Federal Programs (HOME, CDBG, NSP) Ongoing Rental Compliance Manual 3rd Edition: July 2015

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INTRODUCTION

This manual is a reference guide for the compliance monitoring of rental projects receiving funding from federal programs administered by the Indiana Housing and Community Development Authority (IHCDA). It is designed to answer questions regarding procedures, rules, and regulations that govern these programs. This manual should be a useful resource for owners, developers, recipients, management agents, and onsite management personnel. It provides guidance with respect to IHCDA's administration of monitoring for compliance under 24 CFR Part 92 and 24 CFR Part 570.

Please note, however, that this manual is to be used only as a supplement to compliance with all applicable regulations. This manual should not be considered a complete guide to HOME, Community Development Block Grants (CDBG), or the Neighborhood Stabilization Program (NSP) regulations. The responsibility for compliance with federal program regulations lies with the recipient (See disclaimer below).

SCOPE OF THIS MANUAL

This manual discusses the ongoing compliance requirements during the affordability period for rental projects funded with HOME, CDBG, CDBG-D, and NSP. Readers looking for information on the upfront compliance requirements necessary to get an awarded project through the closeout process should refer to IHCDA's manual entitled *CDBG & HOME Program Manual.*

****DISCLAIMER****

The publication of this manual is for convenience only. Your use or reliance upon any of the provisions or forms contained herein does not, expressly or impliedly, directly or indirectly, suggest, represent, or warrant that your development will be in compliance with the requirements of 24 CFR Part 92 or 24 CFR Part 570, as amended. The Indiana Housing and Community Development Authority and contributing authors hereby disclaim any and all responsibility of liability, which may be asserted or claimed arising from reliance upon the procedures and information or utilization of the forms in this manual.

Due to the complexity of federal and state regulations and the necessity to consider their applicability to specific circumstances, recipients are strongly encouraged to seek competent, professional legal and accounting advice regarding compliance issues**. IHCDA's obligation to monitor for compliance with the requirements of the regulations does not make IHCDA or its subcontractors liable for a recipient's noncompliance.**

Section 1: Key Terms and Concepts

Part 1.1 Basic Concepts & Affordability Requirements

Federal HOME regulations allow for two types of HOME-assisted units:

- **High HOME** units are HOME-assisted units reserved for households at or below 80% AMI.
- **Low HOME** units are HOME-assisted units reserved for households at or below 50% AMI.

HUD uses the term "low-income" for households at or below 80% AMI and "very low-income" for households at or below 50% AMI.

In a project application and recorded declaration/lien, the recipient usually agrees to meet additional state specific area median income (AMI) levels. The recipient must continue to meet these requirements throughout the project's affordability period.

- All units committed to serving households with incomes less than 30% AMI (Low HOME) must be rented to households with incomes less than or equal to 30% AMI at time of move-in;
- All units committed to serving households with incomes less than 40% AMI (Low HOME) must be rented to households with incomes less than or equal to 40% AMI at time of move-in;
- All units committed to serving households with incomes less than 50% AMI (Low HOME) must be rented to households with incomes less than or equal to 50% AMI at time of move-in;
- All units committed to serving households with incomes less than 60% AMI (High HOME) must be rented to households with incomes less than or equal to 60% AMI at time of move-in; and
- All units committed to serving households with incomes less than 80% AMI (High HOME) must be rented to households with income less than or equal to 80% AMI at time of move-in.
- NOTE: Certain NSP or CDBG-D projects may have units designated at 120%. For these projects, all units committed to serving households with incomes less than 120% AMI must be rented to households with income less than or equal to 120% AMI at time of move-in. 120% limits will never apply to HOME or CDBG.

All awards must be secured throughout the affordability period by a written, legally binding, recorded declaration of affordability commitment.

Part 1.2 The HOME "Program Rule" and the "Project Rule"

The "Program Rule" states that at initial occupancy, 90% of HOME-assisted units must be occupied by households with incomes at or below 60% of AMI.

The "Project Rule" states that all HOME developments with five (5) or more HOME-assisted units must have at least 20% of the HOME-assisted units occupied by households at or below 50% of AMI for the duration of the affordability period.

*Note: The program rule and project rule apply only to HOME funded properties. Properties funded with CDBG, CDBG-D, or NSP are not subject to the program rule or project rule.

Part 1.3 The Affordability Period

The length of time for which a project must continue to remain and program compliance and meet its specified requirements (as outlined in the application and declaration of affordability commitment) is called the affordability period.

The affordability period begins after project completion. Project completion is defined as the date that all necessary title transfer requirements and construction work have been performed; the rehabilitation completed complies with the requirements of 24 CFR

92.2 and the property standards of 24 CFR 92.251 or 24 CFR 570 and the stricter of the local rehabilitation standards or the Indiana State Building Code; the final drawdown has been disbursed for the project; and the project completion information has been entered into the disbursement and information system established by HUD.

The following affordability periods apply to all HOME, NSP, CDBG, and CDBG-D funded projects, including permanent rental, permanent supportive housing, and transitional housing:

HOME or NSP award amount per unit	Affordability Period
Under $15,000 per unit	5 years
$15,000 - $40,000 per unit	10 years
Over $40,000 per unit – or – any rehabilitation/refinance combination activity	15 years
New construction or acquisition of newly constructed housing	20 years

CDBG or CDBG-D award amount per unit	Affordability Period
Under $15,000 per unit	5 years
$15,000 - $40,000 per unit	10 years
Over $40,000 per unit	15 years
New construction (regardless of amount)* - CDBG-D only	20 years

(*CDBG cannot be used for new construction, but CDBG-D can)

Part 1.4 Fixed and Floating Units

A development's Award Agreement will outline whether the program assisted units are fixed or floating units.

Fixed units: The program assisted units remain the same throughout the affordability period. Specific units are designated as assisted units and those units will remain assisted throughout the affordability period. Any non-assisted units at a property with fixed program units will remain non-assisted and can be rented without regard to rent and income restrictions.

Floating units: The program assisted units may change during the affordability period. The unit mix can be changed during the affordability period so that the total number of assisted units meets the requirements set out in the application and recorded declaration. Each substituted unit must be comparable in terms of size, features, and number of bedrooms to the originally designated program assisted unit.

Note: If all units in a property are program assisted units, then the units are considered fixed units. In a property with a mix of program assisted and non-assisted units, the assisted units may be fixed or floating.

Part 1.5 Types of Rental Housing Projects

Permanent Rental Housing

The purpose of this activity is to provide funding for affordable long-term housing that will be rented to income-eligible households. Eligible activities include acquisition, rehabilitation, or new construction.

Permanent rental housing units may not be used for temporary or emergency housing at any time. All individuals or families moving into a permanent supportive housing unit must be income certified and must enter into a lease agreement. For more information on leases, see part 5.6.

Eligible permanent rental housing includes assisted living facilities that meet IHCDA's definition. IHCDA defines an assisted living facility as a living arrangement in which services are available to residents (e.g. meals, laundry, medication reminders, etc.) but the residents still live independently. Services provided cannot be mandatory as a condition of occupancy. Residents of such facilities pay a regular monthly rent and pay additional fees for the services that they desire. The fees for any services that are mandatory (i.e. services that are a condition of occupancy) must be included in the gross rent calculation.

Permanent Supportive Housing

The purpose of this activity is to provide funding for affordable long-term housing and supportive services for persons that would otherwise be at risk of being homeless. Eligible activities include acquisition, rehabilitation, or new construction. Services provided cannot be mandatory as a condition of occupancy.

Permanent supportive housing units may not be used for temporary or emergency housing at any time. All individuals or families moving into a permanent supportive housing unit must be income certified and must enter into a lease agreement. For more information on leases, see part 5.6.

Transitional Housing

The purpose of this activity is to provide funding for affordable short-term housing for homeless individuals or families, including victims of domestic violence. Eligible activities include acquisition, rehabilitation, or new construction.

The HOME program defines transitional housing as housing that is designed to provide housing and appropriate supportive services to persons, including but not limited to, deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children. The intent of transitional housing is to facilitate the movement of individuals and families to independent living (e.g. permanent rental housing) within twenty-four (24) months, or a longer period as determined necessary.

Transitional housing units may not be used for temporary or emergency housing at any time. All individuals or families moving into a transitional housing unit must be income certified and must enter into a lease agreement. For more information on leases, see part 5.6.

Emergency shelters and migrant farm worker housing

CDBG funds can be used to fund emergency shelters (including youth shelters) and seasonal migrant farm worker housing. These types of projects provide temporary housing and as such do not lease agreements. Instead, all individuals entering a shelter or farm worker housing must sign a program agreement. Additionally, individuals residing in shelters and migrant farm worker housing are assumed income eligible and do not have to be income certified. For more information on program agreements, see Part 5.6.

Part 1.6 Applicability of HOME Rules to CDBG, CDBG-D, and NSP Properties

Because the CDBG, CDBG-D, and NSP programs do not provide much guidance or regulation on rental project compliance, IHCDA adopts the HOME rental compliance requirements for its CDBG, CDBG-D, and NSP funded rental properties. The HOME rental requirements apply to CDBG/CDBG-D/NSP rental properties with the following exceptions:

- Part 1.1- the concept of Low HOME and High Home units only applies to HOME projects.
- Part 1.2- the “program rule” and “project rule” only apply to HOME projects.
- Parts 3.1C & 4.3F- the temporary noncompliance over-income rule for households exceeding 80% AMI at recertification only applies to HOME units
- Part 3.2D- the rent adjustment rule for households exceeding 80% AMI at recertification only applies to HOME units
- Part 4.1G- the student status rule only applies to HOME projects.

Section 2: Responsibilities

The entities/persons involved in project compliance include IHCDA, award recipients, sponsors or developers, the development owner, management companies, and onsite management personnel. The various responsibilities for these entities/persons are set forth below.

Part 2.1 Responsibilities of the Indiana Housing and Community Development Authority (IHCDA)

The Indiana Housing and Community Development Authority (IHCDA) allocates and administers the HOME, CDBG, CDBG-D, and NSP housing programs for the State of Indiana. The responsibilities of IHCDA are as follows:

A. Review Annual Owner Certifications

IHCDA will review an Annual Owner Certification for each development. For information on Annual Owner Certifications, see Part 6.3.

B. Conduct File Monitoring and Physical Unit Inspections

All emergency shelters, youth shelters, and migrant seasonal farm-worker housing will be monitored for program compliance and physically inspected once every two (2) years by an IHCDA compliance auditor regardless of the number of beds in the development.

All transitional housing, permanent supportive housing, and permanent rental housing properties will be subject to tenant file monitoring and physical inspections throughout the affordability period based on the following schedule:

Total # of Units in Development	Inspection Period
1 – 4 units	Once every 3 years
5 – 25 units	Once every 2 years
26 or more units	Once every year

Tenant File Audits - Recipients will be required to provide detailed information on tenant income and rent for at least 20% of the program-assisted units in the development. Information to be reviewed will include, but is not limited to, the Annual Tenant Income Certifications, the third-party income and asset verifications received to support those certifications, rent and utility allowance records, etc. **Recipients must provide organized tenant files to IHCDA with documentation in chronological order**. For more information on audits, see Part 6.4.

Physical Unit Inspections – IHCDA staff or an IHCDA contractor will conduct the inspection to ensure that the development is suitable for occupancy. For more information, see Part 4.5.

C. Remedying Noncompliance

When noncompliance is discovered, IHCDA will work with the owner and/or management agent to remedy the issue during a correction period. If necessary, IHCDA will recapture funds. For more information on recapture, see part 7.6.

D. Suspension and Debarment

IHCDA may suspend or debar the entities from participation in IHCDA programs if noncompliance issues are recurring or egregious, if funds are misused, if the entity engages in fraudulent activity, etc.. Suspension or debarment from the program may not only affect the non-compliant award, but also other awards that the entity is currently associated with. Additionally, suspension or debarment will affect future applications submitted to IHCDA. For more information on suspension and debarment, see Part 7.7.

E. Record Retention

IHCDA will retain all Annual Owner Certifications and records for not less than three (3) years from the end of the calendar year in which they are received. IHCDA will retain records of noncompliance or the failure to certify compliance throughout the entire affordability period.

F. Possible Future Subcontracting of Functions

IHCDA may, in its sole discretion, decide to retain an agent or private contractor to perform some of the responsibilities listed above. Owners will be notified of the name and contact persons of the private contractor.

Part 2.2 Responsibilities of Recipient/Owner

During the application process, recipients provided comprehensive development information with evidence of overall economic feasibility. The recipient must certify that all program requirements have been met. Any violation of program requirements could result in the recipient being required to repay federal or state funds and may jeopardize future applications for IHCDA funding.

The responsibilities of recipients include, but are not limited to:

A. Leasing units to eligible tenants in a non-discriminatory manner

For more information on leasing requirements, see Part 5.6. For more information on fair housing and tenant selection plans, see Part 4.2.

B. Charging no more than the maximum allowable rents (including utility allowances and non-optional fees)

For more information on maximum allowable rent, see Part 3.2.

C. Maintaining the property in habitable condition

The recipient is responsible for ensuring that the development is maintained in a decent, safe, and sanitary condition in accordance with appropriate standards. Failure to do so is an act of noncompliance. For more information, see part 4.5.

D. Record retention requirements

Written award agreements must be retained for five (5) years after the agreement terminates. Other project records must be retained for five (5) years from the closeout date. Tenant files must be retained for the most recent five (5) years throughout the affordability period, until five (5) years after the end of the affordability period (to determine the length of the affordability period, see Part 1.3). However, if any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required retention period, the records must be maintained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

The records must include the following:

- The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- The number of residential rental units in the buildings that are program assisted units;
- The rent charged on each residential rental unit in the building and the applicable utility allowance. Utility allowance records must include copies of the annual supporting documentation;
- The number of occupants in each program assisted unit;
- The unit vacancies in the building, documentation of marketing efforts, and information that shows when and to whom the next available units were rented (this information must include the unit number, tenant name, move-in dates, and move-out dates for all tenants, including market rate tenants);

- The Tenant Income Certification (TIC) for each eligible household;
- Documentation to support each eligible household's income certification; and
- The original local health, safety, or building code violation reports or notices issued by the State or local government unit responsible for making local health, safety, or building code inspections.

E. Being knowledgeable about:

- Expiration dates, closeout dates, and the duration of the affordability period;
- Relocation of existing tenants, if applicable;
- The applicable set-aside for each unit (30%, 40%, 50%, 60% or 80%);
- Whether program-assisted units are considered fixed or floating units; and
- The award number and address of each building in the development.

The items listed above can be found in the application, award agreement, recorded lien/declaration, and/or the closeout letter for the project. To ensure compliance, it is important that the recipient and management agents have copies of these documents and are familiar with the terms defined within.

F. Complying with the terms of the Application, Award Agreement and Declaration/Lien

In addition to meeting rent and income restrictions, this obligation includes providing the agreed upon services, amenities, unique features, and special need units to the tenants throughout the affordability period. IHCDA will monitor for compliance with these elections.

G. Reporting to IHCDA any changes in ownership or management of the property

If a change in ownership occurs, a detailed description of the change must be provided in writing to IHCDA. Changes in ownership must be reported via IHCDA's "Ownership Change Form" in Appendix B. If the new ownership will not maintain compliance for the duration of the affordability period, the original recipient will be subject to recapture.

The recipient must notify IHCDA's Chief Real Estate Development Officer immediately if the composition of the development changes due to disposition or sale of any units in the development before affordability period is up.

If a change in management occurs, a detailed description of the change must be provided in writing to IHCDA. Changes in management must be reported via IHCDA's "Property Management Change Form" in Appendix B.

In addition, the recipient must notify IHCDA immediately in writing of any changes in ownership or management contact information including contact person's name, address, e-mail address, telephone number, and fax number.

H. Reporting tenant events and submitting Annual Owner Certifications

1. Annual Owner Certification of Compliance & IHCDA Online Management

   The owner must annually certify compliance to IHCDA, under penalty of perjury, for each year of the affordability period. The Annual Owner Certification of Compliance is due on or before January 31st of each year and certifies information for the preceding twelve (12) month period. Complete submission includes the hardcopy Owner Certification forms , finalization of tenant events in the online reporting system, and payment of annual monitoring fees for projects that have also received Rental Housing Tax Credits..

   The first annual owner certification is due by January 31st of the year following the year of the award's closeout date (i.e. the first year of the affordability period). **However, the owner must begin reporting tenant events in the online system with the first tenant move-in.** The report covers the calendar year period January 1 – December 31 and is due to IHCDA offices by the close of business January 31st of the next calendar year.

The hard copy Annual Owner Certification forms are made available each year on the compliance and asset management page of IHCDA's website, **http://www.in.gov/ihcda/2490.htm**, by December. **IHCDA will not directly send the forms to the owner or management upon release. It is the responsibility of the owner/management to pull the necessary forms off of IHCDA's website annually and to contact IHCDA if there are any questions or concerns.**

The Indiana Housing Online Management website (www.ihcdaonline.com) was designed as a tool to conduct compliance checks to ensure properties stay in compliance, to follow the monitoring review process, and as a way for IHCDA to communicate with its partners using a message board. Effective January 1, 2009, all IHCDA assisted multi-family rental developments (*EXCEPT emergency shelters, youth shelters, and migrant farm worker housing projects) are required to enter tenant events using the Indiana Housing Online Management rental reporting system. Tenant events include move-ins, move-outs, annual recertifications, unit transfers, rent and utility allowance changes, household composition updates, and student status updates. Tenant events that must be reported online do not include interim recertification performed for other programs, such as Section 8 or RD. In order to obtain the maximum benefits from the Indiana Housing Online Management system it is **required that all tenant events be entered into the system within thirty (30) days of the event date.**

Therefore, it is **mandatory that all tenant events be submitted electronically** using the Indiana Housing Online Management website for all developments that contain IHCDA assisted units (e.g. HOME, CDBG, CDBG-D, NSP, Tax Credits, Section 1602, TCAP, Bonds, and/or Development Fund/Trust Fund). This online tenant event reporting process eliminates the former process of submitting a hardcopy "Tenant Beneficiary Spreadsheet" (EXCEPT for emergency shelters, youth shelters, and migrant farm worker housing projects). However, the owner must still submit hardcopies of the original signed and notarized Owner Certification packet including the Building Information page with updated contact information, the Multi-Family Housing Utilities Form, supporting documentation for the utility allowances, and the applicable exhibit documents A-E. For more information on Annual Owner Certifications see Part 6.2.

To use the rental reporting system or register to become a user, please visit the Indiana Housing Online Management website at **https://ihcdaonline.com/**. Free on-demand training videos that explain how to use the rental reporting system are available through the website at **https://ihcdaonline.com/AuthorityOnline/Links.htm**. Additionally, in March 2009 IHCDA released detailed guidance on registering for the Online Management website in Multi-Family Department Notice MFD-09-06. This notice (and all other past notices) is archived online at **http://www.in.gov/ihcda/2458.htm.**

2. HMIS Reporting

All IHCDA funded emergency shelters, youth shelters, transitional housing, permanent supportive housing, and units set-aside for the homeless in permanent rental housing projects are required to enter tenant events using IHCDA's HMIS system. Tenant events included are move-ins and move-outs. For information on HMIS see http://www.in.gov/myihcda/2404.htm.

3. Summary of Reporting Requirements

a) **Rental Housing Units (Transitional Housing, Permanent Supportive Housing, and Permanent Rental Housing):** It is **mandatory** that all tenant events be submitted electronically using the Indiana Housing Online Management website for all assisted rental housing units. Additionally, a hardcopy of the Annual Owner Certification form must be submitted annually. (For more information on Annual Owner Certifications see Part 6.2.) Furthermore, for transitional housing, permanent supportive housing, and units set-aside for the homeless in permanent rental housing projects, tenant events must also be entered into HMIS.

b) **Emergency Shelter and Youth Shelters**- It is **mandatory** that all tenant events be submitted electronically using HMIS. Furthermore, shelter recipients will submit the Annual Beneficiary Report via Excel spreadsheet along with the hardcopy Annual Owner Certification forms. (For more information on Annual Owner Certifications see Part 6.2)

c) **Migrant Seasonal Farm Worker Housing** The Annual Beneficiary Report will be submitted via Excel spreadsheet along with the hardcopy Annual Owner Certification forms. (For more information on Annual Owner Certifications see Part 6.2)

I. Training onsite personnel

The recipient must make certain that the onsite management agents know, understand, and comply with all applicable federal and state rules, regulations, and policies governing the development, including all elections made in the application, award agreement, and lien.

As a best practice, IHCDA encourages the recipient to make certain that the development's property management and compliance personnel are familiar with this Compliance Manual, the compliance forms and information on IHCDA's compliance manual webpage (**http://www.in.gov/ihcda/2490.htm**), and the online reporting requirements through the Indiana Housing Online Management website (accessed through **https://ihcdaonline.com/**). For more information on online reporting requirements see Part 2.2 H above.

J. Reporting noncompliance to IHCDA and replacing noncompliant units

If the owner and/or management agent determines that a unit, building, or an entire development is out of compliance with program requirements, IHCDA should be notified immediately. The owner and/or management agent must formulate a plan to bring the development back into compliance and advise IHCDA in writing of such a plan.

The owner and/or management agent must keep documentation outlining: the noncompliance issue, date the noncompliance issue was discovered, date that noncompliance issue was corrected, and actions taken to correct noncompliance.

Example: *A household was initially income qualified and moved into a unit on January 1, 2007. The HOME rent limit is $500. At time of recertification on January 1, 2008 the recipient erroneously increased the rent to the market rate of $1,000. During an internal audit dated February 1, 2008 the recipient and/or management agent noticed that the unit was out of compliance, because the rent charged exceeded the HOME rent limit. On February 1, 2008, the recipient and/or management agent immediately corrected the noncompliance issue, documented the file as to what the noncompliance issue was, the date that it was corrected, and what actions were taken to correct the noncompliance issue. IHCDA should be notified in such a situation in order to document the project file and note that the recipient correctly fixed the noncompliance.*

Additionally, for HOME compliance the recipient is responsible for replacing temporarily noncompliant units (units where the household exceeds 80% AMI) as per the guidelines in Part 3.1 C. This rule only applies to HOME-assisted units.

K. Program Income

The recipient must properly handle program income. For additional information, see Chapter 1 of IHCDA's *CDBG & HOME Program Manual.*

L. Affirmative Fair Housing Marketing Plan and Required Fair Housing Documents

1. Affirmative Fair Housing Marketing Plans

   An Affirmative Fair Housing Marketing Plan (Affirmative Marketing Plan) is required for all awards containing five (5) or more program-assisted units. **The Affirmative Marketing Plan must be created using HUD Form 935.2A to identify the populations least likely to apply for housing and the outreach/marketing efforts that will be utilized to reach that population.** The Affirmative Marketing Plan must be submitted before IHCDA will allow release of funds. The Affirmative Marketing Plan must include the following information:

   i. What segment has been determined the least likely to apply based on market demographics?

      - Families with Children;
      - Persons with Disabilities: or
      - Specific race, ethnic group, religion, etc.

   ii. What residency preferences are in place for the property?

iii. What marketing efforts are being made to reach the market least likely to apply and how are marketing activities evaluated to determine if they are successful?

iv. Are the Fair Housing and Equal Opportunity Employment posters prominently displayed and where are they displayed? Is the AFHMP made available for public inspection and where is it displayed? Does the project site sign contain the HUD approved Equal Housing Opportunity logo, slogan, or statement and where is the sign displayed?

Affirmative Fair Housing Marketing Plans must be updated at least once every five (5) years or more frequently when there are significant changes in the demographics of the local housing market area as described in the instructions for Part 9 on the Form 935.2A. All updated Affirmative Fair Housing Marketing Plans must be submitted to IHCDA with the next Annual Owner Certification of Compliance. Form 935.2a is available in Appendix H.

2. Required Brochures and Poster

Upon project entry, all households living in program units must be given the Fair Housing brochure entitled "Are You a Victim of Housing Discrimination." The household must sign documentation acknowledging the receipt of this brochure at time of move-in, and this receipt must be maintained in the household's file.

Additionally, all recipients are required to post the Fair Housing and Equal Opportunity poster onsite in the leasing office and/or other common areas.

