified as of 2013 awards made if an owner receives points and promises lower rent for the special need unit, the household may not be receiving any subsidy to make up for the lower rent promised.

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- e) Q. Definitions for Special Needs Units - Targeted Populations / added age limit of 18 – 24 for Youth Aging Out of Foster Care.
- f) 7. Live-In Aide / added information as this is the owners decision who to allow to reside with an aide
- g) 9. Physical Condition of Units / added this section with links to information regarding Uniform Physical Condition Standards. Added information regarding Carbon Monoxide detectors.

Chapter 4: Rent Restrictions and Lease Requirements:

- a) Rental Application Fees / added information that administrative fees are prohibited.
- b) Utility Allowance Options / added note to obtain all supporting documentation used to calculate the HUSM.
- c) Utility Allowance Options / deleted if estimates for HUSM or Energy Consumption estimates are not provided by a licensed engineer, OHFA must approve prior to use.

Chapter 5: Annual Recertifications

- a) Basic Methods for Income Verification / Changed language to reflect check stubs are now considered third party.
- b) Annual Recertification / added guidance for properties eligible to eliminate recertifications.

Appendices

Appendix E / added an optional IRS Student Verification Form containing additional information

Appendix N / added VAWA Emergency Transfer Plan and Request to Transfer

Revised September, 2019:

Appendices

Appendix F / Child Support / Alimony Verification Form

OHFA will not require additional verification if the applicant/resident states they have never been awarded court-ordered child support or alimony. The only document required for the file will be the child support/alimony form. However, if the applicant/resident has been awarded court-ordered child support or alimony and states they are not receiving, this must be verified through a third party source. All attempts to collect on a court order must be made. The actual amount verified as being received must be included as income. If zero dollars are being collected but attempts have been made to collect and verified by a third party (i.e. DHS, Lawyer etc.), count nothing for child support / alimony.

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Revised April, 2020:

Appendix D / Revised Under \$5,000 Asset Verification to NCSHA recommended form

Appendix E / Deleted Student Financial Aid Verification and replaced with Student Status and Financial Aid Verification as a NCSHA recommended form

Appendix E / Deleted Student Verification and Eligibility Forms and replaced with Student Self Certification as a NCSHA recommended form

Appendix F / Replaced Employment Verification with the NCSHA recommended form

Appendix F / Replaced Certification of Zero Income with the NCSHA recommended form

Appendix G / Replaced Tenant Income Certification with the NCSHA recommended form and added a place for the maximum rent

Appendix I / Replaced Owner's Certificate of Continuing Program Compliance (Annual Owner Certification) to NCSHA recommended form

Revised September 2020:

Chapter 1: Compliance Manual Overview:

- a) Key Program Documents / Added Compliance Monitoring Regulations can be found in Treasury Regulation 1.42-5. The IRS published a final rule in February 2019 how State HFA's must monitor for compliance with the requirements of the LIHTC program.
- b) Key Program Documents / Added on July 1, 2020 the IRS released a Proposed Regulation rescinding the increased sample size in Notice 2020-53.

Chapter 2: OHFA's Responsibilities:

- a) OHFA's Responsibilities / Added OHFA will inspect according to the IRS guidelines and according to our internal Risk Assessment of sites and added sample size chart.
- b) OHFA's Responsibilities / Added the final regulations state that owners shall be given no more than a fifteen (15) days' notice that a file and/or physical inspection will occur. This is a reasonable notice according to the regulations. All buildings must be inspected regardless how the owner elected to treat on Form 8609.

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- c) Upon Arrival for inspection / Added OHFA will require proof of Oklahoma Real Estate Commission license or being exempt from such upon inspection.

Chapter 3: Owner 's Responsibilities:

- a) Annual Owner Certification / Added once quarterly compliance reporting is complete, certification on-line (COL) is required annually along with a hard copy of the report.
- b) Management Ownership Changes / Added OHFA will conduct an on-site inspection within 12 months after the effective date of a management change to ensure compliance. See Appendix O
- c) Tax Forms / Deleted IRS Form 8586 and Schedule A required to be submitted for first credit year. OHFA still requires Form 8609 with part II completed.
- d) Transfers / Added guidance concerning Average Income.
- e) Available Unit Rule / Added guidance concerning Average Income
- f) Assistance Animals / Added guidance from HUD office of Fair Housing and Equal Opportunity issued Notice FHEO-2020-01 that can be found here: <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

Chapter 5: Determining Eligibility Four Steps:

- a) Average Income / Added guidance re-storing non-compliance
- b) Average Income / Added guidance concerning bond properties Average Income

Revised September 2021:

Appendix G / Added full-time student question to the OHFA Annual Household Information Form

Revised October 2021:

Chapter 2: OHFA's Responsibilities:

- a) OHFA LIHTC compliance will continue to conduct file reviews electronically via secure portal.
- b) Common Non-compliance / Added residents do not have access to storm shelters 24/7.

Chapter 3: Owner's Responsibilities:

- a) Reports / Hard copies are no longer required but should be submitted via secure portal.
- b) Due Dates / Fees will be considered on time if postmarked on or before the due date.

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- c) Tax Forms / Form 8609 Part II completed is the only tax form due to OHFA for first credit year. This is a one-time submittal to OHFA.

Chapter 4: Rent Restrictions and Lease Requirements:

- a) Optional Services / Added Effective Jan 1, 2022 pet rent will be considered as non-optional and included as part of the total rent charged.
- b) Utility Allowances / OHFA considers post-2012 HOME funded buildings as HUD regulated.

Chapter 5: Determining Eligibility Four Steps:

- a) Required Forms / Appendix D – Under \$5K is not necessary if assets under \$5k have been third party verified.
- b) OHFA will accept electronic signatures on all forms but must be software generated.
- c) Basic Methods of income verification / Third party verification has been expanded to include pay stubs.

All language was removed concerning the felony restrictions placed on owners. Effective April 2019, HB 2399 passed.

Appendix G / Annual HH Information Form - Deleted felony question

Appendix K / Tax Credit Lease Addendum – Deleted felony information

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Revised March 2022:

Chapter 2: OHFA's Responsibilities:

- a) Added Common Non-compliance *Residents do not have access to storm shelters 24/7.
- *If a storm shelter belongs to a specific HH, it is acceptable for the HH to use and lock such shelter how they wish. OHFA suggests owner/mgmt. obtain a release signed by the HH explaining they are aware of possible risk.

Chapter 3: Owner's Responsibilities:

- b) Physical Condition of Units / Updated Carbon Monoxide Language
- A Carbon Monoxide Detector is **REQUIRED** if a unit contains a fuel burning appliance and/or has an attached garage **NO LATER THAN DECEMBER. 27, 2022.**
 - A Carbon Monoxide Detector is **REQUIRED ASAP** if a unit contains a fuel burning appliance and/or has an attached garage and the LIHTC Award was made post-2018.

If a CO detector is not present but needed (for pre-2019 awards) due to identified source, this will be noted on the inspection. **This will be an observation instead of a finding prior to Dec. 27, 2022. After this time, any missing CO detectors will be considered a Health and Safety finding.**