

MANAGEMENT POLICIES
AND GUIDELINES

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The following procedures apply to the processing and occupancy of Low Income Housing Tax Credit Units. These guidelines need to meet all local and state landlord tenant laws and must be in compliance with the Internal Revenue Code, Section 42, and all regulations and guidelines, promulgated in accordance thereto.

2.1 MARKETING

Eligible units must be made available for use by the general public and cannot be restricted to members of particular organizations.

Owners cannot give preferences in renting units or limit occupancy to special groups or persons, such as elderly persons or persons with a handicap or disability or homeless persons, in any way, if these actions would result in violation under the Fair Housing laws and all state and federal statutes and regulations.

2.2 SCREENING

Should the owner/agent choose to establish tenant selection criteria for the screening of their applicants for occupancy, they must establish this criterion in writing. This screening criterion must be applied and performed on all applicants for housing in the development. This would include the LIHTC applicant, as well as all other applicants. This screening must be in compliance with all federal, state statutes and regulations.

2.3 RENT AND UTILITY ALLOWANCE REQUIREMENTS

The gross rent charged by the owner/agent must comply with the owner's election of the minimum set-aside of low-income units by targeting residents at either 50 percent or 60 percent of median income. Once an election is made, and the building is placed in service, the percent of minimum set-aside may not be changed. If further restrictions are made through a Restrictive Covenants Agreement/Extended Use Agreement, the owner must adhere to those, as well.

The gross rent must include an allowance for all utilities to be paid by the resident. Please refer to IRS Notice 89-6, Utility Allowance Requirements, Determination of General Public Use, and Provision of Services. Also, reference Internal Revenue Regulations (TD 8520 and TD 9420) for updated information on utility allowances.

The maximum allowable rent calculations include costs to be paid by the resident for utilities inclusive of heat, lights, air conditioning, water, sewer, oil or gas, where applicable. Utilities do not usually include telephone, cable TV, or internet costs unless required as part of the security system.

Utility allowances should be calculated as follows:

1. Housing and Urban Development (HUD) regulated buildings - use HUD approved utility allowances.
2. Rural Housing Services (RHS) regulated buildings - use RHS approved utility allowances.

3. Conventional buildings - use Public Housing Authority (PHA) utility allowances unless utility company data can show alternate amounts. However, for Section 8 certificates or vouchers, use the PHA Section 8 Existing utility allowances.

Effective July 29, 2008, in lieu of obtaining a utility allowance from the local utility company, the owner may choose to obtain a utility estimate for each unit from the Agency that has jurisdiction over the building/project (PHFA), to calculate utility allowances using the HUD Utility Schedule Model, or to retain the services of a qualified professional to calculate utility allowances based on an energy consumption model. (Refer to TD 9420)

Effective May 2, 1994, if a local utility company estimate has been obtained for the units of a given building and HUD assisted tenants move into one or more of those units, the use of the PHA utility allowance would apply only to those units that are rent restricted. (refer to TD 8520)

Utility allowances must be updated annually, since they are included in the maximum allowable rent calculations. Updated utility allowances must be implemented within 90 days of their change. Utility analysis data must be retained in the property's yearly files. Any changes in utility allowances may impact on the net chargeable rent to the resident.

Beginning in 1990, fees paid by a government assistance program or rental assistance provided by a tax-exempt organization to the owner for supportive services do not have to be included in the gross rent.

Gross rents are based on unit size (number of bedrooms per unit). The rent is equal to 30 percent of the maximum income for an imputed household size. The rent for a unit that does not have a separate bedroom would be based on one individual occupying the unit. The rent for units with one or more separate bedrooms is based on 1.5 individuals occupying each of the bedrooms.