The above referenced brochure and poster are available in Appendix H.

M. Affirmatively Furthering Fair Housing (For CDBG/CDBG-D Projects)

All CDBG award recipients are required to take action to affirmatively further fair housing. **The action(s) must reach the general community at-large and not be limited to low-moderate income residents only.** IHCDA strongly encourages each CDBG recipient to execute a Fair Housing Ordinance during the life of the award as an action to affirmatively further fair housing (a sample Fair Housing Ordinance is located as Exhibit A of this chapter). However, if a Fair Housing Ordinance has already been executed prior to the execution date of the CDBG award, the CDBG award recipient in receipt of the IHCDA award must take a different action to affirmatively further fair housing.

Suggested actions are as follows:

- Undertake fair housing enforcement (i.e. complaint processing);
- Work actively with existing entities (public or private non-profit) whose goal is to further fair housing;
- Display fair housing exhibits at local public exhibitions (County Fairs, Festivals, etc.);
- Review local zoning laws and procedures to determine whether the laws contribute to, or detract from, fair housing;
- Use local resources to assess existing public opinion about the status of fair housing organizations, public and private community centers, civil rights groups, and organizations that represent minorities, women, families, senior citizens, and persons with disabilities.
- Develop public information and educational programs promoting fair housing and provide fair housing information to the following types of groups:
- citizen groups concerned with housing issues (fair housing groups, tenant associations, builders, real estate agents/brokers);
- organizations representing specific population groups (minorities, women, senior citizens, persons with disabilities); and

- other local organizations (advocacy groups, unions, voters' leagues).

Documentation of the Fair Housing action taken by the CDBG award recipient must be maintained in the award recipient's award file. Therefore, it is the responsibility of the award recipient to provide the proper documentation for the award files which will be monitored by IHCDA.

N. Providing all pertinent property information to the management company

In order to ensure compliance, the owner should provide management personnel with copies of the following documents: Applicable documentation could include but is not limited to: the Application, Award Agreement, recorded Declaration/Lien, Closeout Letter, and applicable IHCDA Compliance Manuals.

Additionally, if there is a change in management, the owner is responsible for proving all information and previous tenant files to the new management company.

Part 2.3 Responsibilities of the Management Company & Onsite Personnel

The management company and all onsite personnel are responsible to the recipient for implementing all applicable program requirements.

G. Anyone who is authorized to lease apartment units to tenants should be thoroughly familiar with all federal and state laws, rules, and regulations governing certification and leasing procedures, including program regulations, Fair Housing law, and Indiana State Code regarding leasing requirements.
H. The management company must provide information, as needed, to IHCDA and submit all required reports and documentation in a timely manner. IHCDA requires that all tenant events be reported via the Indiana Housing Online Management rental reporting system within thirty (30) days of the event date. For more information about the online reporting system requirements, see Part 2.2 H.
I. Management agents must be onsite during IHCDA file monitorings and physical inspections to provide access to necessary documentation and to units.

Part 2.4 Demonstrating "Due Diligence"

The recipient is ultimately responsible for compliance and proper administration of the award. IHCDA expects all recipients to demonstrate "due diligence," hereby defined as the appropriate, voluntary efforts to remain in compliance with all applicable Federal and State rules and regulations. Due diligence can be demonstrated through business care and prudent practices and policies. Part of due diligence is the establishment of internal controls, including but not limited to: separation of duties, adequate supervision of employees, management oversight and review (internal audits), third party verifications of tenant income, independent audits, and timely recordkeeping.

Due diligence also includes keeping up-to-date on amendments to the Compliance Manual, following IHCDA updates via RED notices, and attending IHCDA sponsored compliance trainings when available. These are all examples of voluntary efforts that recipients and management agents can make in order to remain in compliance.
Another way in which the recipient can demonstrate a commitment to due diligence is by establishing and maintaining a consistent file order. Consistent and well-organized files make it easier for the recipient to recognize when documentation is missing and allow for easier audits.

If noncompliance issues are discovered, IHCDA may ask the recipient to demonstrate due diligence by showing that the proper internal policies and procedures are in place to prevent noncompliance from occurring/recurring. It is understood that mistakes may occur from time to time, but it is the responsibility of the recipient to have policies in place to minimize and remedy these errors.

Section 3: Income Limits, Rent Limits, and Utility Allowances

In order to remain in compliance, program units must be rent and income restricted. This section discusses how to properly apply income limits, rent limits, and utility allowances.

Part 3.1 Set-Aside Requirements and Income Limits

A. Set-Aside Requirements

In a project application and recorded declaration/lien, the recipient agrees to meet certain area median income (AMI) levels for a specific number of units. The recipient must continue to meet these requirements throughout the project's affordability period.

All awards must be secured throughout the affordability period by a written, legally binding, recorded declaration of affordability commitment.

B. Income Limits

All program units must be occupied by income qualified households, based on the income limits published annually by HUD. The applicable income limits for a development depend upon the low-income set-asides the recipient has chosen. The U.S. Department of Housing and Urban Development (HUD) publishes income and rent limits for each Indiana county on an annual basis. Upon receipt of this information, IHCDA will post the new income limits and corresponding rent limits on its website via an RED Notice. This information is provided by IHCDA only for the recipient's convenience as a courtesy. However, it is the responsibility of the recipient, not IHCDA, to verify its accuracy.

Recipients may not anticipate increases in income limits and corresponding rents. Limits remain in effect until new annual limits are officially published each year by HUD. New limits must be implemented by the HUD released implementation date. Income and rent limits are provided online in Appendix C.

Household income must be determined in a manner consistent with the 24 CFR Part 5.609 methodology (commonly known as the "Section 8 methodology") of calculating annual income. When determining if a household's income is at or below the applicable income limit, the earned income from each adult household member eighteen (18) years of age or older and the unearned and asset income of all members of household (regardless of age) must be included in the total household income calculation. For detailed rules on calculating income and assets, see Chapter 5 of HUD Handbook 4350.3 as well as the *Technical Guide for Determining Income and Allowances for the HOME* Program. Both resources are available in Appendix B.

C. Over-income Households and Temporarily Noncompliant Units (**HOME ONLY**)

***NOTE: The following guidelines apply only to HOME-assisted units.**

A household residing in a HOME-assisted unit is considered to be "over-income" when total household income exceeds 80% of AMI, or when total household income exceeds 50% AMI in a Low-HOME unit (a unit designated at 30%, 40%, or 50% AMI). When a household becomes over-income, the HOME-assisted unit it occupies is considered to be "temporarily noncompliant." Temporary noncompliance is permissible and does not penalize the recipient as long as the correct steps are followed to restore the proper unit mix. Certain rules go into effect to correct the unit mix depending on whether the over-income household occupies a fixed or floating HOME-assisted unit (see below). Over-income households may never be evicted or otherwise have their tenancy terminated solely because their income increased.

***Note: In a unit that is both HOME-assisted and part of the Section 42 Rental Housing Tax Credit program, the tax credit over-income rule (known as the 140% Rule) overrides these over-income rules. In Section 42 properties with HOME, the HOME over-income rule is never applied. Instead, rent remains restricted at the lesser of the applicable tax credit or HOME rent limit.**

- **Over-income households in Fixed Units (Over 80% AMI)**

  When management conducts an annual income recertification and determines that a household occupying a fixed HOME- assisted unit exceeds 80% of AMI, the unit is considered to be temporarily out of compliance. When the household is determined to exceed 80% of AMI, the rent must be raised as soon as the lease permits (at a minimum, the owner must provide at least 30 days written notice before implementing any increase in rent). Instead of following the applicable HOME rent limit, the household must be charged 30% of adjusted income in rent. However, if the unit is also part of the Section 42 Rental Housing Tax Credit program, the tax credit rent rules must be followed and this rule does not apply.

  The unit is considered back in compliance when one of the following scenarios is met:

  1. The over-income household vacates and a new qualified household moves into the unit. Remember that the over-income household cannot be evicted or otherwise terminated because of the increase in income; or
  2. The over-income household recertifies and no longer exceeds 80% of AMI, either due to an increase in the income limit and/or a decrease in household income.

  Example:
  A household moved into a 40% HOME unit with a qualified income. Annual income recertification shows household is now at 93% of AMI. Since total household income exceeds 80% of AMI, the household is considered over-income and the unit is temporarily noncompliant. When the lease permits, management must increase the household's rent to 30% of adjusted income. When the household vacates, the unit must be once again rented to a household that qualifies at or below 40% AMI and the applicable 40% HOME rent limits would once again apply to the unit.

- **Over-income households in Floating Units (Over 80% AMI)**

  When management conducts an annual income recertification and determines that a household occupying a floating HOME- assisted unit exceeds 80% of AMI, the unit is considered to be temporarily out of compliance. When the household is determined to exceed 80% of AMI, the rent must be raised as soon as the lease permits (at a minimum, the owner must provide at least 30 days written notice before implementing any increase in rent). Instead of following the applicable HOME rent limit, the household will be charged 30% of adjusted income in rent (not to exceed the rent on a comparable market unit in the area). However, if the unit is also part of the Section 42 Rental Housing Tax Credit program, the tax credit rent rules must be followed and this rule does not apply.

  The unit is considered back in compliance when one of the following scenarios is met:

  1. The over-income household vacates and a new qualified household moves into the unit. Remember that the over-income household cannot be evicted or otherwise terminated because of the increase in income; or
  2. A non-assisted unit (i.e. a market unit or other unit not currently a HOME-assisted unit) becomes vacant and is re-designated as a HOME-assisted unit. In this scenario, the over-income unit is re-designated as a non-assisted unit. Therefore, the units swap status. The substituted unit that becomes an assisted unit must be a "comparable unit, " defined as a unit that is <u>equal or greater</u> than the original unit in terms of size, number of bedrooms, and amenities; or
  3. The over-income household recertifies and no longer exceeds 80% of AMI, either due to an increase in the income limit and/or a decrease in household income..

  Example:
  A household moved into a 40% HOME unit with a qualified income. Annual income recertification shows household is now at 93% AMI. Since total household income exceeds 80% of AMI, the household is considered over-income and the unit is temporarily noncompliant. When the lease permits, management must increase the household's rent to 30% of adjusted income (not to exceed the rent on a comparable market unit in the area).
  To remedy the temporary noncompliance:
  i. When the household vacates, the unit must be once again rented to a household that qualifies at or below 40% AMI; or

ii. *A vacant, comparable non-HOME-assisted unit is converted to a 40% HOME unit and the temporarily noncompliant unit is converted to a non-assisted unit; or*
iii. *The over-income household recertifies and no longer exceeds 80% AMI.*

- **Re-designating Low HOME units that exceed 50% AMI**

  If a property with HOME units has both High HOME (60% or 80%) and Low HOME (30%, 40%, or 50%) units, the units may have to swap status to keep the proper unit mix. This rule applies regardless of whether the units are fixed or floating.

  If a household that is designated as Low HOME (30%, 40%, or 50%) exceeds the Low HOME income limit (i.e. the 50% AMI limit), the unit is temporarily noncompliant even though household income does not exceed 80% AMI. In this scenario, the unit remains temporarily noncompliant until a High HOME unit (unit at 60% or 80% AMI) is vacated. At this point, the units swap status. The vacant High HOME unit becomes a vacant Low HOME unit and must be rented to a household at 30%, 40%, or 50% depending on the set-aside assigned to temporarily noncompliant unit. The temporarily noncompliant unit is re-designated as a High HOME unit at the appropriate set-aside and rent may be increased when the lease permits. NOTE: Until the units swap status, the temporarily noncompliant unit remains rent-restricted at the applicable Low HOME rent restriction.

  Example:
  The Smith household moves into a 40% HOME unit on 1/1/10. At annual recertification on 1/1/11, the household is determined to exceed the 50% HOME limit, but does not exceed the 80% limit. Because the Smiths occupy a Low HOME unit and now exceed 50% of AMI, the unit is considered temporarily noncompliant. The Smiths are allowed to stay in the unit and remain rent-restricted at the 40% HOME rent limit.

  The Johnson household vacates their 60% HOME unit on 4/1/11. The unit must be converted to a Low HOME unit at the 40% AMI restriction in order to replace the temporarily noncompliant unit occupied by the Smith household. The Smith household is converted to a High HOME unit at the 60% AMI restriction. The units swap status and the temporary noncompliance is resolved.

Part 3.2 Rent Limits

All program units must be rent restricted, based on the rent limits published annually by HUD. The applicable rent limits for a development depend upon the low-income set-asides the recipient has chosen. The U.S. Department of Housing and Urban Development (HUD) publishes income and rent limits for each Indiana county on an annual basis. Upon receipt of this information, IHCDA will post the new income and rent limits on its website. This information is provided by IHCDA only for the recipient's convenience as a courtesy. However, it is the responsibility of the recipient, not IHCDA, to verify its accuracy. When rent limits are released each year, IHCDA will require each HOME-assisted property to submit a HOME Rent Update Form (IHCDA Compliance Form #46) for approval of any rent changes. Each property must annually submit this information, even if no rent increase is proposed. Per the 2013 HOME Final Rule, each participating jurisdiction must annually approve rents to be charged for all HOME-assisted properties.

Recipients may not anticipate increases in income and rent limits. Limits remain in effect until new annual limits are officially published each year by HUD. New limits must be implemented by the HUD released implementation date. Income and rent limits are provided online in Appendix C.

A. Rent Terminology

The rent limit is the maximum rent amount published annually by HUD per bedroom size. The published rent limit includes tenant-paid rent plus utility allowance plus any non-optional charges. Therefore, tenants generally cannot actually be charged the rent limit unless all utilities are owner-paid and there are no additional non-optional charges.

The gross rent for a unit is the sum of tenant portion rent + utility allowance + non-optional charges + tenant-based rental assistance. The gross rent may never exceed the rent limit.

The maximum allowable rent is the most the owner is permitted to charge for rent once tenant-paid utilities (except telephone, cable television, and internet) and other non-optional charges are deducted. The maximum allowable rent can never exceed the rent limit. Maximum allowable rent may also be referred to as the "maximum chargeable rent" or the "net rent."

The tenant-paid rent or lease rent is the actual rent charged to the household by the owner, as defined in the lease. The lease rent may never exceed the maximum allowable rent or the applicable published rent limit.

Each award has a gross rent floor, defined as the lowest rent limit that the owner will ever be required to implement for a particular development. The gross rent floor is the rent limit in effect at the time the funds are awarded. If the current applicable limits drop below the gross rent floor, the recipient is not required to accept lower rents. For newer developments, the gross rent floor is now clearly defined in the Award Agreement document. If the Award Agreement does not define the gross rent floor, IHCDA can assist in determining this information.

NOTE: If the unit receives tenant-based rental assistance (e.g. a voucher or certificate from Section 8), the amount of the voucher/certificate must be included in the gross rent calculation. Therefore the following rules apply:

- Tenant rent + utility allowance + non-optional charges +tenant-based rental assistance amount = gross rent, which cannot exceed the rent limit.

- Rent limit minus utility allowance minus non-optional charges minus tenant-based rental assistance amount = maximum allowable rent.

(See Part 3.3 for more information on utility allowances).

B. Rent Limits for Special Unit Types

The program rent limits may not apply in the following situations:

1. **SRO Units with no food preparation nor sanitary facilities, or only one of the two:**

    - If an SRO-unit has neither food preparation nor sanitary facilities, or only one, the rent may not exceed 75% of the Fair Market Rent (FMR) for a zero-bedroom (efficiency) unit.
        - For example, the FMR for a 0-bedroom unit in a given county is $300. The rent limit for an SRO unit (with neither food preparation or sanitary facilities or only one) in that county would be $225 ($300 x 75% = $225).

    - Low HOME rent limits are not applied to these SRO projects, but for all projects with five (5) or more HOME-assisted units the "Project Rule" still applies for income limits (i.e. at least 20% of the units must be occupied by households at or below 50% AMI).

2. **SRO Units with both food preparation and sanitary facilities**

    - If an SRO-unit has ***both*** food preparation and sanitary facilities, then the rent limit depends on whether the unit is Low HOME (30%, 40%, or 50% AMI unit) or High HOME (60% or 80% unit), as described below.

    - For Low HOME SRO units, the rent limit is set at the lesser of the HOME program zero-bedroom (efficiency) rent limit,30% of the household's adjusted income, or the FMR for a zero-bedroom unit..

    - For High HOME SRO units, the rent limit is set at the lesser of the HOME program zero-bedroom (efficiency) rent limit or the FMR for a zero-bedroom unit.

    - For project s with five (5) or more HOME-assisted units the "Project Rule" applies meaning that at least 20% of the units must be occupied by households at or below 50% AMI that are paying now more than the Low HOME rent limit.

3. **Group Homes**

- Defined as housing occupied by two or more persons or families with common space/facilities for group use.

- The unit is considered a single unit with multiple bedrooms and the rent is calculated as a single unit. Rent cannot exceed the Fair Market Rent for that bedroom size. Each bedroom will have a separate lease and will be charged a proportionate share of the total Fair Market Rent. The combined totals for all bedrooms in the unit cannot exceed the Fair Market Rent for a unit of that bedroom size.

- For example, a group home with four bedrooms would use the Fair Market Rent for a four-bedroom unit and each person's rent would be the proportionate share of the total unit rent. The sum of each occupant's rent cannot exceed the four-bedroom FMR.

4. **Units with Project-based Rental Assistance**

- The owner may charge the project-based rental assistance program rents when:
  -The unit is designated as a Low HOME unit (50% AMI or below); AND
  -The unit receives project-based rental assistance; AND
  -Unit is occupied a very low-income household (household income at 50% AMI or below); AND
  -Household does not pay more than 30% of its adjusted income for rent.

  For example:
  -Section 8 maximum rent for a unit is $1200
  -Applicable Low HOME Rent Limit for a unit is $750
  -Utility Allowance is $100
  -Tenant Adjusted Income is $18,000

  Rent= $18,000 / 12 x 30% = $450
  Tenant rent payment = $450 - $100 (utility allowance) = $350
  PHA rent payment to the recipient = $1200-$350 = $850

  HOME allows the recipient to use the maximum project-based rent limit in this situation instead of the Low HOME rent limit ($1200 instead of $750)

- The recipient must use the HOME program rents if project-based rental assistance is for a unit designated as a High HOME unit or for a household that is above 50% AMI.

C. Calculating Rent

- Determine the AMI% level (set-aside) the household fits into based on the development's application.
- Determine the utility allowance for the unit based on bedroom size.
- Determine the amount, if any, that the household will be receiving in tenant-based rental assistance.
- Determine if the development receives federal or state project-based rental assistance.
- Determine the total maximum allowable rent. Maximum allowable rent equals the applicable HOME rent limit (based on the AMI level) minus the utility allowance, rental assistance portion, and any non-optional fees

Example 1:
Household Size: 3 persons
Annual Income: $26,350
AMI: 56%
Maximum 3-bedroom HOME Rent (60% Unit): $554
Utility Allowance: $80
Section 8 Assistance (tenant-based): $50
Maximum Tenant Rent: $424 ($554-$80-$50)

Example 2:
Household Size: 3 persons
Annual Income: $26,350
AMI: 56%
Maximum 3-bedroom HOME Rent (60% Unit): $554
Utility Allowance: $0 (recipient pays all utilities)
Section 8 Assistance (tenant-based): $0
Maximum Tenant Rent: $554

Example 3:
This example is different in that the development receives federal or state project-based rental assistance and all tenants at or below 50% AMI pay no more than 30% of their adjusted income for rent. Therefore, the maximum rent may be the rent allowable under the project-based subsidy program, per 24 CFR 92.252(b)(2). See 3.2 B 3 above for more information.

Household Size: 4 persons
Annual Income: $25,000
AMI: 42%
Maximum 3-bedroom HOME Rent (50% Unit): $541
Maximum rent allowed by rental subsidy program: $600
Utility Allowance: $0 (recipient pays all utilities)
Rental Assistance Portion: $50
Tenant Rent Portion allowed under Rental Assistance Program: $550 ($600 - $50)

The recipient can accept $600 ($50 rental assistance + $550 tenant portion) even though this exceeds the maximum applicable HOME rent limit. This is allowed because the unit is designated as a Low HOME unit, the annual household income is below 50% AMI, the unit receives project-based rental assistance, and the household is not paying more than 30% of adjusted monthly income on rent.

D. Adjusting Rents due to Tenant Income Increases (**HOME ONLY**)

***NOTE: The following guidelines apply only to HOME-assisted units.**

When household income changes, the owner/management may raise rents to the applicable rent limit, but are not obligated to do so until the AMI level of the household exceeds 80%. Once the household income exceeds 80% AMI, the household must be charged 30% of its adjusted income for rent. For floating units, households that exceed 80% of AMI are not required to pay rent that exceeds the market rate for comparable non-assisted units in the neighborhood. Rent can only be increased when allowed by the lease, and at a minimum, the owner must provide at least thirty (30) days written notice before implementing any increase in rent.

The following chart outlines the maximum rents that tenants can be charged for developments that are either funded only with the HOME program or that are funded in conjunction with Section 42 Rental Housing Tax Credits (a.k.a. Low Income Housing Tax Credits). When combining programs, the strictest limits should be applied in order to maintain compliance with both programs. However, when combined, the Section 42 over-income rules override the rules discussed in this chapter.

Table 1: Rent Limits for HOME

HOME Designated AMI level	"fixed" unit	"floating" unit
Units designated at 30%	Rent may not exceed 30% Rent Limit	Rent may not exceed 30% Rent Limit
Units designated at 40%	Rent may not exceed 40% Rent Limit	Rent may not exceed 40% Rent Limit
Units designated at 50%	Rent may not exceed 50% Rent Limit	Rent may not exceed 50% Rent Limit
Units designated at 60%	Rent may not exceed 60% Rent Limit	Rent may not exceed 60% Rent Limit
Units designated at 80%	Rent may not exceed 80% Rent Limit	Rent may not exceed 80% Rent Limit
Household exceeds 80% AMI	When lease allows, rent must be adjusted to 30% of adjusted household income. *Does NOT apply if RHTC.	When lease allows, rent must be adjusted to 30% of adjusted household income, not to exceed market rent for a comparable unit in the area. *Does NOT apply if RHTC.

Note: Households must be given at least thirty (30) days notice prior to any increase in rent.

Table 2: Rent Limits for HOME when Combined with Section 42 Rental Housing Tax Credits

HOME designated AMI level	Allowable Rent when Combined with Section 42
Units designated at 30%	Lesser of the 30% Rent Limit or the applicable RHTC Rent Limit
Units designated at 40%	Lesser of the 40% Rent Limit or the applicable RHTC Rent Limit
Units designated at 50%	Lesser of the 50% Rent Limit or the applicable RHTC Rent Limit
Units designated at 60%	Lesser of the 60% Rent Limit or the applicable RHTC Rent Limit
Units designated at 80%	Lesser of the 60% Rent Limit or the applicable RHTC Rent Limit
Above 80% Units	If a household's income increases above the 80% income limit and the unit has both HOME and RHTC, the applicable RHTC limit will apply. The household is not considered an over-income unit until the income exceeds 140% of the tax credit Federal Minimum Set-Aside for the development (either exceeds 140% of 50% AMI or 140% of 60% AMI). Follow the tax credit "Next Available Unit Rule," not the HOME over-income rule.

E. Allowable Fees and Charges

- **General Rule**
  Customary fees that are normally charged to all tenants, such as damage (security) deposits, pet deposits/fees, application fees and/or credit deposits are permissible. However, an eligible tenant cannot be charged a fee for the work involved in completing the additional forms of documentation required by the program, such as the Tenant Income Certification and income/asset verification documents.

  Refundable fees associated with renting units (such as security deposits) and one-time penalty fees (such as late payment fees and fees for prematurely breaking a lease, as long as such fees are clearly defined within the lease) are allowable fees that are not included in the gross rent calculation.

- **Condition of Occupancy Rule (Optional Vs. Non-optional Fees)**
  Any fee that is charged for a service that is a condition of occupancy (i.e. a fee for a service that is non-optional/ mandatory) must be included in the gross rent computation when checking rent against the applicable rent limit. This is true even if federal or state law requires that the services be offered to the tenants by the owner.

  Assuming they are truly optional, fees may be charged for elected services or additional amenities (such as pet fees, fees for extra storage units, etc.) and these fees would not be included in the gross rent calculation. **A service or amenity is considered optional only if (1) a tenant may opt out of the service or amenity without penalty and continue to live at the development and (2) "reasonable alternatives" exist.**

  Additionally, any services the tenant pays for that are provided by the development (whether optional or non-optional) must be listed in the tenant's lease with the cost of each individual service clearly listed.

  Example: Charges for paying with credit/debit card
  Some developments may have a credit/debit card machine onsite to allow tenants to pay rent in this method. The monthly fee incurred from having a machine onsite can be passed onto the tenants as long as it is an optional fee. The fee would be considered optional if the tenants have alternative methods of paying rent that do not include a fee (e.g. cash, money order, check, etc.). In this scenario, the credit/debit machine would be an optional service offered for the tenants' convenience. The amount of the fee for paying with credit/debit card, as well as a list of all accepted alternative methods of payment, must be disclosed to all tenants. Furthermore, the fee may not surpass the actual cost incurred from the machine. Management must keep documents showing the actual costs of having the machine onsite and the amount of the fee being charged to tenants.

If credit/debit card is the only means of paying monthly rent, then the fee is not optional, but rather a condition of occupancy (as paying rent is a condition of occupancy). In this case, the credit/debit card machine fees would have to be included as part of the gross monthly rent calculation.

- **Application Processing Fees**
  Application fees may be charged to cover the actual cost of processing the application and checking criminal history, credit history, landlord references, etc. However, the fee cannot exceed the amount of actual out-of-pocket costs incurred by management. No amount may be charged in excess of the average expected out-of-pocket cost of processing an application.

- **Mandatory Renter's Insurance**
  If renter's insurance is required as a condition of occupancy, then the amount of renter's insurance must be included in the gross rent calculation. In this scenario, the owner must either:

  1. Obtain proof of renter's insurance for the tenant, locate the annual premium, and divide by twelve (12) to obtain a monthly cost of renter's insurance. This monthly cost must be added to the tenant-paid rent portion, tenant-based rental assistance, the utility allowance, and any other non-optional fees when calculating gross rent; OR
  2. Obtain an estimate similar to creating a utility allowance, in which the average rates are compared for at least three (3) of the primary insurance providers in the area. The annual estimate for renter's insurance should be divided by twelve (12) to reach a monthly estimate. The monthly renter's insurance allowance estimate must be added to the tenant-paid rent portion, tenant-based rental assistance, the utility allowance, and any other non-optional fees when calculating gross rent. As with utility allowances, an updated estimate must be created annually.

     IHCDA strongly recommends that owners do not mandate renter's insurance. Rather, owners should include clear language in the lease explaining that the property is not responsible for damage to the household's belongings and recommending that tenants seek out renter's insurance as they see fit.

- **Prohibited Fees**
  The following fees may not be charged, regardless of whether or not they are included in the gross rent calculation:

  1. Fees for work involved in completing the Tenant Income Certification and other program specific documentation. The owner cannot charge the applicant or tenant for costs incurred to receive or complete income verification forms. If there is a fee associated with obtaining verification, the owner may choose to pay the fee or may instead use a different source of verification.

  2. Fees for preparing a unit for occupancy. The recipient is responsible for maintaining all units in a manner suitable for occupancy at all times. If a tenant is to be charged decorating, cleaning, or repair fees, the recipient must document the file with photos of the damage to prove that the unit is in condition beyond normal expected wear and tear. Charges cannot exceed the amount actually spent on repair. IHCDA will expect to see documentation in the tenant file as to the nature of the damage, including photos and receipts for the repair work.

     This requirement is not only a program requirement, but also a requirement under Indiana Code 32-31-7-6 which states that "at the termination of a tenant's occupancy, the tenant shall deliver the rental premises to the landlord in a clean and proper condition, **excepting ordinary wear and tear expected in the normal course of habitation of a dwelling unit."**

  3. The recipient may not charge pet deposits or fees for service/therapy animals. See Part 4.2B for additional information.

F. Section 8 Rental Assistance

For tenants residing in units with project-based Section 8, the current 50059 showing the amount of rental assistance must be included in the file. For tenants residing in units with tenant-based Section 8, the original HAP contract and all HAP amendments must be included in the file.

(See Part 3.2 C for information on calculating rent limits with tenant-based rental assistance and Part 3.2 B for information on calculating rent limits with project-based rental assistance.)

Part 3.3 Utility Allowances

A. General Information

The maximum gross rent includes an allowance for tenant-paid utilities. Utilities include heating, air-conditioning, water heating, cooking, other electricity, water, sewer, oil, gas, and trash, where applicable. Utilities do not include telephone, cable television, or internet. *NOTE: HUD Form HUD-52667 "Allowances for Tenant-Furnished Utilities and Other Services" includes line items for range/microwave and refrigerator. These items only need to be included in the utility allowance calculation if they are not included in the unit (i.e. if the tenant must furnish their own appliances).

When utilities are paid directly by the tenant (as opposed to the recipient or development), a utility allowance must be used to determine maximum allowable rent. To qualify as part of the utility allowance, the cost of any utility (other than telephone, cable television, or internet) must be paid directly by the tenant(s), and not by or through the owner of the building. If the owner or a third-party separately bills the tenant for a utility, the payment designated for the utility must be considered rent and may not be included in the utility allowance. The utility allowance (for utility costs paid by the tenant) must be subtracted from the rent limit to determine the maximum allowable tenant-paid rent.

For example:

If the rent limit on a unit is $350 and the tenant pays utilities with a utility allowance of $66 per month, the maximum allowable rent chargeable to the tenant is $284 ($350 minus $66).

If all utilities are included in the household's rent payment, no utility allowance is required.

B. Approved Utility Allowance Sources

The following list contains the different sources of utility allowances allowable for program units:

1. **Rural Development Financed Developments**: Must use the applicable USDA Rural Development approved utility allowances. If a development has both RD and HUD financing, use the RD approved utility allowance.

2. **HUD Development Based Subsidy Regulated Buildings (i.e. Project-Based Rental Assistance):** Must use the applicable HUD approved utility allowances. However, if a development has both RD and HUD financing, use the RD approved utility allowance instead.

3. **HUD Assisted Units (Tenant-Based Rental Assistance):** For those individual units occupied by residents that receive HUD tenant based rental assistance (e.g. a Section 8 voucher), must use the applicable HUD utility allowance as given by the Public Housing Authority (PHA) administering the rental assistance. However, if a development has both RD and HUD assistance, use the RD utility allowance. ***NOTE: The 2013 HOME Final Rule removes the option of using the PHA Chart for HOME-assisted units. However, the implementation of this rule has been delayed pending additional guidance from HUD.**

4. **Buildings without Rural Development or HUD assistance**: Buildings without RD or other HUD assistance may use any of the following utility allowance options:

- Use the applicable local PHA utility allowance (*CAUTION: See note under Option #3 above for HOME-assisted units);
- Use the county specific utility allowance schedule from IHCDA's website (http://www.in.gov/ihcda/3102.htm);
- Options 5, 6, or 7 as described below.

5. **Energy Consumption Model:** Upon request, IHCDA will approve a utility allowance estimate for a development based on actual tenant consumption (utility usage) data. Requests for an Energy Consumption Model Estimate must be made via the letter entitled "Approval Request Letter- Energy Consumption Model" (available in Appendix E). Along with the request letter, the owner must complete and submit the "IHCDA Tenant Usage Data Form" (available in Appendix E). This usage data form must include information for 30% (rounded up) of the units of each unit type (flat or townhome) for each bedroom size. (Note: There are two separate usage data forms for flats and townhomes). The usage data must contain a full twelve (12) months of consumption. The usage data forms may be completed by the owner, management agent, or an approved qualified engineering/professional firm on behalf of the owner (see Option #7 below for more information on using approved engineers).

   To be included in the estimate, a unit must have at least forty-four (44) weeks of continuous consumption data (i.e. the unit cannot have been vacant for more than 8 weeks of the year). The consumption data can be no more than sixty (60) days old. Additionally, the owner must submit verification of the tax rate for the county in which the development is located.

   Example: A development has 48 low income units with 20 one bedroom units and 28 two bedroom units. The sample must include 30% of the one bedroom units (6 units) and 30% of the two bedroom units (9 units rounded up from 8.4).

   For new construction developments or renovated buildings with less than twelve (12) months of consumption data available, IHCDA will allow consumption data for the twelve (12) month period of units of similar size and construction in the geographic area in which the new development is located. The existing development that will be used for the comparison must be located in the state of Indiana and must be in the same climate zone as the development for which the estimate is being done. Please reference the Climate Zone Map in Appendix E. Once the project achieves 90% occupancy for ninety (90) consecutive days, the owner is required to resubmit usage data to IHCDA using the actual units in the development.

   The request must be made sixty (60) days prior to the expiration date of the current effective utility allowance. The fee for IHCDA to review and approve the model is $75 annually per development. Once IHCDA approves the estimate, the utility allowance(s) will be effective for one year from the date stated on the IHCDA Approved Utility Allowance Estimate letter.

   Note: Developments with non-corrected compliance issues will not be eligible to use this option until the outstanding issues have been corrected.

6. **HUD Utility Schedule Model**: The owner may calculate utility allowances using the HUD Utility Model found at http://www.huduser.org/resources/utilmodel.html. Both the model and the supporting documentation used in the model must be submitted to IHCDA for approval prior to implementation, along with the letter entitled "Approval Request Letter- HUD Schedule Model" available in Appendix E. The request must be made sixty (60) days prior to the expiration date of the current effective utility allowance. Once approved, the utility allowance(s) will be good for one year from the date of IHCDA approval. The fee for IHCDA to review and approve the model is $75 annually per development.

   Note: Developments with non-corrected compliance issues will not be eligible to use this option until the outstanding issues have been corrected.

7. **IHCDA/Qualified Engineer Estimate:** The owner may use an independent licensed engineer or qualified professional approved by IHCDA to calculate a utility estimate model. A list of approved engineers/professionals will be maintained on IHCDA's website. The qualified professional and the building owner must (1) be approved by IHCDA and (2) not be related to the development owner as defined in Internal Revenue Code Section 267(b) or 707(b). To become IHCDA approved, the engineer/ qualified professional must submit the "Application for Approved Utility Allowance Provider" (available in Appendix E).

   The estimate must take into account local utility rates, property type, climate, and degree-day variables by region in the state, taxes and fees on utility charges, building materials, and mechanical systems. Considerations under "property type" should include the types of appliances, building location, building orientation, and unit size. (Alternatively, the qualified engineer may create an allowance using actual consumption data as described in Option #5 above).

   The model and supporting documentation must be submitted to IHCDA for approval prior to implementation, along with the letter entitled "Approval Request Letter- Qualified Engineer Estimate" (available online in Appendix E). The request must be made sixty (60) days prior to the expiration date of the current effective Utility Allowance. Once approved, the utility allowance(s) will be good for one year from the date of IHCDA approval. The fee for IHCDA to review and approve the model is $75 annually per development.

   Note: Developments with non-corrected compliance issues will not be eligible to use this option until the outstanding issues have been corrected.

C. Updating Utility Allowances

To remain in compliance, recipients must utilize the correct and most current utility allowance in order to properly determine unit rents. An increase in the utility allowance will increase the gross rent and may cause the rent to be greater than the maximum allowable rent, in which case the tenant-paid rent portion must be lowered. When a utility allowance changes, rents must be refigured within ninety (90) days of the effective date of the change. Utility allowances need to be reviewed and updated as follows:

- When the rents for a development or building are changed or there is a change in who pays the utilities;
- Within ninety (90) days of an allowance update by IHCDA, HUD, Rural Development, the local PHA, or local utility supplier;
- Within ninety (90) days of a change in the applicable allowance (e.g., a tenant begins receiving Section 8 rental assistance and the applicable PHA approved utility allowance must now be used for that unit); or
- Within ninety (90) days of the effective date of the IHCDA/Qualified Engineer Estimate, HUD Utility Schedule Model, or Energy Consumption Model. All of these allowance types must be updated at least annually.

Section 4: Compliance Regulations

The following section highlights some of the statutory and regulatory provisions directly affecting compliance. **However, this is not meant as an exhaustive listing of compliance regulations (see the Preface and Disclaimer on Page 1).**

Part 4.1 Rules Governing the Eligibility of Particular Tenants and Uses

A. Vacant Units

Vacant units formerly occupied by qualified low-income households may continue to be treated as occupied by a qualified low-income household for purposes of the set-aside requirements, provided that reasonable attempts were or are being made to rent the unit. Management must document that reasonable attempts are being made to rent vacant units to qualified households.

Units cannot be left permanently vacant and still satisfy the requirements of the program. Additionally, vacant units must remain suitable for occupancy and cannot be cannibalized for parts. IHCDA reserves the right to question vacancies that are noted during physical inspection, file monitoring, or Annual Owner Certification review, especially when there is a high quantity of vacancies or when units have been vacant for longer than ninety (90) days. The owner or manager must be able to document attempts to rent the vacant units to eligible tenants.

B. Household Composition

When determining household size for purposes of implementing the correct income limits, the owner/management should never include live-in aides, unborn children, and guests (See Part 4.1 C for information on unborn children and Part 4.1 D for information on live-in aides).

The household has the right to decide whether or not to include individuals permanently confined to a hospital or nursing home as a household member. If the individual is included as a household member, his/her income must be certified and included.

Military members away on active duty are only counted as household members if they are the head, spouse, or co-head or if they leave behind a spouse or dependent child in the unit.

All other individuals, including temporarily absent family members (e.g. dependents away at school, etc.) foster children and adults, and children in joint custody agreements that are in the unit at least 50% of the time, must be included in household size for purposes of determining the applicable income limit.

Household composition may change after the initial tenant(s) moves into a unit. However, at the time of application an applicant should be asked if there are any expected changes in household composition during the next twelve (12) months. If so, the composition change and any subsequent changes in estimated income should be reflected on the initial Tenant Income Certification.

C. Unborn Children and Child Custody

An owner cannot count an unborn child when determining household size and applicable income limits.

When determining household size, recipients should include children subject to a joint custody agreement, if such children live in the unit at least fifty percent (50%) of the time. However, a child may not be counted in more than one program unit for household size.

D. Live-in Care Attendants (Live-in Aides)

A live-in care attendant (a.k.a. a live-in aide) is a person who resides with one or more elderly, near-elderly, or disabled persons. To qualify as a live-in care attendant, the individual (a) must be determined to be essential to the care and well being of the tenant, (b) must not be financially obligated to support the tenant, and (c) must certify that he/she would not be living in the unit except to

provide the necessary supportive services. While some family members may qualify, spouses can never be considered a live-in care attendant since they would not meet qualifications (b) or (c). Additionally, the live-in aide cannot move a spouse, child, or other member into the unit, as doing so would indicate that the aide is living in the unit for reasons other than the care of the tenant.

A live-in care attendant is not counted as a household member for purposes of determining the applicable income limits, and the income of the attendant is not counted as part of the total household income. The need for a live-in care attendant must be certified with documentation from a medical professional (e.g. a letter from the tenant's doctor) and included in the tenant file. The owner may verify whether the live-in care attendant is necessary only to the extent to document that the applicant/tenants has a need for the requested accommodation. The owner may not require applicants/tenants to provide access to confidential medical records, to submit to physical examination, or to disclose specific information about the nature of their disability.

If the qualified tenant vacates the unit, the attendant must vacate as well. If an attendant would like to be certified as a qualified tenant and remain in the unit, normal certification procedures must be performed and the individual must meet the applicable eligibility requirements of the program.

While the live-in care attendant is not considered a household member, he/she is still subject to criminal background checks (as per the tenant selection criteria effective at the property) and must comply with tenant house rules. A recipient may deny a live-in care attendant that does not pass criminal background checks or evict an attendant who exhibits behavior that is disruptive, illegal, or endangering to other tenants, as defined in the tenant selection criteria and lease.

Sample forms to verify and document a live-in care attendant are available in Appendix B (see Forms 11 and 12).

E. Foster Children/Adults

Per HUD Handbook 4350.3 Change 4 (released in 2013), foster children and adults are now considered household members for purposes of determining income limits.

Since the release of HUD Handbook 4350.3 Change 3 it has been required that the earned and unearned income received by foster adults, and the unearned income received by foster children, must be included in the calculation of total household income. Thus, foster adults and children are treated in the same manner as other household adults and children. However, the full amount of income a household receives for the care of foster children and adults is excluded from the calculation of total household income.

F. Special Needs Populations

The recipient may have committed in writing to set aside a percentage of total units to qualified tenants who meet the State's definition of "special needs population" (as provided in IC 5-20-1-4.5) and must equip each unit to meet a particular person's need at no cost to the tenant. Special needs populations include:

- Persons with physical or development disabilities
- Persons with mental impairments
- Single parent households
- Victims of domestic violence
- Abused children
- Persons with chemical addictions
- Homeless persons
- The elderly

Required Documentation:

1. The owner and a qualified organization that provides and has the capacity to carry out services for the special needs population must enter into an agreement (signed by all parties) acceptable to the Authority in its sole discretion whereby the recipient agrees to: (a) set aside a number of units for the special needs population and (b) notify the qualified organization when vacancies of the set-aside units occur at the development. The qualified organization must agree to: (a) refer qualified households to the development and (b) notify households of the vacancies of the set-aside units at the development. This is called the "referral agreement."

   The owner may enter into multiple referral agreements throughout the Affordability Period. Furthermore, referral agreements may expire or terminate, as long as at least one active referral agreement with a qualified service provider is in place at all times. IHCDA encourages developments to annually evaluate the affordability and demographic demands of the special needs population in their market area in order to identify potential qualified entities that may provide additional referrals. IHCDA will request to see a copy of current referral agreements when conducting file audits.

2. The resume of the organization providing services for the special needs population (resume must demonstrate ability to provide services).

3. The files of those tenants who qualify as a special needs population must include documentation to show that the unit is meeting the special needs set-aside. For those tenants referred to the development by the qualified service organization, a copy of the referral should be placed in the file. For special needs tenants who were not referred to the development by the qualified organization, the tenant should self-certify that he/she meets the definition of special needs population. However, for persons with disabilities management may not inquire into the specific nature of the special need (for example, management cannot ask the tenant details about their disability- see Part 5.3B for more guidance).

4. When reporting tenant events through the Indiana Housing Online Management website, the owner/management must designate which units meet the special needs population set-aside.

5. For information on marketing accessible units or units designated for special needs populations, see Part 4.2F.

G. HOME Student Rule

The 2013 HOME Final Rule updated the definition of housing to exclude dormitories and all types of student housing, not just student dormitories. The 2015 HUD Applicability Chart clarified that this rule applies retroactively to all HOME-assisted properties not just those funded after implementation of the Final Rule. Therefore, for all HOME-assisted units the HOME program now adopts the Section 8 program restrictions on student participation found at 24 CFR 5.612.

These restrictions do NOT apply to CDBG, CDBG-D, or NSP assisted units.

If a household contains an adult student enrolled in an institute of higher learning who is under age twenty-four (i.e. age 18-23), then the household must meet an exemption to qualify for HOME assistance. **This is true whether the student is full or part-time**.

If the student meets one of the following criteria, then the household is eligible:

1. Student is a dependent of the household;
2. Student is a veteran of the United States Military;
3. Student is married;
4. Student is a parent with dependent child(ren);
5. Student a person with a disability that was receiving Section 8 assistance prior to 11/30/05;
6. Student can prove independence from his or her parents based on the following:
   A. Of legal contract age under state law; AND
   B. Has established a separate residence from parents (not counting a dormitory or student housing) for at least one year, or meets the US Department of Education definition of independent which includes an individual who was an

orphan or ward of the state through age eighteen (18), is living with a legal dependent, or is a graduate or professional student; AND

C. Is not claimed on parents' tax returns; AND

D. Parents must certify whether or not they provide financial assistance (this does not affect student eligibility but could affect income eligibility).

6. If none of the above applies, the household can qualify if the student's parents are income-eligible under the HOME income limits for the county in which they live.

A. If the parents are divorced or separated, get a declaration from both parents.

B. If the parents refuse to provide declaration of income and/or statement of whether or not they provide financial assistance, then the household is not eligible.

Households that do not meet this requirement are not eligible to move into a HOME-assisted unit. If a household that is already occupying a HOME-assisted unit later becomes student ineligible, then that household is treated as an over-income household as described in Part 3.2D of this manual.

At initial certification and annual recertification, each adult household member must complete a Student Status Self-Certification for HOME (IHCDA Compliance Form #36) to certify student status. If the household invokes the student rule and claims to meet an exception, management must obtain proof that the household qualifies and document the file.

Part 4.2 Nondiscrimination

A. Fair Housing and Equal Access: Protected Classes and Required Actions

1. Protected Classes and Prohibited Activities under Fair Housing and HUD's Equal Access Rule

The owner or agents of the owner shall not discriminate in the provision of housing on the basis of race, color, sex, national origin, religion, familial status, or disability [the seven (7) protected classes under the Fair Housing Act]. Nondiscrimination means that owners cannot refuse to rent a unit, provide different selection criteria, fail to allow reasonable accommodations or modifications, evict, or otherwise treat a tenant or applicant in a discriminatory way based solely on that person's inclusion in a protected class. Owners may not engage in steering, segregation, false denial of availability, denial of access to services or amenities, discriminatory advertising, or retaliation against individuals that make fair housing complaints.

Effective March 5, 2012, all HUD funded properties (including HOME/CDBG/CDBG-D/NSP funding) are subject to the rule entitled "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity." According to this rule, HUD-assisted properties must make housing available without regard to actual or perceived sexual orientation, gender identity, or marital status. Additionally, HUD-assisted housing providers are prohibited from inquiring about the sexual orientation or gender identity of applicants and occupants for the purpose of determining eligibility for housing. For purposes of this rule, the term "gender identity" means actual or perceived gender-related characteristics and the term "sexual orientation" means homosexuality, heterosexuality, or bisexuality.

2. Required Actions

Upon project entry, households living in program units must be given the Fair Housing brochure entitled "Are You a Victim of Housing Discrimination." The household must sign documentation acknowledging the receipt of this brochure at time of move-in, and this receipt must be maintained in the household's file. Additionally, all recipients are required to post the Fair Housing and Equal Opportunity poster onsite in the leasing office and/or other common area.

All projects with five (5) or more program-assisted units must have an Affirmative Fair Housing Marketing Plan (AFHMP) using HUD Form 935.2A and a copy of the approved plan must be submitted to IHCDA prior to release of funds. In addition, Affirmative Fair Housing Marketing Plans must be evaluated at least once every five (5) years and updated according to the policies of the Fair Housing and Equal Opportunity Office of the Department of Housing and Urban Development (HUD). All updated Affirmative Fair Housing Marketing Plans must also be submitted to IHCDA. See Part 2.2 L for more information.

All owners, managers, and staff members should be familiar with both state and federal civil rights and fair housing laws. IHCDA strongly encourages recipients and management companies to provide Fair Housing and Equal Opportunity training for all staff, including maintenance staff, associated with any property. Staff should attend a Fair Housing and Equal Opportunity training at least once every calendar year.

IHCDA has established procedures for processing Fair Housing complaints made to IHCDA. The procedures are as follows: 1) IHCDA will forward all Fair Housing complaints to the Fair Housing and Equal Opportunity Office at HUD and also to the Indiana Civil Rights Commission for investigation and 2) IHCDA will notify the recipient and management company of such complaint. Noncompliance may result in penalties, including recapture of funds and/or suspension or debarment.

B. Fair Housing: Reasonable Accommodations and Modifications

The Fair Housing Act requires owners to make reasonable accommodations and modifications when necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. For purposes of the Fair Housing Act, disability is defined as a person who has/is:

- A physical or mental impairment which substantially limits one or more of such person's major life activities; or
- A record of having such an impairment; or
- Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act).

The owner may verify the disability only to the extent necessary to document that the applicant/tenants has a need for the requested accommodation. The owner may not require applicants/tenants to provide access to confidential medical records or to submit to physical examination. The owner may not specifically ask for or verify the nature and extent of the disability. The verification form used must be signed by the applicant/tenant to authorize release of such information and should request that the source identify (1) whether the applicant meets the definition of disabled as provided above and (2) whether the requested accommodation or modification relates to the person's specific needs. Receipt of Social Security disability payments is adequate verification of an individual's disability status, but the correlation between the disability and the requested accommodation or modification may still need verified.