2.4 UNIT ELIGIBILITY REQUIREMENTS

For a building to qualify for the low income housing tax credits, the following requirements must be considered:

- A. Non-Transient Housing - The building may not be used for transient housing. A resident is considered transient if the initial lease term is less than six months. The only exception to the six-month lease restriction is Single Room Occupancy (SRO) housing, which permits units to be rented on a monthly basis.
- B. Suitable for Occupancy - All units must be suitable for occupancy as determined under regulations prescribed by the Secretary of Treasury, which will take into account health, safety, and building codes. The owner shall certify that this requirement is being met annually by use of the Owner's Certificate of Continuing Program Compliance. This report must be submitted to the Agency each of the 15 years of the compliance period. See Exhibit A for the required submission date.
- C. Fair Housing - Under current Internal Revenue Service interpretations, compliance with the general public use requirement for tax credit properties requires compliance with the Fair Housing Act. Monitoring Agencies have been instructed that noncompliance with the Fair Housing Act will constitute noncompliance with the general public use requirement and are reportable offenses.
- D. Housing Students - In general, a unit is not considered a low-income unit if all the

occupants of such unit are full-time students (as defined in Section 151(c))(4) of the Code; which includes children K-12). The exceptions to this are as follows:

- The full-time adult students are married and filing a joint federal income tax return.
- The full-time student is receiving assistance under Title IV of the Social Security Act.
- The full-time student is enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar federal, state, or local laws. Note: The IRS does not consider an internship a “similar” program (for example, a medical school student doing their residency or a student in a fellowship).
- The full-time student is a single parent living with his/her minor children (with none of the persons being dependents of a third party; Exception: Child may be a dependent of his non-resident parent.)
- The full time student is/was a recipient of foster care assistance under Part B or E of Title IV of the Social Security Act. **(Effective for determinations after 7/30/2008.)**

E. Hospitals, nursing homes, sanitariums, life-care facilities, retirement homes (providing significant services other than housing), dormitories, or trailer parks may not be qualified LIHTC properties.

F. Transfers – Same Building: The Available Unit Rule permits transfers within the same building. If an over income household transfers between units in the same building, the units swap status and the 140% status will transfer with the household to the new unit. **Different Building:** Look to the IRS Form 8609 for guidance. If the Form 8609 Part II, line 8b was marked “Yes”, then the owner chose to treat the building as part of a multiple building project. In this case, a transfer between buildings may occur as long as the household income as of the last recertification was not determined to be over 140% of the AMI Limit. If the Form 8609, Part II, line 8b was marked as “No”, the owner chose to NOT treat the building as part of a multiple building project. In this case, a transfer between buildings may not take place. In order to move to a unit in a different building, a household must be treated as a *new move-in*. Therefore, all application, verification, and certification procedures must be completed for the transferring household. The household must now meet the current income limit (not the 140% limit) to maintain the LIHTC status. **NOTE: A Tenant Income Certification must be completed at the time of transfer in order to track the current residence of the tenant.**

Reminder: For **all transfers**, the effective dates for the recertifications that follow do not change. The effective date should always be the anniversary date of the household’s move-in (unless a change was mandated by Section 8 or RHS).

G. Vacant Units - When a unit becomes vacant, which was formerly occupied by low income individuals, it may continue to be treated as occupied by a qualified low income individual for purposes of the set-aside requirement (as well as for determining qualified basis) provided reasonable attempts are made to rent the unit and no other units of comparable or smaller size in the property are rented to non-qualifying households.

H. Restrictive Covenants – When a property commits to additional special set-asides, the appropriate number of units must either be rented to households that meet the set-aside requirements or they must be kept vacant; unless otherwise specified by the Agreement.

2.5 RESIDENT APPLICATION PROCESS

Applicants being processed for a LIHTC unit should be advised of the income limit restrictions of the development, as well as any tenant selection criteria the owner/agent uses to determine eligibility for occupancy.

The applicant must complete and sign a Release of Verification Form for use by the owner/agent in retrieving third-party asset and income information. This information is necessary to complete the Tenant Income Certification.

In offering equal opportunity to all applicants, a consistent method of accepting and processing applications should be devised.

2.6 ACCESSIBLE UNITS

When renting accessible units, they must be rented in accordance with the PHFA Accessible Unit Policy. See www.phfa.org for a copy of this policy.

2.7 LEASE REQUIREMENTS

Initial Lease terms must be for at least six months (with an exception of SROs). And, a PHFA LIHTC Lease Addendum must be part of all Lease Agreements. See www.phfa.org for a copy of the PHFA LIHTC Lease Addendum.