1. Reasonable Accommodations and Service Animals

A reasonable accommodation is a change, exception, or adjustment in rules, policies, practices, or services when such a change is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common spaces. Per the Fair Housing Act, a recipient must allow a reasonable accommodation unless doing so will be an undue financial burden or fundamentally alter the nature of the provider's operations. When a reasonable accommodation will result in an undue financial burden, the owner must provide all other accommodations up to the point at which further accommodations will result in the undue financial burden. For more information on reasonable accommodation, refer to the HUD and Department of Justice (DOJ) Joint Statement "Reasonable Accommodations Under the Fair Housing Act" released May 17, 2004 (available in Appendix G).

A common type of reasonable accommodation involves service animals. IHCDA uses the term service animals in this manual to broadly describe a category that also includes therapy animals, companion animals, emotional support animals, and assistance animals. These types of animals are not pets and therefore must be permitted even in "no-pet" housing, assuming that the individual has requested an accommodation to the "no-pet" rule and that the need for the service animal can be verified. In addition, the owner cannot charge an upfront security deposit or a fee (one-time or recurring) for the service animal. However, the owner can charge the tenant the cost of repairing any damage caused by the service animal.

Another common example of reasonable accommodation is a live-in care attendant / live-in aide. For more information on this topic, see Part 4.1D.

2. Reasonable Modifications

A reasonable modification is a change to the physical structure of the premises when such a change is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common spaces. Per the Fair Housing Act, a recipient must allow a reasonable modification at the expense of the tenant. However, if the changes needed by the tenant are ones that should have already been included in the unit or common space in order to comply with design and construction accessibility standards, then the recipient will be responsible for paying for the modifications. For more information on reasonable modification, refer to the HUD and Department of Justice (DOJ) Joint Statement "Reasonable Modifications Under the Fair Housing Act" released March 5, 2008 (available in Appendix G).

3. Internal Procedures and Documentation

IHCDA strongly advises all recipients to have a written policy describing how they will handle requests for reasonable accommodations and modifications. The main steps are outlined below. In this context, "recipient" means the person receiving the request for a reasonable accommodation or modification, most likely the onsite management agent.

i. Resident or a family member or someone else acting on the resident's behalf makes a request for an accommodation or modification. A request can be made either orally or in writing. If this request is made orally, the recipient should document the nature of the request and the date and time received.
ii. Recipient verifies the need only if (1) the disability is not obvious, (2) if unsure if the disability is permanent or temporary, and/or (3) if unsure how the request relates to the need (i.e. does not understand correlation between the person's needs and the request made). The form used to request verification cannot ask specific information about the nature of a person's disability. The purpose of verification is to verify only that the person does meet the Fair Housing Act definition of disability and that the requested accommodation or modification is necessary for that person's equal opportunity to enjoy and use the housing.
iii. If verification supports the need, then the recipient must take the necessary steps to provide the accommodation or modification. An undue delay is noncompliance and is treated in the same manner as a denial.
iv. If verification does not support the need, then the recipient should schedule an interactive meeting with the resident to request clarifications and attempt to achieve a mutually acceptable resolution of the issue. The recipient should carefully explain the concerns or questions related to the request and, if applicable, why the request is being denied
v. Document the tenant file with all related information.

C. General Public Use

Under IHCDA requirements, low-income units must be available for use by the general public. Recipients are allowed to establish preferences for certain population groups (e.g. homeless individuals, persons with disabilities, the elderly, etc.). These preferences, however, must not violate HUD's anti-discrimination policies, must be documented in the tenant selection criteria, and must be approved by IHCDA.

In addition, if a residential rental unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for funding.

Furthermore, recipients cannot refuse to accept a prospective tenant based solely on the fact that he or she holds a Section 8 rental voucher or certificate.

D. General Occupancy Guidelines/ Household Size

IHCDA does not impose any requirements governing minimum or maximum household size for a particular unit or rules on when children are no longer able to share bedrooms. However, recipients must comply with any applicable local laws, regulations, and/or financing requirements (e.g. if Rural Development, use RD regulations). IHCDA advises all owners and their agents to be consistent when accepting or rejecting applications. Occupancy guidelines or requirements should be incorporated into the development's written tenant selection policy management plan. Management should be aware of occupancy standards set by federal, state, HUD,

PHA, civil rights laws, tenant/landlord laws, and municipal code that may establish a maximum or minimum number of persons per unit.

Note: State and/or local code may dictate when children/siblings are no longer able to share a bedroom.

For guidance on determining household size, see Part 4.1 B.

E. Tenant Selection Criteria

There are no federal, state, or IHCDA regulations regarding criminal or credit background checks, landlord references, or a minimum income necessary for occupancy. Implementation of these selection criteria is entirely up to owner/management discretion, so long as the screening criteria are applied equally to all applicants.

Additionally, there are no current regulations governing citizenship requirements for assisted-units. Since the Fair Housing Act does not prohibit discrimination based solely on citizenship status, recipients may ask applicants to provide documentation of citizenship or immigration status as part of the screening process. If the recipient chooses to implement such a policy, the screening criteria must be established in writing and applied in a uniform, nondiscriminatory fashion. Owners should be aware that other housing programs (such as Section 8, other HUD programs, or RD programs) may have stricter citizenship requirements that must be followed if the project has additional funding sources.

Because many of these tenant selection criteria are left up to the discretion of the owner, it is important for each development to have an established Tenant Selection Criteria Policy in writing. This document should be made available to all applicants and tenants.

At a minimum, a good Tenant Selection Criteria Policy should include the following:

- Occupancy standards in effect (how many tenants can live in a unit based on size of the unit);
- Program eligibility factors, including income limits and student status eligibility (for HOME-assisted units);
- Any minimum income requirements imposed by management;
- Any citizenship requirements imposed by management;
- Specifics on the information that is analyzed when performing credit checks, criminal background checks, and previous landlord references. Management should clearly spell out what findings constitute a rejection of application (e.g. do certain criminal charges or a certain credit score automatically disqualify the household?);
- Explanation of the application and waiting list process, including a process through which an applicant is notified in writing of rejection and can then choose to appeal the rejection decision;
- Explanation of the transfer policies in effect;
- Breakdown of any special preferences set aside at the project (e.g. units reserved for special needs populations or a Housing for Older Persons age restriction on the project); and
- List of any other relevant items used in considering the household's eligibility for occupancy

When creating a development's Tenant Selection Criteria Policy, the owner must be careful to follow all applicable eligibility regulations, Fair Housing regulations, and local occupancy standards.

With the exception of accessible or special needs units (see Part F below), all units should be leased on a first-come first-served basis with tenants selected in chronological order from the waiting list.

F. Marketing Accessible Units

At initial lease-up, accessible units should be marketed to persons with disabilities requiring an accessible unit. For ongoing leasing, the following order should be followed for marketing the accessible units:

1. First offer accessible units to existing occupants that require accessibility features but are currently occupying a unit that does not offer such features.
2. Next offer accessible units to qualified applicants on the waiting list that require accessibility features.
3. Market the unit to attract new disabled applicants.
4. Finally, offer the unit to a non-disabled person on the waiting list. If this is done, the tenant should understand that he or she may later be asked to transfer to another comparable but non-accessible unit if the accessible unit is needed by a disabled person. While the tenant may have to transfer if there is a vacant unit, he or she would not be evicted or otherwise terminated to make room for a disabled household. This agreement should be incorporated into the lease.

Note: Projects with units designated for special needs populations must enter into a referral agreement with at least one local agency that serves that population. Additional information on special needs units and referral agreements can be found in Part 4.1F.

G. Violence Against Women Reauthorization Act of 2013 (VAWA 2013)

The 2013 reauthorization of the Violence Against Women Act (VAWA) expanded the act's coverage to include projects funded through HOME/CDBG/NSP.

1. Prohibited Denial/Termination

No applicant for or tenant housing may be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

2. Construction of Lease Terms

The owner/manager shall ensure that an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:

- A serious or repeated violation of a lease by the victim or threatened victim of such incident; or
- Good cause for terminating the assistance, tenancy or occupancy rights to housing of the victim of such incident.

3. Termination on The Basis of Criminal Activity & Bifurcation of Lease

No person may deny assistance, tenancy, or occupancy rights to an applicant or tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking. Notwithstanding the foregoing, the owner and/or manager may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing. The owner and or manager must provide any remaining tenants with an opportunity to establish eligibility and a reasonable time to find new housing or to establish eligibility.

4. Confidentially of Tenant Information Related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking

The owner shall ensure that any information submitted to the staff, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is:

- Requested or consented to by the individual in writing;
- Required for use in an eviction proceeding against any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking; or
- Otherwise required by applicable law.

5. Required Notices

HUD may develop a notice of the rights of individuals under ("VAWA") including the right to confidentiality and the limits thereof. The owner agrees to ensure that this notice is utilized and disseminated at the project as directed by HUD and/or IHCDA when information is available.

6. Emergency Transfers

HUD shall provide guidance regarding a model emergency transfer plan that allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling unit. Owner agrees to ensure that any guidance developed will be utilized as directed by HUD and/or IHCDA.

H. Housing for Older Persons

The Housing for Older Persons Act of 1995 (HOPA) exempts certain types of "housing for older persons" from the Fair Housing Act's prohibitions against discrimination because of familial status.

Therefore, projects may be designated as housing for older persons (as defined in the project's Application and recorded Declaration/Lien) in one of the following ways and not be in violation of Fair Housing:

1. 100% of the units are restricted for households in which all members are age 62 or older (see 24 CFR Part 100.303); or

2. At least 80% of the units in the entire development are restricted for households in which at least one member is age 55 or older. The remaining 20% of the units may also be restricted for households in which at least one member is 55 or older, may have a lower age restriction, or may be left open without any age restrictions. This determination is left up to the owner. The policy elected by the owner in regards to the remaining 20% of the units must be implemented equally for all applicants and must be placed in writing as part of the development's Tenant Selection Criteria Policy. In addition, the remaining portion of units not counted for purposes of meeting the 80% requirement may not be segregated within the community or facility.

   HUD has noted that phrases such as "adult living," "adult community," or similar statements should not be used to market developments that fall under the 80% at 55 requirements. Rather, the property should be more specifically advertised as senior housing for households in which at least one household member is 55 years of age or older. Moreover, the owner may not evict or terminate the leases of families with children or other individuals under the age of 55 in order to achieve the elderly occupancy requirements on the 80% of the units.

   For more information on the 80% at 55 restrictions, see 24 CFR Part 100.304 through 100.308. This regulation is also available as "Implementation of the Housing for Older Persons Act of 1995; Final Rule" located in the Federal Register, Vol. 64 No. 63 from April 2, 1999. This document is included in Appendix H.

A project's housing for older persons restrictions should be clearly defined in the Application and recorded Declaration/Lien, and the owner must follow the restrictions defined therein. If a project receives federal funding from HUD or USDA, the owner should check those regulations for other potential elderly housing guidelines. Units in HUD and RD elderly housing generally can be occupied by households that meet the age requirements or that are disabled. Disabled households do not qualify for elderly restricted units in HOME/CDBG/NSP housing unless they also meet the age restrictions. When HOME/CDBG/NSP-assisted units are mixed with HUD or RD elderly housing, the HUD or RD definitions should be followed.

I. Meaningful Access for Persons with Limited English Proficiency

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write or understand English ("limited English proficiency persons" or "LEP") may be entitled to language assistance under Title VI of the Civil Rights Act of 1964 in order to receive a particular benefit or service. In accordance with Title VI, its implementing regulations and Executive Order 13166, the recipient must agree to take reasonable steps to ensure meaningful access by LEP persons to activities funded with federal funds.

Any of the following actions could constitute "reasonable steps" depending on the circumstances. This is not, however, an exhaustive list of possible actions:

- Acquiring translators to translate vital documents, advertisements, or notices
- Acquiring interpreters for face-to-face interviews with LEP persons;
- Placing advertisements and notices in newspapers that serve LEP persons;
- Partnering with other organizations that serve LEP populations to provide translation, interpretation, or dissemination of information regarding the project;
- Hiring bilingual employees or volunteers for outreach and intake activities; or
- Contracting with a telephone line interpreter service.

J. Religious and Faith-Based Organizations

1. Equal Treatment and Religious Identity

Organizations that are religious or faith-based are eligible to participate in the CDBG and HOME programs on the same basis as any other organization. A religious organization that participates in the CDBG or HOME program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG or HOME funds to support any inherently religious activities(such as worship, religious instruction, or proselytization) and does not discriminate against program participants on the basis of religion or religious belief.

Among other things, faith-based organizations may use space in their facilities, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, a CDBG or HOME-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

2. **Beneficiaries and Anti-Discrimination**

The organization may not discriminate against program participants or potential program participants (e.g. tenants, homeowners, or applicants) on the basis of religion, religious belief, the refusal to hold a religious belief, or the refusal to attend or participate in a religious practice.

3. Separation of Explicitly Religious Activities

Organizations that are directly funded under the CDBG or HOME program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the assistance. If an organization conducts such activities, the activities must be offered separately, in time or location, from the assistance funded under this part, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries.

4. Alternative Provider

If a program participant or potential program participant objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonably prompt time after the objection, undertake reasonable efforts to identify and refer the program participant to an alternative provider to which the participant has no objection. Except for services provided by telephone, internet, or similar means, the referral must be to an alternate provider in the reasonable geographic proximity to the organization making the referral. In making the referral, the organization shall comply with applicable privacy laws and regulations. Recipients shall document any such objections from program participants and prospective program participants and any efforts made to refer such objecting participants to alternate providers.

5. Structures

Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for explicitly religious activities. Program funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting program eligible activities. When a structure is used for both program eligible and explicitly religious activities, program funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.

Part 4.3 HOME/CDBG/NSP-assisted Units in Tax Credit Developments

A Section 42 Rental Housing Tax Credit (RHTC) development may also receive HOME/CDBG/CDBG-D/NSP funds, resulting in a certain number of units reserved as both tax credit and HOME/CDBG/CDBG-D/NSP assisted units. Units that are under multiple funding programs must follow the compliance rules of both programs. As a general rule of thumb, when program compliance regulations differ, the recipient should follow the stricter of the two, though in some cases the rules are completely different and both sets must be applied.

The following is a sampling of common issues management may face when combining tax credits with federal funding. This is not meant as an exhaustive listing. For more information on IHCDA's tax credit compliance regulations, please refer to the current edition of the *Indiana Rental Housing Tax Credit Compliance Manual*.

A. Mixed Funding: Rent and Income Limits

1. HOME/CDBG/CDBG-D/NSP and RHTC rent and income limits may be different within the same county for the same year. IHCDA releases a separate set of limits for each program. For a unit under multiple programs, management must check against all sets of income and rent limits to ensure compliance with all funding programs.

2. Section 42 does not include rental assistance in the gross rent calculation. For HOME/CDBG/CDBG-D/NSP assisted units, tenant-based rental assistance is included in the gross rent calculation. For purposes of determining whether a program assisted unit is in compliance with the rent limits, the sum of the tenant-paid rent portion + tenant-based rental assistance + utility allowance + non-optional fees must be at or below the applicable HOME/CDBG/CDBG-D/NSP rent limit.

B. Mixed Funding: Certifications and Verifications

1. 100% tax credit projects do not have to perform annual income recertifications. However, those units that are also HOME-assisted must have a full annual recertification to comply with IHCDA's program requirements. Annual income recertifications do not apply to CDBG/CDBG-D/NSP assisted units unless the unit is also HOME-assisted.

2. The tax credit program allows household self-certification for assets if the total combined value of assets is less than or equal to $5000. The "Under $5000 Assets Affidavit" self-certification cannot be used to satisfy the verification requirements on HOME/CDBG/CDBG-D/NSP assisted units. For these units, assets must be verified through third-party.

3. In HOME/CDBG/CDBG-D/NSP, verifications are valid for six (6) months. For Section 42, verifications are only valid for 120 days. Therefore, for units subject to both programs, use the stricter tax credit rule and make sure that all verification documents are no older than 120 days as of the effective date of the certification.

4. HOME/CDBG/CDBG-D/NSP has stricter income verification requirements when tenant-provided verification is used. If paystubs are used instead of third-party employment verification, the amount of paystubs obtained must amount to a full two (2) months of consecutive pay. If tax returns are used instead of third-party verification, the tax return must be a certified copy obtained by completing IRS Form 4506 "Request for Copy of Tax Return." For units subject to both programs, apply the stricter verification requirements.

5. The passbook savings rate used to impute asset income may be different for tax credit compliance and HOME/CDBG/CDBG-D/NSP compliance. IHCDA will issue a notice each year establishing the current passbook savings rate for each set of programs.

6. When verifying income for households in HOME-assisted units, management may not rely on income statements provided by the public housing authority. However, IHCDA does allow this practice for RHTC, CDBG, CDBG-D, and NSP.

C. Mixed Funding: Household Size and Eligibility including Student Status

1. Section 42 includes unborn children when determining household size for purposes of determining the applicable income limits. However, HOME does not allow unborn children to be included as household members. If a household with an unborn child applies for a unit that is both tax credit and HOME/CDBG/CDBG-D/NSP assisted, management must demonstrate that the household is income eligible under both programs.

2. The 2013 revision to the HOME final rule added a student status requirement for all HOME-assisted units. See Part 4.1G for more information on the HOME student rule. Households applying/residing in units that are both RHTC and HOME-assisted must meet both program definitions of student status eligibility.

3. The CDBG, CDBG-D, and NSP programs do not limit occupancy by full-time students. However, for CDBG/CDBG-D/NSP assisted RHTC units, the tax credit full-time student rules apply.

D. Mixed Funding: Fair Housing and Related Nondiscrimination Requirements

1. Upon project entry, households living in all HOME/CDBG/CDBG-D/NSP assisted units must be given the Fair Housing brochure entitled "Are You a Victim of Housing Discrimination." The household must sign documentation acknowledging the receipt of this brochure at time of move-in. Although this is not a requirement of Section 42, all HOME/CDBG/CDBG-D/NSP assisted units in a tax credit development should have a signed copy of the acknowledgement located in the tenant file.

2. Any tax credit development with five (5) or more HOME/CDBG/CDBG-D/NSP assisted units must follow Affirmative Fair Housing Marketing procedures. The owner must study the local market to determine the populations that are least likely to apply for housing, and then develop a plan to make sure that marketing efforts are reaching out to these groups. The owner should evaluate the development's Affirmative Marketing plan at least once every five (5) years and update the plan if necessary. See Part 5.3 A for more information. Note: This requirement also applies to developments with TCAP.

3. Any tax credit development with CDBG funding must follow the CDBG requirement to fulfill actions to affirmatively further fair housing. This is an upfront requirement that must be completed prior to CDBG award closeout. See Part 2.2 M for more information.

4. Effective March 5, 2012, all HUD funded properties (including HOME/CDBG/CDBG-D/NSP funding) are subject to the rule entitled "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity." According to this rule, HUD-assisted properties must make housing available without regard to actual or perceived sexual orientation, gender identity, or marital status. Additionally, HUD-assisted housing providers are prohibited from inquiring about the sexual orientation or gender identity of applicants and occupants for the purpose of determining eligibility for housing.

E. Mixed Funding: IHCDA Audits

A development with tax credits and IHCDA HOME/CDBG/CDBG-D/NSP funds will be audited by IHCDA for each program. The tax credit file monitoring will occur once every three (3) years (see Part 7.6 of the *Indiana Rental Housing Tax Credit Compliance Manual* for an explanation of the tax credit monitoring cycle).

Additionally, the HOME/CDBG/CDBG-D/NSP assisted units will be audited according to the following schedule:

-If 1-4 units in the development: once every three (3) years
-If 5-25 units in the development: once every two (2) years
-If more than 25 units in the development: annually

F. Mixed Funding: Over-income Units (HOME Only)

For tax credit purposes, a unit is not considered to be an over-income unit until the household income exceeds 140% of the federal minimum set-aside election. When this occurs, the 140% Rule or Next Available Unit Rule goes into effect. See Part 5.1C of the *Indiana Rental Housing Tax Credit Compliance Manual* for more information on the Next Available Unit Rule.

For HOME purposes, a unit is considered to be over-income (and therefore a temporarily noncompliant unit) when household income exceeds 80% of AMI. Under the HOME program, households that exceed 80% of AMI are charged 30% of adjusted income as rent and special rules go into effect to replace the over-income unit.

For units that are under both programs, <u>the tax credit over-income rule overrides the HOME over-income rule. An over-income HOME household (over 80% HOME AMI) living in a tax credit unit is not subject to increased rent under the HOME over-income rules. The tenant may pay no more than the lesser of the applicable tax credit rent limit or the HOME rent limit.</u>

Note: Neither program permits eviction or termination of tenancy due to income increases, even if the household exceeds the 140% or 80% levels.

G. Mixed Funding: Lead-Based Paint Requirements

1. Households living in assisted units built prior to 1978 must be given the Lead-Based Paint brochure entitled "Protect Your Family from Lead in Your Home." The household must sign documentation acknowledging the receipt of this brochure at time of move-in. Although this is not a requirement of Section 42, households residing in HOME/CDBG/CDBG-D/NSP/TCAP assisted units in a tax credit development should have a signed copy of the acknowledgement located in the tenant file.

2. Federally funded projects built prior to 1978 are subject to ongoing compliance with lead-based paint regulations, as described in Part 4.5 C below. Tax credit properties with HOME/CDBG/CDBG-D/NSP/TCAP funding must comply with these regulations.

Part 4.4 Projects with Development Fund

The Indiana Affordable Housing and Community Development Fund ("Development Fund") was established in 1989 to provide financing options for the creation of safe, decent, and affordable housing and for economic development projects in Indiana communities. Development Fund regulations may be found in Indiana Code 5-20-4.

A. Income and Rent Restrictions

The Development Fund can be used to finance assisted units for occupancy by households up to 80% of area median income. However, Indiana Code governing the Development Fund requires that at least 50% of the dollars allocated be used to serve very low-income households (those earning less than 50% AMI). **Therefore, at least 50% of the Development Fund assisted units in a project must be designated for households at or below the 50% rent and income limits, even if for other program purposes all units are restricted at 60 at 80%**. Development Fund assisted units may target special needs populations.

When Development Fund is combined with other funding sources, those programs' income and rent limits will apply.

For purposes of rent limits, gross rent must be below the applicable rent limit. Gross rent for Development Fund is defined as the sum of tenant-paid rent portion + utility allowance + non-optional fees (the same calculation as for tax credits). Rental assistance/subsidy is not included in the gross rent calculation for purposes of Development Fund compliance.

B. Income Recertification

For purposes of income eligibility, household income must be calculated and verified at the time of initial move-in using the methodology described in 24 CFR Part 5 and in Chapter 5 of HUD Handbook 4350.3. Eligibility is based on gross income, not net or adjusted income. This is the same income certification procedure as used for the other rental programs discussed in this manual.

Development Fund assisted units are not required to complete a full annual recertification of household income, but must annually certify household size and rent.

C. Lien and Restrictive Covenants

Development Fund assisted projects will be subject to a Development Fund Lien and Restrictive Covenant Agreement ("LRCA") that must be executed and recorded against the property. When Development Fund is combined with other funding sources, the term of the Development Fund LRCA will be the applicable program's affordability period, but will not be for a period of less than fifteen (15) years.

Upon occurrence of any of the following events during the Development Fund affordability period, the entire sum secured by the lien, without interest, shall be due and payable by developer and/or owner upon demand. Repayment may be demanded upon: (1) transfer or conveyance of the real estate by deed, land contract, lease, or otherwise during the affordability period; (2) commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure, within the affordability period; or (3) determination that the assisted units are not being used as a residence by a qualifying tenant or not leased according to the program affordability requirements. The award recipient will be responsible for repaying IHCDA.

At the end of the affordability period, if the borrow/recipient has met all conditions, the lien will be released.

Part 4.5 Suitable for Occupancy

A. General Requirements and Recordkeeping

In addition to being rent restricted and occupied by qualified households, all program units and buildings must be suitable for occupancy. Owners must annually certify that all buildings and units in the project are decent, safe, and sanitary considering all applicable health, safety, and building codes. If any health, safety, or building code inspections result in a notice of violation, this must be reported. Original reports/notices of violations must be maintained as part of the recipient's recordkeeping and copies must be submitted to IHCDA along with the Annual Owner Certification of Compliance.

Vacant units must also be suitable for occupancy and cannot be cannibalized for parts. Because the owner is responsible for maintaining all units in a manner that is suitable for occupancy at all times, the cost of preparing vacant units for occupancy cannot be passed on to tenants or applicants. During the inspection process, the IHCDA inspector or contracted inspector may ask to inspect a mix of both occupied and vacant units.

Properties must meet both HUD's Uniform Physical Conditions Standards (UPCS) and local health, safety, and building codes. UPCS requires an inspection of the following inspectable areas: building exterior, building systems, dwelling units, common areas, and health/safety concerns.

For information on IHCDA's inspection process, see Part 6.4, as well as the *Physical Inspection Compliance Guide* available in Appendix F.

In addition to program specific compliance, Indiana Code 32-31-8-5 "Landlord Obligations" states:

> "A landlord shall do the following:
> (1) Deliver the rental premises to a tenant in compliance with the rental agreement, and in a safe, clean, and habitable condition.
> (2) Comply with all health and housing codes applicable to the rental premises.
> (3) Make all reasonable efforts to keep common areas of a rental premises in a clean and proper condition.
> (4) Provide and maintain the following items in a rental premises in good and safe working condition, if provided on the premises at the time the rental agreement is entered into:
>
> > (A) Electrical systems.
> > (B) Plumbing systems sufficient to accommodate a reasonable supply of hot and cold running water at all times.
> > (C) Sanitary systems.
> > (D) Heating, ventilating, and air conditioning systems. A heating system must be sufficient to adequately supply heat at all times.
> > (E) Elevators, if provided.
> > (F) Appliances supplied as an inducement to the rental agreement."

B. Casualty Loss

An owner that experiences a loss of unit(s) due to fire, natural disaster, or other circumstance must:

1. Inform IHCDA of the loss in writing within ten (10) days of the incident;
2. Submit a plan to IHCDA within thirty (30) days that sets a timeframe for reconstruction or replacement of lost units; and
3. Inform IHCDA when the units have been reconstructed or replaced.

Casualty loss information must be reported via the "Casualty Loss Form" available online in Appendix F. The form should be mailed to:

Indiana Housing & Community Development Authority
ATTN: Multi-Family Inspector
30 S. Meridian St., Suite 1000
Indianapolis, IN 46204

If an owner fails to report a casualty loss to IHCDA, the owner and management company may be recommended for suspension from the program.

C. Ongoing Lead Based Paint Compliance

Projects built before 1978 are subject to ongoing compliance with lead based paint regulations.

A. Owners must inform current and new occupants of the lead hazard reduction methods that took place and where lead-based paint exists in their units. The brochure entitled "Protect Your Family from Lead in Your Home" must be provided to all new occupants upon move-in. Signed documentation of the receipt of this brochure by the household must be maintained in each tenant file.
B. Owners should request, in writing, that the residents monitor lead-based paint surfaces and inform the owner of potential hazards.
C. Regular maintenance and evaluation of the lead hazard reduction must be performed. The owner is responsible for:
   i. A visual inspection of lead-based paint at unit turnover or at least annually on occupied units;
   ii. Repair of all unstable paint;
   iii. Repair of encapsulated or enclosed areas that are damaged; and
   iv. Owners must continue to comply with the notification requirements when additional lead hazard evaluation and hazard reduction activities are performed.

Section 5: Qualifying Tenants for Program Units

Potential tenants of program units should be advised early in the application process that there are maximum income limits that apply to these units. Management should explain to potential tenants that the anticipated income of all adult persons (and the unearned income of minors) expecting to occupy the unit must be verified prior to occupancy (and for HOME-assisted units annually recertified for continued eligibility).

Federal HOME regulations allow various methods of calculating annual income. However, IHCDA mandates that all recipients use the methodology found in 24 CFR Part 5.609 (often referred to as the "Section 8 methodology"). This methodology is also required for IHCDA funded CDBG/CDBG-D/NSP projects.

For additional information on determining income eligibility, refer to the following resources (both included in Appendix A):

- Chapter 5 of HUD Handbook 4350.3 *Occupancy Requirements of Subsidized Multifamily Housing Programs*
  - Section 1- Determining Annual Income
  - Section 3- Verification
  - Exhibit 5-1- Income Inclusions and Exclusions
  - Exhibit 5-2- Assets
  - Appendix 3- Acceptable Forms of Verification
- *Technical Guide to Determining Income and Allowances for the HOME Program*

Part 5.1 Tenant Qualification & Certification Process

A. Necessary Documentation for a Tenant File

Units are qualified for the program only if proper documentation verifying the household's eligibility is placed in the tenant file. **At a minimum, the following items must be located in the file and must be organized in chronological order for easy review:**

1. Initial Tenant Application for residency (sample entitled "Rental Application" is available in Appendix B);

2. Tenant Income Certification Questionnaire (see 4.2. below) completed at time of application, including certification of assets and disposal of assets if applicable. A separate Tenant Income Certification Questionnaire must be completed by each adult household member. For HOME-assisted units, new Questionnaires must be completed annually as part of the income recertification process;

3. Tenant Income Certification (see 5.1 B below) signed by each adult member of the household for every year the household resides at the property. The TIC must have proper signature and effective dates clearly stated;

4. Verifications of all sources of earned and unearned income and of all asset sources noted on the Tenant Income Certification Questionnaires. See Part 5.3 for more information on verification requirements;

5. For HOME-assisted units, a separate "HOME Student Status Certification" document completed by each adult member of the household each year, along with any additional student status verifications needed.

6. Any other documentation verifying the household's eligibility (e.g. joint custody of a child documentation, all management clarification documents, etc.);

7. Initial and subsequent leases and all lease addenda executed by the tenant and recipient;

8. Documentation of the receipt of the applicable brochures (Fair Housing & Lead Based Paint); and

9. For tenants receiving tenant-based Section 8 vouchers, a copy of the Housing Assistance Payment (HAP) Contract and the current HAP Amendment from the Section 8 agency showing the amount of rental assistance. For tenants in project-based Section 8 units, a copy of the current HUD Form 50059 showing the amount of rental assistance.

NOTE: A recertification file for CDBG, CDBG-D, or NSP units will only include the following documentation: a new Tenant Income Certification Form (using Form #39) and the new lease and all addenda. Verification of income and assets is not necessary at recertification for these programs. It is also unnecessary to complete a Questionnaire at recertification. If the unit is also tax credit or HOME-assisted, those program recertification rules will apply.

All documents included in the tenant file must be fully completed, signed, and dated. IHCDA will not accept documents that are incomplete, that have been marked with correction fluids (i.e. whiteout), or where information has been obliterated with pen or marker. See 5.1 C below for information on how to properly correct documents in a tenant file.

B. Tenant Income Certification (TIC) Form

Every tenant file must contain a Tenant Income Certification (TIC) form, regardless of whether or not that unit/tenant also has an income certification from another program in the file (e.g.. HUD Form 50058/50059 or similar RD certification forms). IHCDA's Tenant Income Certification form used for the HOME, CDBG, and NSP programs includes information that is not found on these other forms, such as program income and rent limits, the program set-aside for the unit, the certification effective dates, etc. Therefore, properties that have multiple funding sources will need to have multiple signed tenant income certification forms in their files to demonstrate compliance with each separate program. **Since 2012, IHCDA's sample HOME/CDBG/NSP TIC (Form #38 in Appendix B) is a mandatory form that must be used in all tenant files. IHCDA will no longer accept any other TIC form, unless the TIC is submitted to IHCDA and specifically approved. However, if the property is also under the Section 42 low-income housing tax credit program, the IHCDA tax credit TIC must be used instead (Form #22 in Appendix B). *NOTE: The current mandatory TIC (Form #38) is the version marked as "Revised July 2015."**

The TIC must list the IHCDA rent and income set-aside for the unit/household. Therefore, the rent and income restrictions should be listed as 30%, 40%, 50%, 60%, or 80%, not the actual AMI % of the household. For example, at time of move-in, a household may actually have income at 47% of AMI. IHCDA does not need to know this, but rather only needs to know the set-aside the household qualifies under, in this case, the 50%, 60%, or 80% limit. (*Note: Certain, but not all, CDBG-D and NSP projects may be allowed units set-aside at 120% AMI as defined in the award documents).

C. Correcting Documents

IHCDA will not accept documents that are incomplete, that have been marked with correction fluids (e.g. whiteout), or where information has been obliterated with pen or marker. To correct a document, management should draw one line through the erroneous information and write the corrected information to the side. All corrections should be dated and initialed. Corrections on forms filled out by the management should be initialed by the management agent. Corrections on forms filled out by the tenant should be initialed by the tenant. Corrections to the lease should be initialed by both parties.

If management fails to obtain the necessary paperwork at time of certification, verifications can be retroactively created to document the income and assets that were in place at the time of certification. All retroactive documents should be signed with the current date, but noted as being "true and correct statement" as of the actual certification effective date. The "true and correct statement" must be written on each form that is created or signed after the effective date. Neither tenants nor management are ever permitted to backdate documents. The recertification effective date continues on its regular annual cycle, not the date the documents were completed retroactively.

Example: Mrs. Smith is due for her annual recertification on December 20th. However, the property manager was distracted putting up holiday decorations and forgot to send out a recertification notice. Therefore, Mrs. Smith does not come in to the office to

complete her paperwork until January 2nd. Mrs. Smith should sign all paperwork with the current date (January 2nd) but should make a note at the bottom of each form stating "information true and effective as of December 20th."

D. One Form per Household or One Form per Member?

Form	1 form per household signed by all adults	1 separate form per each adult member
Tenant Income Questionnaire	-	YES
Tenant Income Certification	YES	-
All other verification documents	-	YES

Part 5.2 Tenant Application & Tenant Eligibility Questionnaire

A fully completed Application and Tenant Eligibility Questionnaire is critical to an accurate determination of tenant eligibility. The information furnished on the Application and Tenant Eligibility Questionnaire should be used as a tool to determine all sources of income, including total assets and income from assets, and student status. **Beginning March 1, 2012, IHCDA's HOME/CDBG Program Tenant Eligibility Questionnaire form (Form # 39 in Appendix B) is a mandatory form that must be used in all tenant files. IHCDA will no longer accept any other Questionnaire form, unless the Questionnaire is submitted to IHCDA and specifically approved. However, if the property is also under the Section 42 low-income housing tax credit program, the IHCDA tax credit questionnaire must be used instead (Form #23 in Appendix B).**

At the time of application, it is the management agent's responsibility to obtain sufficient information on all prospective tenants to completely process the application, determine household eligibility, and complete the Tenant Income Certification form. IHCDA requires that each adult household member complete a separate Tenant Income Certification Questionnaire at time of application, and for HOME-assisted units at each annual certification. The Tenant Application and Tenant Eligibility Questionnaire is the first step in the tenant certification process. The information furnished on the Application and Tenant Eligibility Questionnaire should be used as a tool to determine all sources of income (including total cash value of assets and income from assets), household composition, and student status.

HUD Handbook 4350.3 lists guidelines which the recipient may want to adopt for the application process. The application should include:

1. The name of each person that will occupy the unit (legal name should be given just as it will appear on the Lease and Tenant Income Certification);
2. All sources and amounts of current and anticipated annual income expected to be derived during the twelve (12) month certification period. Include assets now owned and indicate whether or not household members disposed of assets for less than Fair Market Value during the previous two years;
3. The current and anticipated student status of each applicant (for HOME-assisted units);
4. A screening process (i.e. previous landlord's rental history, credit information, etc.). Recipients should ask applicants whether the household's assistance or tenancy in a subsidized housing program has ever been terminated for fraud, nonpayment of rent, or failure to cooperate with recertification procedures;
5. The signature of the applicant and the date the application was completed. It may be necessary to explain to the applicant that all information provided is considered confidential and will be handled accordingly; and
6. Collection of demographic data: IHCDA requires the collection and reporting of the following information for all program tenants:
    - Race
    - Ethnicity
    - Sex
    - Family composition
    - Age (Date of Birth)
    - Income

- Use of Section 8 (or similar) Rental Assistance Program
- Disability Status; and
- Monthly Rental Payment

This policy requires that recipients report this demographic data for all household members, not just the head of household. The recipient must report the demographic data for each household member when reporting tenant events online.

To meet the data collection requirements, owners must annually report demographic data for all household members (each member not just the head of household) living in their developments. In order to reduce administrative burden, it is IHCDA's intent to capture all demographic information through the online reporting system as part of the Annual Owner Certification tenant event submission. Therefore, the owner must obtain demographic data for each household member and report this information when reporting tenant events online through https://ihcdaonline.com.

Part 5.3 Tenant Income Verification

The income of every prospective occupant of the unit must be verified. All regular sources of income, including income from assets, must be verified. Verifications must be received by the management agent prior to move-in. Verifications must contain complete and detailed information and include, at a minimum, direct written verification from all sources of regular income and income of assets.

A. Effective Term of Verification

Verifications of income are valid for six (6) months from the date of receipt by the owner/management and must be obtained prior to move-in or recertification effective date. After this time, if the tenant has not yet moved in or recertified, a new verification must be obtained. Verifications that are more than six (6) months old as of the effective date of the move-in or recertification event are invalid.

B. Methods of Verification

Three (3) methods of verification are permitted: **third-party verification from the source, third-party verification from the tenant ("tenant-provided documents"), and self-certification. Per the updates to HUD Handbook 4350.3, Rev-1, CHG-4 released in 2013 (see Chapter 5, Part 5-13), both verification provided from the source and tenant-provided documents (formerly referred to as second-party verification) are now equally acceptable types of third-party documentation.**

Owners/managers must set a policy on their preferred method of verification and must conduct verifications consistently for all households.

1. Third-Party Written or Verbal Verification Provided by the Source

IHCDA does not require that the owner/management agent use particular forms for third-party verifications; however, sample third-party verification forms are included in Appendix B. All requests for income verification must:

a) State the reason for the request;
b) Include a release statement signed and dated by the prospective tenant; and
c) Provide a section for the employer or other third-party source to state the applicant/tenant's current anticipated gross annual income or rate of pay, number of hours worked, and frequency of pay. Over-time hours, bonuses, tips, and commissions must be included, as well as the probability and effective date of any increase during the next twelve (12) months. Spaces should also be available for a signature, job title, phone number, and date. If forms are returned with any information incomplete, management MUST contact the source and complete a clarification form to document incomplete information.

Note: Owners must send and receive verification forms directly to/from the third-party, not through the applicant or tenant.

When written verification is not possible prior to move-in, direct contact with the source will be acceptable to IHCDA only as a last resort and should be followed by written verification. The conversation should be documented in the tenant file to include all information that would be contained in a written verification. The information must include the name, title, and phone number of the contact, the name of the onsite management representative accepting the information, and the date the information was obtained.

In addition, if the owner receives third-party verifications that are not clear or are not complete, a documented verbal clarification may be accepted if it includes the name and title of the contact, the name and signature of the onsite management representative accepting the information, and the date the information was obtained.

Furthermore, if after requesting third-party verification, the third-party indicates that the information must be obtained from an automated telephone system, the owner may document the information provided from the telephone system. The documentation must state the date the information is received, all of the information provided, and the name, signature, and title of the person receiving the information.

2. Third-Party Tenant-Provided Documents

Per HUD Handbook 4350.3, REV-1, CHG-4, tenant-provided documents are now considered third-party documents and are equally as acceptable as verification documents provided by the source. The Handbook states in Part 5-13(B)(1)(b)(1) that the owner may use:

> An original or authentic document generated by a third-party source… Such documentation may be in possession of the tenant (or applicant), and commonly referred to as tenant-provided documents. These documents are considered third-party verification because they originated from a third-party source.
>
> Examples of tenant-provided documentation that may be used includes, but is not limited to: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notes.

When using tenant-provided information, the owner must consider the following:

- Is the document current? Circumstances may have changed since the document was created.
- Is the document complete?
- Is the document an unaltered original copy? When possible documents with original signatures are the most reliable.

The following requirements apply to tenant-provided documents:

a. **Using Paystubs for Employment Verification**: If utilizing paystubs for employment verification, the recipient must obtain two (2) consecutive months of paystubs from the tenant/applicant if the job provides steady employment. If employment is sporadic or seasonal, the recipient should obtain information that covers the entire previous twelve (12) month period.
b. **Using Bank Statements:** If utilizing bank statements as asset verification, the owner must obtain the six (6) most recent statements to verify a checking account and the most recent statement to verify a savings account.
c. **Using Tax Returns for Income Verification**: If utilizing tax returns as income verification, the recipient must obtain a certified copy by completing IRS Form 4506 "Request for Copy of Tax Form."

The owner must be able to reasonably project expected income for the next twelve (12) months from the tenant-provided documents.

The owner may use information obtained electronically from fax, e-mail or the internet. A printout from a reliable source is adequate verification.

3. Tenant Self-Certification

As a last resort, the owner may accept a tenant's signed affidavit if third-party or tenant-provided verifications cannot be obtained. The recipient should try to refrain from using self-affidavits except where absolutely necessary.

If a self-affidavit must be used to verify income or asset sources, the owner is required to document the tenant file by explaining the reason third-party or tenant-provided verification could not be obtained and showing all efforts that were made to obtain verification. Per Chapter 5 of the HUD Handbook 4350.3, the following documents should be placed in the tenant file:

a. A written note to the file explaining why third-party verification is not possible; and/or
b. A copy of the date-stamped original request that was sent to the third-party; and/or
c. Written notes or documentation indicating follow-up efforts to reach the third-party to obtain verification; and/or
d. A written note to the file indicating that the request has been outstanding without a response from the third-party; and/or
e. A written note to the file explaining why second-party verification is not possible.

The owner may accept self-certification if there is a fee associated with receiving the third-party verification (except required certified tax returns as discussed above). If the owner chooses to pay the fee to obtain the third-party verification, this cost cannot be passed on to the tenant or applicant.

4. Public Housing Authority Verification & Income for Section 8 Recipients (for CDBG, CDBG-D, & NSP only)

*Note: The following verification methodology cannot be used for HOME-assisted units.

In the case of a tenant receiving housing assistance payments under the Section 8 Program, the third-party income verification requirement is satisfied if the Public Housing Authority (PHA) provides a statement to the building recipient certifying that the household's income does not exceed the applicable program income limit.

The only documents that will be acceptable from the Public Housing Authority are HUD Form 50058 or the IHCDA approved Public Housing Authority Verification form in Appendix B (if provided by the local PHA). The form must be completed in its entirety by a qualified representative of the PHA and list the members of the household and the gross income of the household before any deductions that the household may be eligible for under the Section 8 Program. These forms will not be considered valid verifications if they are dated more than six (6) months prior to the household's move-in date or recertification effective date.

Once the recipient receives the HUD Form 50058 or IHCDA approved PHA form, no other verifications of income are required. However, verifications for other eligibility requirements such as the Tenant Eligibility Questionnaire and the Tenant Income Certification (TIC) form must still be completed and placed in the household's file. **The 50058 or PHA Form replaces the third-party income verifications but does not replace the TIC. A TIC must be included in the file; regardless of whether or not there is a 50058 (see Part 5.1 for more information).** The recipient may not rely on the HUD Form 50058 or PHA form if a reasonable person in the recipient's position would conclude that the tenant's actual annual income is higher than the tenant's represented annual income. Additionally, the HUD/PHA form must be signed by both the tenant and the PHA Representative when used as the income verification.

Because the HUD Form 50059 used for project-based Section 8 is not signed by a PHA representative, the Form 50059 cannot be used as income verification. However, the 50059 should be maintained in the file to verify the amount of rental assistance on the unit.

Furthermore, IHCDA cannot accept the Enterprise Income Verification (EIV) system used by Section 8 to verify income. Therefore, the income of Section 8 recipients living in program units must continue to be third-party verified. EIV documentation should be kept in a separate file from the HOME/CDBG verifications so that it is completely inaccessible to the IHCDA auditor.

C. Verification Transmittal

Income verification requests must be sent directly to the source by the owner or management agent and returned by the source to the owner or management agent. Under no circumstances should the applicant or resident be allowed to send or deliver the verification form to the third-party source**.** It is suggested that a self-addressed, stamped envelope be included with the request for verification, to ensure a timely response. In addition, fax copies of verifications are acceptable.

All tenant income verifications should be date stamped as they are received.

D. Acceptable Forms of Income Verification for Specific Income Sources

The following section provides brief guidance on some common and/or complicated sources of income to verify.

For complete information concerning acceptable forms of income Verification for Employment Income, Self-employment Income, Social Security/Pensions/Supplemental Security Income (SSI)/Disability Income, Unemployment Compensations, Alimony or Child Support Payments, Recurring Contributions and Gifts, Scholarships, Grants, Veteran's Administration Benefits, etc., see Chapter 5 of HUD Handbook 4350.3 and the *Technical Guide for Determining Income and Allowances* (both sources available in Appendix A).

1. Social Security and Supplemental Security Income

IHCDA will accept the Annual Benefit Award letter provided from the Social Security office to verify Social Security benefits. However, all Supplemental Security Income is required to be verified and dated within six (6) months prior to the certification date. When interpreting Social Security benefit letters, remember to use the gross amount before deductions, unless the deduction is for a prior overpayment of benefits.

The Social Security Administration (SSA) may no longer issue Social Security Number printouts and SSA field offices may stop providing benefit verification letters. Clients can obtain an instant verification letter online by creating a personal mySocialSecurity account or by calling the national toll free number 1-800-772-1213 and using the automated application to have a letter sent via mail.

Benefits received through direct deposit or a Direct Express Debit Card are treated as income. In addition, the balance on a Direct Express Debit Card is also considered as an asset and must be verified consistent with the verification procedures for a savings account. A current balance must be provided and included as an asset in addition to the benefit income. This balance can be obtained through an online account service, a paper statement, or an ATM balance.

Delayed SS and SSI payments received as a lump sum are not counted as income, but are included as a lump sum asset (see the second income exclusion example on page 5-21 of HUD Handbook 4350.3). Delayed SS and SSI payments received as periodic payments are excluded from income (see item #13 in Exhibit 5-1 of HUD Handbook 4350.3).

When a Social Security cost of living adjustment (COLA) increase is announced, the increase must be factored into all income determinations with effective dates after the date the increase was announced. Recent COLA increases include:

- On October 19, 2011 the SSA announced a 3.6% COLA increase for 2012.

- On October 16, 2012 the SSA announced a 1.7% COLA increase for 2013.
- On October 30, 2013 the SSA announced a 1.5% COLA increase for 2014
- On October 22, 2014 the SSA announced a 1.7% COLA increase for 2015

2. Child Support Verification

IHCDA requires the following documentation to verify income from child support:

- The tenant must be asked on the application for tenancy and annually on the Tenant Eligibility Questionnaire (if applicable) if anyone in the household is **entitled** to receive child support.
- If the tenant is entitled and is currently receiving child support, a copy of the court order, divorce decree, or verification from the agency administering the child support payments must be received.
- If the tenant is receiving child support but there is no court order (i.e. the tenant has made an alternative arrangement with the child support payer), then the owner should attempt to obtain third-party verification from the source making the payments.
- If the tenant is entitled to receive child support, but has not received a payment within the previous year, verification from the agency administering the child support payments must be received by the owner. In addition, an affidavit from the tenant to the owner certifying that a) the tenant is not receiving child support payments; b) the reason the tenant is not receiving the payments; and c) the efforts made by the tenant to receive the payments must be obtained. If there is a court order but the tenant has not made efforts to receive the child support, then the owner must count the full amount of court ordered child support as income.
- If the tenant is entitled to receive child support, but payments over the previous year have been sporadic (i.e. more than one-third (1/3) of the payments have not been paid), then the recipient may average the payments received over the previous year to project anticipated income for the next twelve (12) months. The owner should document the file with the previous twelve (12) month history.

3. Unemployment and Welfare Benefits

When anticipating income from unemployment, the owner must annualize the weekly benefit amount regardless of whether or not the benefit end date suggests that benefits won't last for the full year. The owner may not use the total maximum benefit amount, the remaining benefit amount, or an average of the benefits received.

The only exception is if the tenant knows a date on which he or she will return to work or begin a new job. In this case, the recipient would calculate unemployment benefits up until the hire date and then calculate employment income for the rest of the year. IHCDA will expect to see third-party verification of the unemployment benefits and an employment verification showing the start date for the job, including all other information applicable to employment.

Welfare payments in the form of Temporary Assistance to Needy Families (TANF) are included in household income. Food stamps are not included as household income.

Settlement payments from claim disputes over unemployment or welfare are treated as lump sum assets. However, lump sum payments caused by delays in processing periodic payments in unemployment or welfare are included as income (see page 5-18 and Figure 5-3 on page 5-19 of HUD Handbook 4350.3).

4. Employment Income

Employment income must be third-party verified when possible. If utilizing tenant-provided documents, for tenants with jobs that provide steady employment, the owner must obtain the number of paystubs that covers three (3) consecutive

months of payments. For tenants with jobs that are seasonal or sporadic, the owner must obtain documentation that covers the entire previous twelve (12) month period.

If utilizing tax returns as income verification, the owner must obtain a certified copy by completing IRS Form 4506 "Request for Copy of Tax Form."

For purposes of verifying and calculating employment income, it is imperative to consider year-to-date earnings. IHCDA requires the owner to calculate employment income in one of the following manners:

- If third-party employment verification is received, calculate the total anticipated income for the year and compare to the anticipated income based off of the year-to-date (YTD) figure provided on the verification form (all employment verification forms must ask for YTD earnings). Use the higher of the two figures when calculating total household income.

-If the two (2) months of most recent paystubs are received, calculate the total anticipated income based off of the average of the paystubs and compare to the total anticipated income based off of the year-to-date (YTD) figure found on the most recent paystub. Use the higher of the two figures when calculating household income.

IHCDA provides sample income calculation worksheets for the convenience of the recipient/ management. Form #40 provides a calculation method for using paystubs and Form #41 provides a calculation method for using third-party employment verifications. Both forms are available in Appendix B.

5. <u>Recurring Gifts / Regular Contributions to Household</u>

Any regular contributions and gifts to the household from persons not living in the unit must be included in annual income. This includes payments paid on behalf of the family and other cash or noncash contributions provided on a regular basis. Temporary, nonrecurring, or sporadic contributions or gifts are not counted.

Groceries provided directly to the household (not money given to buy groceries) are excluded. Additionally, childcare payments paid directly to the childcare provider on behalf of the tenant are excluded.

Recurring gifts/contributions should be third-party verified when possible by having the contributor sign a self-certification stating the amount and frequency of the gift/contribution.

6. <u>Income of Students and Student Financial Assistance</u>

Student financial assistance must be counted as part of total household income and third-party verified through the school for all households receiving Section 8 assistance. However, financial assistance is not included as part of annual household income for households that do not receive Section 8 assistance. For Section 8 recipients, all forms of financial assistance in excess of cost of tuition (not including cost of books, room and board, and other class fees) are included as income. This includes grants, scholarships, private assistance, educational entitlements, etc. but does not include loans.

There are two (2) exceptions to this rule:

i. The student is over the age of twenty-three (23) with dependent children; or
ii. The student is living with his or her parents who are receiving Section 8 assistance.

If the Section 8 recipient meets one of the previous exemptions, then financial assistance is not included as part of total household income and does not need to be verified.

7. **Periodic Payments and Withdrawals**

The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. Additionally, the withdrawal of cash or assets from an investment received as periodic payments should be counted as income. If benefits are received through periodic payments or withdrawals, the remaining amount held in the account is **not** counted as an asset. These types of sources should only be counted as an income or asset source, not as both. See HUD Handbook 4350.3, REV-1, CHG-4, Chapter 5, Part 5-6 M and 5-6 O.

E. Differences in Reported Income

The management agent should give the applicant/tenant the opportunity to explain any significant differences between the amounts reported on the application/questionnaire and amounts reported on third-party verifications in order to determine actual income. The explanation of the difference should be documented in the tenant file on a clarification form or self-affidavit.

F. Zero Income Households

It is possible that a household will have total annual income of $0. This is possible if the household is receiving rental assistance, food stamps, and other forms of assistance that are not counted as income. However, it is often the case that households claiming to be zero income are in fact receiving some type of recurring gift from friends or family members (see part 5.3(D)(5) above).

If an individual applicant/tenant within the household has zero income, IHCDA advises having that individual fill out a form similar to IHCDA Form #15 "Non-employed Status Certification." This form asks the household member to certify that he or she has no employment, allows them to answer questions about other forms of income, and provides an option to claim zero income but explain that another household member pays for all expenses.

If the entire household is claiming zero income, IHCDA advises having the household complete a form similar to IHCDA Form #27 "Zero Income Certification and Basic Needs Questionnaire." This form asks the household to identify how various expenses will be paid and often serves as a way of catching recurring gifts and contributions to the household.

While zero income households do exist, it is the responsibility of management to prove due diligence when reporting households as zero income. Zero income households can raise a red flag for auditors, especially if the household that is claiming zero income is responsible for a portion of rent.

Part 5.4 Annual Income

A. Whose Income and Assets are Counted?

Member	Employment Income	Unearned/asset income
Head of household	Yes	Yes
Spouse/ Co-head	Yes	Yes
Other adult	Yes	Yes
Foster adult	Yes	Yes
Dependent Child Under 18	No	Yes
Full-time student over 18 *	See Note Below	Yes
Foster child under 18	No	Yes
Non-members (live-in aides, guests, etc.)	No	No

*If a full-time student over 18 is a dependent of the household, only a maximum of $480 of earned income is included in annual household income.

B. Income

Annual income is defined as the gross amount of anticipated earned and unearned income to be received by all adult members of the household (18 years of age and older, including full-time and part-time students) and the gross unearned income of minors during the twelve (12) months following the date of certification or recertification.

Per HUD Handbook 4350.3, the recipient must generally use current circumstances to anticipate income. However, if information is available on changes expected to occur during the year, the owner must use that information to determine the total anticipated income. Two common challenges include:

1. **Unsecured income**: IHCDA does not require recipients to include unsecured income sources when calculating household income. For example, if an applicant or tenant is unemployed IHCDA does not require that individual to anticipate income he or she may earn if a job is secured, unless it is verifiable that a job has been secured for a future start date.

2. **Sporadic or seasonal income**: The owner must use reasonable judgment to determine the most reliable method of calculating income in scenarios where income fluctuates. If income cannot be determined using current information, the owner may anticipate income based on the income that was earned within the last twelve (12) months prior to the income determination. However, prior year's income should not be used if information is available that shows the situation has changed.

Any income or asset source not specifically excluded must be included. For information regarding annual income inclusions and exclusions and how to calculate annual income, see Chapter 5 of HUD Handbook 4350.3 in Appendix A. Exhibit 5-1 lists income inclusions and exclusions and Exhibit 5-2 lists asset inclusions and exclusions.

Note that income limits are based on gross annual income, not adjusted annual income. Allowances commonly used in some government programs, such as child care allowance, elderly household allowance, dependent allowance, handicapped assistance allowance, etc., are not permitted to be subtracted from the household's gross income to determine income eligibility for program assisted units. Adjusted income is only calculated to determine the rent to charge households exceeding 80% AMI in HOME-assisted units as described in Part 3.1 C.

C. Assets

Assets Defined

Assets are items of value, other than necessary personal items. In general terms, an asset is a cash or noncash item that can be converted to cash. Income from assets must be taken into consideration when determining the eligibility of a household. Asset information (asset value and income from assets) should be obtained at the time of application and annually at recertification. All asset sources must be verified.

The market value of an asset is its dollar value on the open market. The cash value of an asset is the market value minus reasonable expenses incurred to convert the asset to cash, including for example:

- Penalties or fees for converting financial holdings. Any penalties, fees, or transaction charges incurred when an asset is converted to cash are deducted from the market value to determine its cash value.
- Costs for selling real property. Settlement costs, real estate transaction fees, payment of mortgages/liens against the property, and any legal fees associated with the sale of real property are deducted from the market value to determine equity in real estate.

Any income or asset source not specifically excluded must be included. For more information regarding net household asset inclusions and exclusions, and how to determine the value of and income from assets, see Chapter 5 of HUD Handbook 4350.3 in Appendix A, specifically Section 5-7 and Exhibit 5-2.

*NOTE: More income sources (including benefits such as Social Security) are being paid onto special debit cards instead of through direct deposit into a checking or savings account. These debit cards are included as assets and are verified in the same way as a

savings account. A current balance must be provided and included as an asset in addition to the benefit income being counted as income. This balance can be obtained through an online account service, a paper statement, or an ATM balance.

Asset Income

1. Actual Income from Assets
   The income generated by an asset, such as interest or a dividend. This is counted as income even if the income is not received by the household, for example if the interest or dividend is automatically reinvested into the asset. When net household assets (cash value of all assets) are up to $5000, the actual income from assets is always the income used. When net family assets exceed $5000 then the actual income must be compared to the imputed income from assets (see below) and the higher amount is used for income determination.

2. Imputing Income from Assets
   If net household assets (cash value of all assets)is greater than $5000, asset income (which must be included as part of total gross household income) will be the greater of: a) actual asset income; or b) net household assets multiplied by the HUD approved passbook rate (the "Imputed Income from Assets").

   Previously, the passbook rate was locked at 2% for many years. However, IHCDA will now determine a rate reflective of the national average and annually publish a notice. Recent rates are listed below:
   - Prior to 2/1/15: 2.00%
   - For certifications effective 2/1/15 and after: 0.06%

3. Disposed of Assets
   Assets disposed of for less than fair market value are included as assets for a period of two (2) years from the date of disposal. The amount to be included as an asset is the difference between the cash value of the asset and the amount that was actually received (if any) in the disposition of the asset. This rule only applies if the difference between the cash value and the amount received is greater than $1000.

   Assets disposed of for less than fair market value as a result of foreclosure or bankruptcy or those lost through a separation or divorce settlement are not included in this calculation.

D. Computing the Total Household Income

After all income and asset information has been verified and computed for a household, all qualified sources of income are added together to derive the total household income. In order for the household to qualify for a program assisted unit, the total household income must be at or below the maximum allowable qualifying income in effect at the time of tenant certification. If the total household income is greater than the maximum allowable qualifying income, then the household cannot be certified for a program assisted unit. Income and assets must be calculated in accordance with the Section 8 methodology as described in 24 CFR 5.609 and in further detail in Chapter 5 of HUD Handbook 4350.3. Any income and asset source not specifically excluded from household income must be included.

Remember, income limits are based on gross annual income, not adjusted annual income. Allowances commonly used in some federal housing programs, such as child care allowance, elderly household allowance, dependent allowance, handicapped assistance allowance, medical deductions, etc., are not permitted to be subtracted from the household's gross annual income to determine income eligibility. Adjusted income is only calculated to determine the rent to charge households exceeding 80% AMI in HOME-assisted units as described in Part 3.1 C.

Part 5.5 Annual and Interim Income Recertification Requirements

A. Recertification for HOME-assisted Units

The owner must perform, at least on an annual basis, an income recertification for each low-income household and receive documentation to support that certification. The owner may choose one of three options when deciding when to perform annual recertifications.

1. Recertification may be performed at the anniversary date of the initial move-in certification; or
2. Recertification may be performed at lease renewal; or

3. Recertification may be performed on an annual schedule where all households are verified at the same time every year (for example, recipient may choose to annually recertify every existing household on January 1st).

Owners may utilize effective dates when performing tenant certifications. Therefore, the tenant may sign the tenant certification on or before the date the certification takes effect. **All income and eligibility verifications must be dated no more than six (6) months prior to the effective date of the tenant certification.** The owner should have language in the tenant certification documents indicating that the tenant must inform the recipient of any changes of income or household composition that may occur between the date the tenant signs the certification and the effective date of the certification.

Whenever a recertification indicates that the composition of the household has changed, program eligibility must be re-evaluated. Composition changes include a birth, a death, a new tenant moving into the household, and/or an existing tenant vacating the household. In the event that a new member is added to a qualifying household, the following steps must be taken:

1. The new household member should complete an Application and Eligibility Questionnaire and Verification of income and Assets must be competed;
2. The new household member's income must be included as part of the household's certified income. The combined household income must be compared to the maximum allowable income limit in effect at the time and based on actual household size.

Written third-party documentation verifying all income and asset sources reported by the household is required at initial occupancy and annually at recertification. See Part 4.3 for more information on the income and asset verification process.

B. Recertification for Units that are Not HOME-Assisted

The owner must perform, at least on an annual basis, a household and rent update for each low-income household. The owner may choose one of three options when deciding when to perform annual recertifications.

1. Recertification may be performed at the anniversary date of the initial move-in certification; or
2. Recertification may be performed at lease renewal; or
3. Recertification may be performed on an annual schedule where all households are verified at the same time every year (for example, recipient may choose to annually recertify every existing household on January 1st).

A recertification file for CDBG, CDBG-D, or NSP units will only include the following documentation: a new Tenant Income Certification Form (using Form #39) and the new lease and all addenda. Verification of income and assets is not necessary at recertification for these programs. It is also unnecessary to complete a Questionnaire at recertification. If the unit is also tax credit or HOME-assisted, those program recertification rules will apply.

Part 5.6 Lease and Rent Requirements

All residents occupying program units must be certified and under a lease no later than the time that the household moves into the unit. A lease is required for all transitional housing, permanent supportive housing, and permanent rental housing units. All residents of emergency shelters and migrant farm worker housing must sign a program agreement. Leasing guidelines are listed below:

A. Lease or Program Agreement Requirements

A signed lease must be in effect for each year that a household resides in a unit. A new lease and/or a lease renewal addendum must be completed annually. Leases must reflect the correct date that the household moves into or otherwise takes possession of the unit.

A unit must be leased directly to the household, not to an organization that is providing services to the household.

The household may have a cosigner if necessary, but the cosigner should sign a self-affidavit stating that (1) he or she will not reside in the unit and (2) disclosing whether or not he or she will providing income to the household in the form of rent or utility payments or other recurring gifts. If income is provided, this must be treated as recurring gift income as discussed in Part 5.3 (D)(5).

At a minimum, the lease should include (but is not limited to):

1. The legal name of all parties to the agreement and all other occupants;
2. A description of the unit to be rented; must include unit/bedroom size, set aside percentage, and unit address (if unit/bedroom size and set-aside percentage can be located on the TIC, it is not mandatory to be on the lease as well);
3. The date the lease becomes effective;
4. The term of the lease (must be for at least one year unless there is a mutual agreement between tenant and recipient for a shorter period);
5. The rental amount;
6. Language addressing security deposits;
7. Language or Lease Addendum acknowledging receipt of the Fair Housing and Lead-Based Paint Brochures;
8. The utility allowance requirements, including a clear breakdown of which utilities are owner-paid and which are tenant-paid;
9. The use of the premises including language addressing that only members listed on the lease/TIC may dwell in the unit, that the unit must be the household's primary residence, and that the unit may not be sublet;
10. The rights and obligations of the parties, including the obligation of the tenant to certify annually (or more frequently as required) to income as defined herein;
11. Language addressing income decreases and increases (i.e. for HOME-assisted units the 80% rule), utility allowance increases/decreases, basic rent changes (in Rural Development or 236 Developments), household composition changes, student status changes (for HOME-assisted units) or any other change and its impact on the tenant's rent and eligibility. The owner must give at least 30 day written notice prior to increasing rent.
12. Language addressing the right of the development and/or other funding providers to enter the assisted-unit for physical inspections;
13. Renewal process;
14. Termination process (must give at least 30 days notice);
15. Signature of all tenant(s) 18 and older or emancipated;
16. Signature of recipient/property manager; and
17. Date of execution.

As a convenience to its partners, IHCDA provides the following sample lease addendum documents in Appendix B and strongly encourages use of these forms:

- Lease Addendum for Units Participating in Section 42 (see Form 9A);
- Lease Addendum for Units Participating in HOME/CDBG/NSP (see Form 9B);
- Lease Renewal Addendum (see Form 10);
- Lease Addendum- Unit Transfer (see Form 44); and
- Lease Addendum- Rent Decrease due to Utility Allowance Increase (see Form 45)

At a minimum, the Program Agreement should include (but is not limited to):

1. The date the Program Agreement becomes effective;
2. Signature of both resident and staff member:
3. The supportive services available;
4. Program guidelines, such as curfews, laundry, and recreation rules;
5. Program expectations for resident;
6. Maximum length of stay; and
7. List of items regarded as contraband.

B. Prohibited Lease Language

Per 24 CFR 92.253(b), the following items within a lease will constitute a finding of noncompliance:

1. Agreement to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;

2. Agreement that the owner may seize or sell personal property without notice and a court decision (this does not apply to tenants who have vacated the property);
3. Excusing owner from responsibility- Lease cannot contain an agreement not to hold the owner or owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
4. Waiver of notice stating the owner may institute a lawsuit without notice to the tenant;
5. Waiver of legal proceedings stating the owner may evict the tenant without instituting a civil court proceeding;
6. Waiver of jury trail;
7. Waiver of right to appeal or otherwise challenge a court decision;
8. Agreement to pay all legal costs regardless of the outcome. The tenant may be obligated to pay costs if he or she loses a court proceeding but may not be required to pay the owner's attorney fees or other legal costs if the he or she wins the court proceeding;
9. Agreement by the tenant (other than a tenant in transitional housing) to accept supportive services that are offered;
10. Language allowing a rent increase without at least 30 day written notice as per 24 CFR 92.252(f)(3); and
11. Language allowing termination of lease without at least 30 days written notice as per 24 CRF 92.253(c). For more information on termination of tenancy, see Part 5.6E below.

C. Rents and Security Deposits

Rents on the program units may not exceed the amounts allowed by the applicable rent limits. Any violation of overcharging rents is considered noncompliance and the recipient will have to adjust rent and repay the overcharged rents (See Part 3.2 for more information on correctly implementing rent limits).

Security deposits must be treated in accordance with Indiana Code 32-31-3. Landlords cannot ask tenants to waive the security deposit regulations/rights under Indiana Code. Upon termination of a rental agreement, the full amount of security deposit must be returned to the tenant, minus any amount applied for (1) the payment of accrued unpaid rent, (2) the amount of damages (not including normal wear and tear) caused by the tenant, and (3) unpaid utility charges that the tenant is obligated to pay.

Per Indiana Code, within forty-five (45) days of the termination of the rental agreement, the landlord must send to the tenant (1) a written notice including an itemized lists of all charges to be deducted from the security deposit including the estimated cost of repair for each damaged item and (2) payment for the difference between the security deposit held and the amount of the damages claimed.

The landlord's liability (i.e. the forty-five day timeframe) does not begin until the tenant has supplied in writing a new address to deliver the notice and refund. If the landlord fails to comply with these requirements, then the tenant is entitled to recover the full amount of the security deposit and reasonable attorney's fees. Failure to provide notice of damages constitutes agreement that no damages are due and return of the full security deposit.

D. Initial Minimum Term of Lease

There must be a lease term of at least one (1) year on all program units, unless the recipient and the tenant have a mutually agreed upon a different lease term for the unit. All leases must, however, be for no less than thirty (30) days.

Federal regulations do allow shorter leases for certain types of housing for homeless individuals. The following types of housing are exempt from the one year minimum lease term:

1. Single Room Occupancy (SRO) units in developments receiving McKinney Act and Section 8 Moderate Rehabilitation assistance;
2. Single Room Occupancy (SRO) units intended as permanent housing and not receiving McKinney Act assistance;
3. Single Room Occupancy (SRO) units intended as transitional housing that are operated by a governmental or nonprofit entity and provide certain supportive services; or
4. Units that a) contain sleeping accommodations and kitchen and bathroom facilities; b) are located in a building which is used exclusively to facilitate the transition of homeless individuals to independent living within 24 months; and c) for which a governmental entity or qualified nonprofit organization provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

*Note: If a development has units set aside in a building for homeless households, those tenants must have leases with at least one year terms, unless the building's primary use is described in number four (4) above or the owner and tenant have mutually agreed upon a shorter lease term.

**Note: Leases must reflect the correct date of move-in, and/or the date the tenant takes possession of the unit.

E. Eviction or Termination of Tenancy

If after occupying a unit, an eligible household cannot pay the rent or otherwise commits material violation of the lease, the recipient has the same rights in dealing with the income-eligible tenant as with any other tenant, including, if necessary, eviction.

1. Program Requirements and Guidance

Regulations state that there must be just cause for eviction or other form of termination of tenancy (non-renewal of lease). This provision is often referred to as "good cause eviction." Language outlining actions that constitute just cause for eviction or termination of tenancy must be included in writing at the time of initial occupancy, preferably in the lease as well as in the property's Tenant Selection Criteria and/or tenant rules and regulations document. Examples of good cause evictions may include nonpayment of rent, violations of the lease agreement, destruction or damage of the property, interference with other tenants, tenant fraud, or use of the property for an unlawful purpose. When dealing with tenant conduct issues, the owner is strongly encouraged to provide a written warning notice to the tenant prior to beginning eviction. This notice should include a statement that continued poor conduct could constitute a basis for future termination.

For transitional housing, good cause for termination includes completion of the tenancy period for transitional housing or failure to participate in any required supportive services.

2. Items Not to be Construed as Good Cause for Eviction

- An increase in income that causes the household to exceed the unit set-aside or the 80% (for HOME-assisted units) income limit is not considered good cause for eviction or termination of tenancy.
- Eviction is not permitted if such eviction is discriminatory based on the tenant/household's protected class under the Fair Housing Act (see Part 4.2A).
- Per the Violence Against Women Reauthorization Act of 2013 (see Part 4.2G) the owner/manager shall ensure that an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as either:
    - A serious or repeated violation of a lease by the victim or threatened victim of such incident; or
    - Good cause for terminating the assistance, tenancy or occupancy rights to housing of the victim of such incident.

3. Documenting the File

When the owner determines that eviction or termination of tenancy is necessary, the tenant must be served written notice and given no less than thirty (30) days to vacate. The recipient must document the justification and keep copies of the notifications sent to the tenant.

When a tenant is evicted or a lease is terminated, IHCDA will expect to see documentation outlining the specific cause for non-renewal. It is the owner's responsibility to document and defend the good cause for eviction if challenged in state court.

Note: Recipients may not terminate tenancy solely because a household experiences a change in income and existing tenants are never required to move because of an increase or decrease in income. This includes temporarily noncompliant HOME units in which the households exceed 80% of AMI.

Section 6: Compliance Monitoring Procedures

This section of the manual outlines IHCDA's procedures for monitoring all developments. Monitoring is designed to assist recipients with federal, state, and local regulations regarding IHCDA's compliance monitoring requirements and procedures in accordance with 24 CFR Part 92, 24 CFR Part 570, and State Code for Development Fund. However, compliance is solely the responsibility of the recipient and is necessary to use and retain the funds allocated to the award.

Monitoring each development is an ongoing activity that extends throughout the affordability period. IHCDA is required by regulation to conduct this compliance monitoring and to take the appropriate steps when noncompliance is found.

Part 6.1 Owner and Management Agent Contacts

Correspondence from IHCDA to the owner will be sent to the owner contact person provided in the development's Application. IHCDA will copy the management agent contact person, with owner approval, on any correspondence from IHCDA to the owner regarding file monitoring reviews and physical inspections. All other correspondence will be sent directly to the owner contact person. IHCDA will annually update the contact information based on the information provided in the development's Annual Owner Certification of Compliance. As part of the Owner Certification documentation, the owner is able to elect one designated "primary owner contact" and one designated "primary management contact" per development.

IHCDA will allow no more than one owner contact name and address and one management contact name and address per development. If at any time the contact person of the owner or management agent changes, it is the sole responsibility of the owner to inform IHCDA in writing of such change with supporting documentation. Changes in ownership must be reported to IHCDA via the "Ownership Change Form" in Appendix B. Changes in management must be reported to IHCDA via the "Property Management Change Form" in Appendix B.

Part 6.2 The Compliance Manual

IHCDA provides this Compliance Manual as a resource to owners and management agents. The manual describes the compliance regulations that the recipient and management agent must follow and the compliance monitoring procedures used by IHCDA. **An amended Compliance Manual will be released periodically and the newest edition overrides all previous editions. Except where otherwise noted, all amendments to the Compliance Manual apply to all developments, regardless of year of funding**. All appendices to the Compliance Manual are available online at http://www.in.gov/myihcda/2490.htm.

Part 6.3 Annual Owner Certification of Continuing Compliance

A. The Annual Owner Certification

Award recipients for the following activities will be required to submit an Annual Owner Certification throughout the affordability period:

1. Emergency Shelter;
2. Youth Shelter;
3. Migrant/Seasonal Farm Worker Housing;
4. Transitional Housing;
5. Permanent Supportive Housing; and
6. Permanent Rental Housing.

Complete submission includes the hardcopy Owner Certification forms and finalization of tenant events in the online reporting system.

The first annual owner certification is due by January 31st of the year following the year of the award's closeout date. However, the owner must begin reporting tenant events in the online system with the first tenant move-in. The report covers the period January 1 – December 31 of each year and is due to IHCDA offices by the close of business January 31st of the next calendar year.

The Annual Owner Certification forms are made available each year on the IHCDA website at http://www.in.gov/myihcda/2490.htm in December. **IHCDA will not send the forms to the owner or management or send an announcement that the forms are available. It is the responsibility of the owner/management to pull the necessary forms off of IHCDA's website annually and to contact IHCDA if there are any questions or concerns.**

All Annual Owner Certifications forms (and Beneficiary Reports for Shelters and Migrant/Seasonal Farm Worker Housing) must be typed or computer generated in the same format provided by IHCDA. IHCDA will not accept any Owner Certifications (or Beneficiary Reports) that are not in the same formation as provided or that are hand-written.

The report consists of the following:

1. Checklist
2. Owner Certification Form including applicable Exhibits;
3. Authorized Signatory Form
4. Development and Building Information Form;
5. Property Direction Form (to be submitted with first year annual report);
6. Utility Allowance Form and supporting documentation;
7. Tenant events must be reported via the IHCDA Online Management Reporting System, (See Part 2.2 H). The only exceptions are for Shelters and Migrant/Seasonal Farm Worker Housing tenant events, which must be reported via the Beneficiary Report that can be found on the IHCDA website at http://www.in.gov/myihcda/2490.htm.
8. Copy of Affirmative Fair Housing Marketing Plan (only necessary to submit if there are 5 or more HOME-assisted units AND if the plan has been updated since last submitted to IHCDA).

Through these reports, the recipient must certify that:

1. The award meets the required set-aside per the award agreement.
2. An annual Tenant Income Certification form and supporting documentation to support the certification has been received for each tenant along with sufficient documentation to support that certification, including for HOME-assisted units documentation proving student status eligibility.
3. All units in the award are for use by the general public and no finding of discrimination under the Fair Housing Act occurred for the award. All units are used on a non-transient basis (except for transitional housing units allowed under the award agreement).
4. All units in the award are suitable for occupancy, taking into account all federal, state, and local health, safety, and building codes and the state or local unit of government responsible for making building code inspections did not issue a report of a violation for any building or unit in the award.
5. Fair housing, equal employment opportunity, and lead-based paint information is posted, as required by IHCDA. Each beneficiary of a program assisted unit has been given a lead-based paint and fair housing brochure as required by IHCDA. Documentation of each beneficiary's receipt of the brochures is being maintained throughout the affordability period and is available for inspection by IHCDA.
6. No low-income units in the building became vacant during the applicable year; or one or more low-income units in the building became vacant during the applicable year and reasonable efforts were/are being made to rent such units or units of comparable size in the building to eligible tenants.
7. No tenant of any low-income unit in the award experienced an increase in income above the limit allowed; or income of tenants of a low-income unit in the award increased above the limit allowed, and the next available unit of comparable or larger size in the award was or will be rented to eligible tenants;
8. Each low-income unit in the award was restricted as provided under the program and state requirements;
9. The award is in continuing compliance with all promises, covenants, set-asides and agreed upon restrictions as set forth in the application for the Award;
10. The unit types, gross rents, utility allowance, and actual rents;
11. All tenant facilities included in the award under the program and state regulations, such as swimming pools, recreational facilities, and parking areas, are provided on a comparable basis without charge to all tenants of the award;
12. The award has at least one smoke detector on each level of the rental dwelling unit;

13. There have been no changes in entity ownership or if there have been, IHCDA has been provided with all details and all necessary documentation; and
14. The award is otherwise in compliance with the applicable laws, rules, regulations, and ordinances.

B. Online Tenant Event Reporting and Beneficiary Reports

The Indiana Housing Online Management website (www.ihcdaonline.com) has been designed as a tool to conduct compliance checks to ensure properties stay in compliance, to follow the monitoring review process, and as a way for IHCDA to communicate with our partners using a message board.

All assisted multi-family rental awards, except shelters and migrant farm worker housing, must enter tenant events using IHCDA's Indiana Housing Online Management system. Tenant events include move-ins, move-outs, annual recertifications, unit transfers, rent and utility allowance changes, household composition updates, and student status updates. Tenant events that must be reported online do not include interim recertifications performed for other programs, such as Section 8 or RD. In order to obtain the maximum benefits from the Indiana Housing Online Management system it is **required that all tenant events be entered into the applicable system within thirty (30) days of the event date.**

Therefore, it is **mandatory that all tenant events be submitted electronically** using the Indiana Housing Online Management website for all developments that contain IHCDA assisted units (e.g. HOME, CDBG, CDBG-D, NSP, Tax Credits, Section 1602, TCAP, Bonds, and/or Development Fund/Trust Fund). This online tenant event reporting process eliminates the former process of submitting a hardcopy "Beneficiary Report Spreadsheet." However, the owner must still submit hardcopies of the original signed and notarized Owner Certification packet including the Building Information page with updated contact information, the Multi-Family Housing Utilities Form, supporting documentation for utility allowances, and the applicable exhibit documents A-E.

To use the rental reporting system or register to become a user, please visit the Indiana Housing Online Management website at **https://ihcdaonline.com/**. Free on-demand training videos that explain how to use the rental reporting system are available online at **https://ihcdaonline.com/Links.htm**. Additionally, in March 2009, IHCDA released detailed guidance on registering for the Online Management website in Multi-Family Department Notice MFD-09-06. This notice (and all other past notices) is archived online at **http://www.in.gov/ihcda/2458.htm**).

After reviewing the Owner Certification and the online Beneficiary Report tenant events, IHCDA will notify the owner in writing of any errors or incompleteness and will allow an appropriate Correction Period. All correspondence to the owner will be sent electronically.

Part 6.4 IHCDA Tenant/Unit File Review and Onsite Award Inspections

IHCDA maintains the right to review a development's tenant/unit files and related records either in-house (at IHCDA offices) or onsite at the development and/or to perform physical inspections of developments as deemed necessary throughout the Affordability Period.

All transitional housing, permanent supportive housing and rental housing properties will be subject to tenant file audits and physical unit inspections throughout the affordability period based on the following schedule:

Total # of Units in Award	Inspection Period
1 – 4 Units	Every 3 Years
5 – 25 Units	Every 2 Years
26 or More Units	Every Year

All emergency shelters, youth shelters and migrant seasonal farm-worker housing will be monitored for program compliance and physically inspected every two (2) years regardless of the number of beds in the award.

Additional file reviews/unit inspections will be conducted if warranted. IHCDA has the right to review tenant files and development records at any time at its discretion, with or without advance notice to the owner.

A. Tenant File Audits

All awards will have a tenant file audit in the same year the development has a physical inspection. IHCDA staff or a representative of IHCDA will conduct the audit. The audit will either be conducted onsite or through a desktop review. Regardless of whether it is done onsite or offsite, the audit will consist of the following:

1. Fair Housing and Equal Opportunity - Are the fair housing and equal opportunity posters displayed at:

    - The property location if a single site project; and/or
    - At the site where residents apply for housing.

2. Lead Based Paint Educational Information (if applicable) - Is the Lead Based Paint Poster displayed at:

    - The property location if a single site project; and/or
    - At the site where residents apply for housing.

3. Annual recertification of the unit passing a visual assessment (as required by the Lead-Based Paint regulations).

4. Affirmative Marketing- Projects with five (5) or more HOME-assisted, permanent supportive housing, transitional housing or permanent rental units must follow Affirmative Fair Housing Marketing procedures.

    - IHCDA will review the Affirmative Marketing Plan process utilized in determining the market least likely to apply for housing, and how the units were marketed to this segment of the population. IHCDA will review documentation including brochures, advertisements and marketing materials that were utilized;
    - Affirmative Fair Housing Marketing Plans must be evaluated at least once every five (5) years and updated according to the policies of the Fair Housing and Equal Opportunity Office of the Department of Housing and Urban Development (HUD). All updated Affirmative Fair Housing Marketing Plans must be submitted to IHCDA.
    - The Affirmative Fair Housing Marketing Plan must be created using HUD Form 935.2A.

5. Tenant Selection Policies - IHCDA will review the tenant selection policies utilized by management. The written policy should allow IHCDA staff to determine how tenants are selected and the criteria used for approving or denying applicants. See Part 4.2(E) for more information on Tenant Selection Criteria.

6. Utility Allowance - IHCDA will review documentation of utilities paid by the tenant versus those paid by the recipient.

7. Tenant Files (See Appendix B – Sample Forms)- For each unit randomly selected, a file must be available containing the following documentation:

    - Lease;
    - Application (for move-in files);
    - Tenant Income Certification (TIC) form;
    - Tenant Income Certification Questionnaires;
    - Income and asset verifications;
    - Student status certifications (for HOME-assisted units)
    - Utility allowance and supporting documentation;
    - Documentation of the receipt of the applicable brochures (Fair Housing & Lead Based Paint); and

- For tenants receiving tenant-based Section 8 vouchers, a copy of the Housing Assistance Payment (HAP) Contract and the current HAP Amendment from the Section 8 agency showing the amount of rental assistance. For tenants in project-based Section 8 units, a copy of the current HUD Form 50059 showing the amount of rental assistance.

When performing an onsite (at the development or management office) review, IHCDA will:

1. As a courtesy, IHCDA will notify the owner and/or management agent two (2) weeks in advance of the intended site visit. However, IHCDA reserves the right to inspect any unit/tenant file at any time at its discretion without prior notification.
2. The auditor will randomly choose a selection of 20% of the files for review;
3. Provide an Exit Interview Summary to management representative;
4. Inform the owner of any findings of noncompliance with regard to such review; and
5. Allow the owner ninety (90) days to notify IHCDA of any correction of noncompliance.

NOTE: If files are not available or are found in such a condition that an IHCDA Auditor cannot effectively review the files, the ninety (90) day correction period will begin immediately.

When performing an in-house (at IHCDA office) file audit, IHCDA will:

1. Notify the owner in writing which unit files have been selected for review;
2. Respectfully request that either (1) electronic copies of selected files and documentation be submitted through IHCDA's FTP site (instructions included in desktop letter) or (2) hardcopies of the selected files and documentation be shipped to IHCDA or hand delivered by the owner or representative of the owner. Do not ship original copies. All documents will be shredded at completion of the audit.;
3. Ask for a current rent roll and utility allowance information;
4. Shred all files and confidential information after the review is completed;
5. Give a time frame in which the tenant file documentation must be submitted. Currently, IHCDA requires files to be submitted within two (2) weeks of notification of the monitoring;
6. Inform the owner of any findings of noncompliance with regard to such review; and
7. Allow the owner ninety (90) days to notify IHCDA of any correction of noncompliance.

NOTE: The desktop notification/file request letter will include a checklist of the items that must be included in each tenant file submitted. When reviewing copies of the files, IHCDA will expect to see all of the applicable documents listed on the checklist, in the approximate order that they are listed (leasing information, tenant information, income verifications, asset verifications, other clarifications). Auditors will not review files that are submitted in a disorderly or incomplete fashion.

B. Physical Inspections

Prior to performing an onsite development inspection, IHCDA will:

1. Notify the owner and/or the management company of the date and approximate time the inspection will take place.
2. Request that the owner and/or management company representative be present and accompany the inspector throughout the entire inspection process.

NOTE: It is imperative that **all** units be available for interior inspections as well as exterior inspections (vacant units, occupied units, and common areas inclusive). Physical inspection is not limited to vacant units. Staff will ask to inspect specific units whether the unit is occupied or not.

After performing an onsite physical inspection, IHCDA will:

1. Provide to the property representative, if needed, a copy of a Critical Violations Letter identifying all exigent health, safety, and/or fire hazards observed at the time of the inspection that require immediate corrections. **All exigent health and safety issues identified in the Critical Violations Letter must be corrected within twenty-four (24) hours and IHCDA must be notified of the completed corrections within seventy-two (72) hours. Critical violations that are not corrected**

within twenty-four (24) hours will be fined $250 per day, starting the first hour after the twenty-four (24) hour correction period expires

2. Forward a copy of the inspection report to the owner and management company indicating a correction time frame;
3. Request that all noncompliance issues be corrected within the time frame specified in the inspection report;
4. Request that legible copies of the proof of the corrections, in the form of work orders, receipts, and/or invoices, along with an owner-signed affidavit (in the correct mandatory format) be forwarded to IHCDA within the allotted time frame indicated in the inspection report;
5. Review the correction documents for completeness and forward applicable correspondence indicating that an in depth review of the documents will be completed as soon as possible;
6. Schedule a second inspection if necessary. **NOTE: IHCDA will charge additional monitoring fees if IHCDA staff must return to a site for an additional physical inspection or file review. These fees will equal the greater of (a) $150 or (b) $15 per unit.** For more information on these additional fees, see Part 6.6 B;
7. Review the supporting documents of correction for correlation with the inspection report; and
8. Forward correspondence indicating that no further corrective actions regarding the physical condition of the property are needed at this time OR contact the recipient by phone detailing what deficiencies, in the corrective correspondence, still exist.

For more information, see the Inspection Process Flow Chart in Appendix F.

Part 6.5 Noncompliance

Noncompliance is defined as a period of time a during the affordability period in which an award, development, specific building, or unit fails to satisfy program requirements.

For more information on noncompliance, see Section 7.

Part 6.6 Penalty Fees

A. Late Owner Certifications

Owner Certifications are due annually by January 31st. A fee of $100 per development will be assessed if either the hardcopy Owner Certifications are received after the deadline or the online tenant events are finalized after the deadline.

B. Re-inspection or Re-monitoring fees

IHCDA will charge additional monitoring fees if staff must return to a site for an additional physical inspection or file review. These fees will equal the greater of (a) $150 or (b) $15 per unit reviewed. These fees will be applied in the following situations:

1. If staff must return to check on deficiencies or errors noted during the initial inspection/monitoring; or
2. If staff could not complete the initial inspection/monitoring because a recipient or management representative was not available onsite at the designated time and location.

C. Modification Fees

IHCDA will impose a $500 fee for a request for changes to the characteristics of a development, such as unit types, distribution, or targeting (e.g. set-asides).

In addition, IHCDA will impose a $1500 fee to modify any legal documents such as the recorded declaration/lien or award agreement.

For example, if an owner requested a modification to change the number of 30% set-aside units at the property, the owner would submit a $500 modification request fee and then if approved a $1500 fee to have IHCDA modify the applicable recorded award documents to reflect the new approved unit mix.

Approval of modification requests is at the sole discretion of IHCDA. IHCDA must evaluate each request to see how the change would have affected original scoring and underwriting of the project, as well as to ensure that the proposed change will not cause noncompliance with any program regulations.

Part 6.7 Amendments to Compliance Monitoring Procedures

The compliance monitoring procedures and requirements set forth herein are issued by IHCDA pursuant to applicable HUD regulations and published guidance. These provisions may be amended by the Authority for purposes of conforming with the regulations and guidance and/or as may otherwise be appropriate, as determined by the Authority. In the event of any inconsistency or conflict between the terms of these procedures and the monitoring procedures set forth in such regulations, the provisions set forth in the regulations shall control.

In addition, IHCDA periodically releases Real Estate Department (RED) Notices containing updates on policies, forms, and other issues relevant to program compliance. These notices are available online at http://in.gov/myihcda/2458.htm. RED Notices are also announced via IHCDA Info, a monthly electronic newsletter.

Part 6.8 Procedures for the Transfer of Program Units

The recipient must notify IHCDA's General Counsel and Chief Real Estate Development Officer immediately if the composition of the award changes due to Disposition or Sale of any units in the award before the Affordability Period expires.

Section 7: Noncompliance

Noncompliance is defined as a period of time in the affordability period during which an award, development, specific building, or unit is has failed to satisfy applicable program requirements.

Part 7.1 Types of Noncompliance

Generally, during the affordability period, an award is out of compliance if:

1. The award no longer meets the set-aside requirements of the application, the income and rent restriction requirements of the program, or other requirements for the units which are set-aside; or
2. There is failure to submit the annual utility allowance documentation, Owner Certification, or tenant events, along with any applicable supporting documentation in a timely manner; or
3. An ineligible household resides in a program unit (including a student ineligible household for HOME-assisted units); or
4. A unit or building is no longer suitable for occupancy or otherwise in violation of physical inspection standards; or
5. The owner does not comply with requests to conduct a physical inspection or file audit.

Part 7.2 Consequences

If the award is out of compliance, penalties to the owner/management company could include:

1. Penalty fees paid to IHCDA such as re-inspection fees (see Part 6.6) and/or late fees (see Part 6.6);
2. Recapture of award funds (see Part 7.6 below);
3. Negative points on subsequent applications;
4. Rejection of future applications (i.e. suspension or debarment);
5. Repayment of rent overages;
6. Mandatory attendance at an IHCDA sponsored compliance training; and/or
7. An increase in the frequency of IHCDA audits/inspections

Part 7.3 Notification of Noncompliance to Owner by IHCDA

IHCDA is required to provide written notice of noncompliance to the owner if:

1. Any required submissions are not received by the due dates;
2. Tenant files including Tenant Income Certification, Tenant Income Questionnaires, supporting verification documentation, and rent records are not made available during an audit or not submitted when requested by IHCDA; and/or
3. The development is found to be out of compliance with the provisions of program or state requirements through physical unit inspection, annual review, file audit, and/or other means.

IHCDA will not provide documentation for specific awards to more than one contact person in an ownership entity for each award. If other individuals within an ownership entity wish to receive such documentation, they must obtain it from the designated primary contact person.

Part 7.4 Notification of Noncompliance to IHCDA by Owner

If the owner and/or management agent determines that a unit, building, or an entire development is not in compliance with program requirements, IHCDA should be notified immediately. The owner and/or management agent must formulate a plan to bring the development back into compliance and advise IHCDA in writing of such a plan. The owner and/or management agent must keep documentation outlining: the noncompliance issue, date the noncompliance issue was discovered, date that noncompliance issue was corrected, and actions taken to correct noncompliance.

Additionally, the recipient is responsible for replacing temporarily noncompliant HOME units (units where the household exceeds 80% AMI) as per the guidelines in Part 3.1 C.

Part 7.5 Correction Period

Should IHCDA discover (as a result of an inspection or review or in any other manner) that the development is not in compliance with program federal or state requirements, IHCDA shall notify the owner. The owner is to commence appropriate action to cure such noncompliance.

The owner shall have a maximum of ninety (90) days from the date of notice to cure the noncompliance. If IHCDA determines that there is good cause, an extension of up to six (6) months to complete the cure for noncompliance may be granted.

Part 7.6 Recapture

If funds are recaptured because the housing no longer meets affordability requirements, regardless of entity or activity, these funds must be returned to IHCDA.

The award recipient must ensure that a lien and restrictive covenant is executed against every property constructed, rehabilitated, or acquired, in whole or in part, with HOME, CDBG, CDBG-D, or NSP funds. Upon occurrence of any of the following events during the Affordability Period, the entire sum secured by the lien, without interest, shall be due and payable by developer and/or owner upon demand. Repayment may be demanded upon: (1) Transfer or conveyance of the real estate by deed, land contract, lease, or otherwise, during the Affordability Period; (2) Commencement of foreclosure proceedings by any mortgagee (or deed in lieu of foreclosure), within the Affordability Period; (3) Units not being used as a residence by a qualifying tenant or not leased according to the program affordability requirements. The award recipient will be responsible for repaying IHCDA for any HOME, CDBG, CDBG-D, or NSP funds utilized for any housing constructed, redeveloped, rehabilitated, or acquired that does not meet the affordability requirements throughout the Affordability Period.

Part 7.7 Suspension and Debarment

A. Purpose of Policy

As a recipient of federal and state funds, IHCDA has a moral, and often legal, obligation to ensure that those funds are used as intended. To fulfill this duty, IHCDA must have the discretion to suspend or debar those who misuse, abuse or otherwise fail to use funds correctly.

The purpose of this policy is to define suspension as it relates to misuse of funds on IHCDA funded rental projects during the affordability period and to explain how suspension is recommended, approved, and maintained.

This policy, while in alignment with the agency's overall suspension policy, applies specifically to the programs administered and monitored by IHCDA's Real Estate Development Department. These programs include Section 42 Low-income Housing Tax Credits, the HOME Investment Partnerships Program, Tax Credit Assistance Program (TCAP), Section 1602 Exchange, Community Development Block Grants (CDBG & CDBG-D), the Neighborhood Stabilization Program (NSP), and the Indiana Affordable Housing & Community Development Fund ("Development Fund").

B. Scope of Persons Affected

This policy applies to all persons directly or indirectly receiving, administering or associated with funds from an IHCDA Program whether or not such person has a contractual relationship with IHCDA, including but not limited to the following persons:

- Contractors
- Sub-contractors
- Applicants
- Award/ grant recipients
- Sub-recipients
- Sub-grantees
- Property owners
- Developers
- Syndicators
- Administrators
- Management companies/agents
- Individuals employed by, contracted by or affiliated with any of the persons listed

Such persons will be referred to as "affected persons" in this policy. For the purposes of this policy, the term "person" shall be interpreted broadly to mean any individual, trust, cooperative, association, organization, or any other entity.

C. Definitions

Affected person is defined as any person directly or indirectly receiving, administering, or associated with funds from an IHCDA Program whether or not such person has a contractual relationship with IHCDA. For the purposes of this policy, the term "person" shall be interpreted broadly to mean any individual, trust, cooperative, association, organization, or any other entity. Examples of types of affected persons can be found in Part B above.

Debarment is defined as a determined period of time, not to exceed five (5) years, during which an affected person is prohibited from participating in an IHCDA Program(s). See Part K below for additional information on debarment.

Suspension is defined as an *indefinite but temporary* status assigned to an affected person making it ineligible to apply for additional funding until such time that the suspension status is revoked. Suspension is generally invoked for failure to meet federal and/or state compliance obligations and reporting requirements. Other considerations leading to suspension could include but are not limited to: fraudulent activity, financial health concerns, and poor record of past performance. Unlike debarment, suspension is not for a set amount of time and can generally be revoked as soon as IHCDA's concerns and any identified issues have been resolved.

Parts D through G below discuss suspension recommendations based on noncompliance. Other scenarios resulting in the recommendation of suspension are not discussed in detail but will follow the same basic guidelines herein, including issuance of (1) preliminary issue letters giving the affected person the opportunity to satisfy concerns, (2) a suspension recommendation letter notifying the affected person that suspension has been recommended, and (3) an official notice that suspension has been invoked.

Suspension does not waive any compliance requirements or release the project from its affordability period. A suspended organization must continue to keep its project(s) in compliance and work towards remedying any issues with the project(s) that caused the suspension recommendation. Failure to do so could result in further penalties as outlined in Part L below.

Suspension list is defined as IHCDA's internal roster of entities that have been officially suspended. IHCDA will also maintain a list of entities recommended for suspension but not yet officially suspended. This may also be referred to as the "watch list."

Suspension recommendation is defined as the act of an IHCDA employee recommending (usually based on the persistence of uncorrected noncompliance) that an entity be disqualified from future IHCDA funding by being placed on the IHCDA's Suspension List. A suspension recommendation does not implement an actual suspension until approved by the appropriate IHCDA staff.

D. Suspension Recommendation Based on Failure to Submit Annual Owner Certification

If an Annual Owner Certification is not received for a particular project/award, IHCDA will send a notification letter to the designated contacts giving a final ten (10) day correction period to submit the Owner Certification. There are two possible results following issuance of this letter:

- If the Owner Certification is received, it will be reviewed by the assigned Compliance Auditor. Issues identified could result in a suspension recommendation.
- If the Owner Certification is not received, the organization will be recommended for suspension.

A recommendation for suspension can be made by any Compliance Auditor by issuing the letter entitled "Notice of Suspension List Recommendation." This letter serves only as a notice that suspension has been recommended, not that suspension has actually gone into effect. The language from the letter states:

> "Regrettably, at this time I must inform you that your project and organization have been recommended for IHCDA's Suspension List. In order to have this recommendation rescinded, you must submit the files necessary to demonstrate compliance."

If suspension is implemented, a letter will be issued directly by the Chief Real Estate Development Officer as described in Part H below.

E. Suspension Recommendation Based on Failure to Correct Owner Certification Issues

After review of an Annual Owner Certification of Compliance, the affected person is sent either a "no issue" or an "issues identified" letter. If issues are identified, the owner/recipient is given a thirty (30) day correction period to respond. There are three possible results following issuance of an issues identified letter:

- If a correction response is received that adequately resolves the issues, the Annual Owner Certification is closed and an "issues resolved" letter is sent.
- If a correction response is received but the issues are not adequately resolved, a follow-up letter is sent identifying the remaining issues and giving an additional ten (10) days to submit additional documentation. If no response is received after this additional ten (10) days, a follow-up letter is sent giving a final ten (10) day correction period. This letter states that failure to submit the requested response will result in recommendation of suspension.
- If no response is received during the correction period, a follow-up letter is sent giving a final ten (10) day correction period. This letter states that failure to submit the requested response will result in recommendation of suspension.

If the response is not received after the final letter is sent, the affected person will be recommended for suspension. A recommendation for suspension can be made by any Compliance Auditor by issuing the letter entitled "Notice of Suspension List Recommendation." This letter serves only as a notice that suspension has been recommended, not that suspension has actually gone into effect. The language from the letter states:

> "Regrettably, at this time I must inform you that your project and organization have been recommended for IHCDA's Suspension List. In order to have this recommendation rescinded, you must submit the files necessary to demonstrate compliance."

If suspension is implemented, a letter will be issued directly by the Chief Real Estate Development Officer as described in Part H below.

F. Suspension Recommendation Based on Failure to Cooperate with File Audit Request

If files are not submitted for a desktop request or the auditor is not given access to files for an onsite audit, IHCDA will send a notification letter to the designated contacts giving a final ten (10) day correction period. There are two possible results following issuance of this letter:

- If the files are received, they will be reviewed by the assigned Compliance Auditor. Issues identified could result in a suspension recommendation as defined in Part G below.
- If the files are not received, the organization will be recommended for suspension.

A recommendation for suspension can be made by any Compliance Auditor by issuing the letter entitled "Notice of Suspension List Recommendation." This letter serves only as a notice that suspension has been recommended, not that suspension has actually gone into effect. The language from the letter states:

> "Regrettably, at this time I must inform you that your project and organization have been recommended for IHCDA's Suspension List. In order to have this recommendation rescinded, you must submit the files necessary to demonstrate compliance."

If suspension is implemented, a letter will be issued directly by the Chief Real Estate Development Officer as described in Part H below.

G. Suspension Recommendation Based on Failure to Correct Audit Issues

After completion of a tenant file audit, the affected person is sent either a "no issues" or an "issues identified" letter. If issues are identified, affected person is given a ninety (90) day correction period to respond. There are three possible results following issuance of an issues identified letter:

- If a correction response is received that adequately resolves the issues, the audit is closed and an "issues resolved" letter is sent.

- If a correction response is received but the issues are not adequately resolved, a follow-up letter is sent identifying the remaining issues and giving an additional thirty (30) days to submit additional documentation. If no response is received after this additional thirty (30) days, a follow-up letter is sent giving a final ten (10) day correction period. This letter states that failure to submit the requested response will result in recommendation of suspension.
- If no response is received during the correction period, a follow-up letter is sent giving a final ten (10) day correction period. This letter states that failure to submit the requested response will result in recommendation of suspension.

If the response is not received after the final letter is sent, the affected person will be recommended for suspension. A recommendation for suspension can be made by any Compliance Auditor by issuing the letter entitled "Notice of Suspension List Recommendation." This letter serves only as a notice that suspension has been recommended, not that suspension has actually gone into effect. The language from the letter states:

> "Regrettably, at this time I must inform you that your project and organization have been recommended for IHCDA's Suspension List. In order to have this recommendation rescinded, you must submit the files necessary to demonstrate compliance."

If suspension is implemented, a letter will be issued directly by the Chief Real Estate Development Officer as described in Part H below.

H. Suspending an Organization

After a suspension recommendation letter has been sent, the recommendation will be reviewed by the Chief Real Estate Development Officer and Director of Real Estate Compliance. This review will ensure that the proper steps were taken by IHCDA staff and that the issue (1) has not been resolved and (2) warrants the suspension recommendation.

If suspension is invoked, the affected person will receive an official "Notice of Suspension" letter stating that the organization has been added to IHCDA's Suspension List effective the date of the letter. All suspension letters will come directly from the Chief Real Estate Development Officer, not from a Compliance Auditor. A copy of the letter will be sent to IHCDA's Executive Director and General Counsel. If the affected person is involved in the CDBG program, an Office of Community and Rural Affairs (OCRA) representative will also be notified of the suspension. Copies of the suspension letter and all prior notifications will be maintained by IHCDA in the file for the applicable project/award.

Suspension is at the sole discretion of IHCDA. Unless otherwise stated, a suspension or debarment will apply to not only the affected person, but to any entity owned, controlled, or managed by the affected person or a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, cousin, grandchild, parent or grandparent of the affected person, including "in-laws", "half" or "step" relations.

I. Maintaining a Suspension and Debarment List

IHCDA will internally maintain a list of entities recommended for suspension, suspended entities and debarred entities (for more information on debarment see Part K below). This list will be available to IHCDA management and appropriate staff. Because the suspension list will apply to the entire agency and be made available across departments, suspension based on performance on a Real Estate award could affect future funding not only under the QAP and SIP processes, but also from other IHCDA departments' funding sources and from OCRA's CDBG program.

J. Removal from Suspension List / Reinstating an Organization

An affected person can be removed from the suspension list if the original issues that invoked the suspension are sufficiently resolved, the necessary documentation proving such is submitted to IHCDA, and the project is considered otherwise in compliance.

To request removal from the suspension list, the affected person should send a letter to IHCDA requesting such removal and providing a narrative of how the outstanding issues have been resolved. All necessary supporting documentation to prove compliance should be attached to the letter. This packet must be submitted to the Chief Real Estate Development Officer. Upon receipt of the request, the Chief Real Estate Development Officer, Director of Real Estate Compliance, and the Compliance Auditor that originally recommended suspension (if applicable) will meet to review and make a determination. Removal from the suspension list is at the sole discretion of IHCDA.

K. Debarment

In its sole discretion, IHCDA may debar an affected person from participation in an IHCDA Program(s) for a period not to exceed five (5) years based on reasonable evidence that the affected person has behaved or is behaving improperly with regard to an IHCDA Program(s), whether intentionally or unintentionally. The difference between suspension and debarment is that a suspension is used to allow IHCDA to determine whether a debarment or other action is warranted pending completion of an investigation. Therefore, suspension is an indefinite but temporary measure, while debarment is for a set amount of time.

An IHCDA decision to debar an affected person may be appealed within thirty (30) calendar days of notice to the affected person of that decision. The appeal must be in writing and contain, at a minimum, the reasons for the appeal and supporting documentation or evidence. The appeal should be sent to IHCDA, 30 South Meridian Street, Suite 1000, Indianapolis, IN 46204, Attn: Chief Real Estate Development Officer. The Chief Real Estate Development Officer will discuss with IHCDA legal, and respond to the appeal within forty-five (45) calendar days of the receipt of the appeal. The response to the appeal is not appealable.

An IHCDA decision to suspend an affected person is not appealable because it does not represent final disposition on the matter.

L. Potential Recapture

In addition to suspension or debarment by IHCDA, affected persons found to be out of compliance with the HOME, CDBG, CDBG-D, or NSP programs are subject to all recourse under the regulations and statutes of those programs, including possible recapture of funds. If an affected person remains on the suspension or debarment list for more than ninety (90) days and has not informed IHCDA of corrective actions in progress, IHCDA will consider that affected person noncompliant and begin the process of recapturing funds for the project(s) that invoked the suspension.

Part 7.8|Tenant Fraud

If fraud/misrepresentation of information is discovered while processing an application for residency, the applicant should be denied. Handling tenant fraud becomes more problematic when the fraud is discovered at recertification. In this scenario it may be determined that the household was never initially qualified and has been inappropriately occupying the unit. Fraud is considered material noncompliance with the lease and program requirements and is therefore grounds for termination of tenancy. For more information on termination of tenancy, see Part 5.6 E.

If tenant fraud is discovered the following steps should be followed immediately.

1. Notify IHCDA that an incident of tenant fraud has been identified and provide a written explanation of what happened. As long as the incident was identified prior to an IHCDA audit and a corrective plan is in placed, the incident will not be considered noncompliance.
2. Begin the process of removing the fraudulent unqualified household and replacing it with a qualified household. Every lease should include language stating that providing inaccurate information regarding program eligibility is cause for termination of tenancy. Thus, the fraud becomes not only a violation of program rules but also a lease violation and grounds for eviction.

In order to try and reduce the number of instances of tenant fraud, the recipient should ensure that the forms used in tenant files address the seriousness of providing fraudulent information. As mentioned above, all leases should include language that fraud is grounds for eviction or non-renewal of a lease. Additionally, it is a best practice to include language on other forms signed by the tenant/applicant stating that the forms are signed under penalty of perjury. By including such language, the recipient is showing a zero tolerance policy for tenant fraud.

The following documentation may help the owner establish that tenant fraud occurred:

- Documentation proving the tenant was made aware of program requirements and prohibitions and did not follow those requirements such as signed lease documents and program agreements.
- Documentation showing that the tenant intentionally misstated or withheld information including but not limited to:
    - Evidence that false names or Social Security Numbers were used;
    - Copies of falsified, forged, or altered documents;

- Proof that tenant omitted material facts that were known to the tenant such as proof of income and assets sources that were not disclosed by the tenant; and
- Admission by the tenant that information was falsified or omitted.

Part 7.9|Owner Fraud

If IHCDA becomes aware of an apparent act of fraud by the owner, management company, or other entity involved with the management and compliance of a project, the project will be considered out of compliance and the following steps will be taken:

1. The recipient will placed on IHCDA's suspension list until further investigation is completed.
2. If warranted, IHCDA will debar the entities involved as outlined in Part 7.7.
3. If warranted, IHCDA will recapture the funds as outlined in Part 7.6.
4. Other noncompliance penalties such as increased auditing, rejection of future applications, etc. as outlined in Part 7.2 may also apply.

Section 8: Glossary

Actual Income from Assets: The income generated by an asset, such as interest or a dividend. This is counted as income even if the income is not received by the household, for example if the interest or dividend is automatically reinvested into the asset. When net family assets (cash value of all assets) are up to $5000, the actual income from assets is always the income used. When net family assets exceed $5000 then the actual income must be compared to the imputed income from assets and the higher amount is used for income determination.

Affirmative Fair Housing Marketing Plan: Also referred to as the AFHMP or Affirmative Marketing Plan. A plan in which the owner/management of a property confirms that they are following Fair Housing regulations and are making efforts to market the property to those groups determined to be least likely to otherwise apply for residency. All projects with five (5) or more HOME-assisted units must have an AFHMP in place.

Affordability Period: The length of time for which a development must continue to meet the program requirements. IHCDA considers the date final completion information is entered into IDIS as the start date for the project affordability period.

AMI: Area Median Income

Annual Household Income: Annual income of all persons who intend to permanently reside in a unit.

Annual Income: Total current anticipated income to be received by a tenant from all sources including assets for the next twelve (12) months.

Annual Income Recertification: Document by which the tenant re-certifies his/her income for the purpose of determining whether the tenant will be considered low-income according to the provisions of the program.

Application: Form completed by a person or household seeking rental of a unit in an award. An application should solicit sufficient information to determine the applicant's eligibility and compliance with federal and IHCDA guidelines.

Applicant: Any recipient, principal and participant, including any affiliates associated with an award that is seeking an award of HOME, CDBG, or Development Fund monies.

Area Median Income: The median income for a specific county as published by HUD.

Assets: Items of value, other than necessary and personal items, which are considered in determining the eligibility of a household.

Asset Income: The amount of money received by a household from items of value as defined in HUD Handbook 4350.3.

Available Unit: A vacant unit that is not under any contractual agreement between the owner and a prospective resident. A unit is not available if an applicant has already signed a lease but has not yet moved into the unit.

Award: The amount of money allocated for rental housing or homebuyer units to a recipient of HOME, CDBG, or Development Fund award.

Cash Value of Asset: The market value of an asset minus reasonable expenses incurred to convert the asset to cash.

Certification Year: The twelve (12) month time period beginning on the date the unit is first occupied and each twelve (12) month period commencing on the same date thereafter.

Completion Date: The date of project completion, defined by HUD as the date that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of 24 CFR 92.2 and the property standards of 24 CFR 92.251 or 24 CFR 570; the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system (IDIS) established by HUD. IHCDA considers the completion date as the start date for the project affordability period.

Comparable Unit: A unit that is equal or greater than another unit in terms of size, number of bedrooms, and amenities.

Compliance: The act of meeting the requirements and conditions specified under the law and the program requirements.

Correction Period: A reasonable time as determined by the Authority for a recipient to correct any violation as a result of noncompliance.

Current Anticipated Income: Gross anticipated income for the next twelve (12) months as of the date of occupancy that is expected to be received by the tenant(s) including imputed income.

Debarment: A determined period of time, not to exceed five (5) years, during which an affected person is prohibited from participating in an IHCDA programs

Developer: Any individual and/or entity who develops or prepares a real estate site for residential use to be an award.

Disabled (for Fair Housing purposes): For purposes of the Fair Housing Act, disability is defined as a person who has/is:

- A physical or mental impairment which substantially limits one or more of such person's major life activities; or
- A record of having such an impairment; or
- Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act).

Due Diligence: The appropriate, voluntary efforts to remain in compliance with all applicable program rules and regulations. Due diligence can be demonstrated through business care and prudent practices and policies. Due diligence is the establishment of internal controls, including but not limited to: separation of duties, adequate supervision of employees, management oversight and review (internal audits), third party verifications of tenant income, independent audits, and timely recordkeeping. IHCDA expects all HOME, CDBG, and Development Fund awards to demonstrate due diligence.

Earned Income: Income from employment, including wages, salaries, tips, commission, bonuses, overtime pay, anticipated raises, and any other compensation. The earned income of all adult household members is included in the Annual Household Income calculation. The earned income of minors (members under age 18) is not included.

Effective Date of Tenant Certification: The date the Tenant Income Certification becomes applicable. For initial certifications, this date must be the move-in date of the tenant. For annual re-certifications, this date must be no later than one year from the effective date of the previous (re) certification.

Effective Term of Verification: A period of time not to exceed one hundred twenty (120) days. After this time, if the tenant has not yet moved in, a new, written third party verification must be obtained. The verification must be within the effective term at time of Tenant's Income Certification.

Eligible Tenant: The current tenant of the unit, so long as that tenant is eligible to occupy the unit under the requirements of HOME, CDBG, or Development Fund. This expressly includes a tenant whose income would not currently qualify under HOME, CDBG, or Development Fund, but who was qualified at the time of tenant's original occupancy of the unit.

Employment Income: Wages, salaries, tips, bonuses, overtime pay, or other compensation for personal services from a job.

Fair Market Value: An amount which represents the true value at which property could be sold on the open market.

Fixed units: The HOME-assisted units remain the same throughout the affordability period.

Floating units: The HOME-assisted units may change during the affordability period. Unit mix would be changed to maintain conformity during the affordability period so that the total number of HOME-assisted units meets the requirements set out in the application and recorded declaration. Each substituted unit must be comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted unit.

Foster Adult: An adult, usually with a disability that makes him/her unable to live alone, who is unrelated to the tenant family but has been placed in their care. Foster adults are not counted as household members when determining household size and the applicable income limit.

Foster Children: Foster children are in the legal guardianship or custody of the State or foster care agency, but are cared for by foster parents in their home under a foster care arrangement with the custodial agency. Foster children are not counted as household members when determining household size and the applicable income limit.

FSP Memos: Notices published by IHCDA's Community Department to announce changes, updates, or clarifications on policies and issues affecting the HOME, CDBG, or at **http://www.in.gov/ihcda/2522.htm** , through the electronic newsletter IHCDA INFO, and are also posted on the message board on the Indiana Housing Online Management rental reporting system (**https://ihcdaonline.com/**).

Good-cause Eviction: Rental Housing households cannot be evicted or have their tenancy terminated without "good-cause," generally considered material violation of the lease. The actions that constitute good-cause for eviction or termination of tenancy must be given to the tenant in writing at the time of occupancy, preferably in the lease, as well in the property's Tenant Selection Criteria.

Gross Income: See Annual Household Income.

Gross Rent: The gross rent for a unit is the sum of tenant portion rent + utility allowance + non-optional charges + tenant-based rental assistance.

Gross Rent Floor: the lowest amount of rent that the owner will ever be required to accept. The gross rent floor is the rent limit in effect at the time the funds are awarded. If the current applicable HOME limits drop below the gross rent floor, the owner is not required to accept lower rents.

Group Home: Housing occupied by two or more persons or families with common space/facilities for group use.

Guest: A visitor temporarily staying in a unit with the consent of the household. Guests are not treated as household members when determining household size and the applicable income limit, and their income is not included in Annual Household Income calculations.

High HOME units: HOME-assisted units reserved for households at or below 80% AMI.

HOME Rent Limit:. The HUD published maximum rent amount, including a utility allowance and any non-optional fees. Rent limits are published by bedroom size.

Household: The individual, household, or group of individuals living in the unit.

Imputed Income from Assets: The estimated earnings of assets held by a tenant using the potential earning rate established by HUD (currently 2%).

Income Limits: Maximum incomes as published by HUD for awards giving the maximum income limits per unit for Low-Income (40%, 50%, 60%, or 80% of median) units.

Inspection: A review of an award which may be made annually by IHCDA or its agent, which includes an examination of records, a review of operating procedures and a physical inspection of units.

Joint Venture: A combination of one or more independent entities that combine to form a new legal entity for the purpose of this Award.

Lease: The legal agreement between the tenant and the recipient which delineates the terms and conditions of the rental of a unit.

Lease Rent: The lease rent is the actual rent charged to the household by the owner, as defined in the lease. The lease rent may never to exceed the maximum allowable rent or the applicable HOME rent limit.

Live-in Care Attendant / Live-in Aide: A person who resides with one or more elderly, near-elderly, or disabled persons. To qualify as a live-in care attendant, the individual (a) must be determined to be essential to the care and well being of the tenant, (b) must not be financially obligated to support the tenant, and (c) must certify that he/she would not be living in the unit except to provide the necessary supportive services. While some family members may qualify, spouses can never be considered a live-in care attendant since they would not meet qualifications (b) & (c).

Low-income: HUD uses the term "low-income" for households at or below 80% AMI and

Low-Income Unit: Any unit in a building if: such unit is rent-restricted, the individuals occupying such unit meet the income limitation applicable under federal and state requirements, and the unit is suitable for occupancy.

Low HOME units: HOME-assisted units reserved for households at or below 50% AMI.

Management Company: A firm authorized by the recipient to oversee the operation and management of the award and who accepts compliance responsibility.

Market Value of Asset: The dollar value of an asset on the open market.

Maximum Allowable Rent: The maximum allowable rent is the most an owner is permitted to charge for rent once tenant-paid utilities (except telephone, cable television, and internet) and other non-optional charges are deducted. The maximum allowable rent can never exceed the applicable HOME rent limit. May also be referred to as the "maximum chargeable rent" or the "net rent".

Maximum Allowable Rent Calculation: Maximum Allowable Rent = HOME rent limit – utility allowance – any non-optional fees

Maximum Chargeable Rent): See Maximum Allowable Rent

Median Income: A determination made through statistical methods establishing a middle point for determining income limits. Median is the amount that divides the distribution into two equal groups, one group having income above the median and one group having income below the median.

Minimum Set-Aside: The minimum number of units that the recipient has elected and set forth in the application to be income and rent-restricted.

Multi-Family Department (MFD) Notices: Notices published by IHCDA's Multi-Family Department to announce changes, updates, or clarifications on policies and issues affecting

Narrative Summary: A description written by the Applicant of the need for the Award within the community and the Award itself. This narrative should give an accurate depiction of how this Award will benefit the particular community. Generally, the summary should include the following points:

1. Award and unit description
2. Amenities - in and around the Award
3. Area's needs that the Award will help meet
4. Community support and/or opposition for Award
5. The constituency served by the Award
6. Award quality
7. Award location
8. Effective use of resources
9. Unique features
10. Services to be offered
11. Address Allocation Plan points **MUST** include pages 3-9 of Form- A (the Application).

Net Rent: See Maximum Allowable Rent

Noncompliance: The period of time that an Award, specific building, or unit is ineligible for HOME, CDBG, or Award Fund because of failure to satisfy program requirements.

Non-optional fee: A fee charged for services/amenities that are mandatory (i.e. services that are required as a condition of occupancy). A fee may be charged for non-optional services, but the fee must be included in the gross rent calculation.

Over-income Household/Unit: For HOME purposes, a household is considered over-income if it exceeds 80% of AMI or for a Low HOME unit, if the household exceeds 50% of AMI. See Part 3.1 C for more information on properly handling over-income units.

Passbook Rate: The HUD approved rate for imputing assets. The current passbook rate is 2%.

PHA: Public Housing Authority.

Protected Class: One of the seven groups specifically protected by the Fair Housing Act. The seven protected classes are race, color, national origin, religion, sex, disability, and familial status.

Reasonable Accommodation: A change, exception, or adjustment in rules, policies, practices, or services when such a change is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common spaces. Under the Fair Housing Act, an owner must allow a reasonable accommodation unless doing so will be an undue financial burden or fundamentally alter the nature of the provider's operations.

Reasonable Modification: A change to the physical structure of the premises when such a change is necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling, including public and common spaces. Under the Fair Housing Act, an owner must allow a reasonable modification at the expense of the tenant, unless the change is one that should have already been included in order to comply with design and construction accessibility standards, in which case the owner will responsible for paying for the modifications.

Recipient: Any individual, association, corporation, joint venture, or partnership that received HOME, CDBG, or Development Fund funding.

Rent Limit: The HUD published maximum rent amount, including a utility allowance and any non-optional fees. Rent limits are published by bedroom size.

Qualified Unit: A unit in a qualified low-income n occupied by qualified persons at a qualified rent.

Second-party Verification: Source documentation submitted to management by a tenant or applicant in order to disclose information about income or asset sources or other eligibility factors. Second-party verifications may only be used when third-party verifications cannot be received or are not necessary (see Part 5.3 for more information). An example of second-party verification is a paystub or bank statement provided to management by the tenant/applicant.

Section 8: Section 8 of the United States Housing Act of 1937, as Amended.

Self-certification: A signed affidavit from a tenant or applicant used to clarify information or to provide information that cannot be verified through third-party or second-party documents.

Service Animal: An animal that assists an individual with a disability. This term includes service animals, therapy animals, companion animals, emotional support animals, and assistance animals. These animals are not treated as pets but rather as reasonable accommodations under Fair Housing.

Set Aside: Shall mean and require that units designated as "set aside" for a specific population may be used only for the identified population and for no other. If qualified tenants in the designated population are not available, the unit(s) must remain vacant.

Special Needs Populations: An award recipient may have committed in writing to set aside a percentage of total units in the award to qualified tenants who meet the state definition of "special needs population," as provided in IC 5-20-1-.45 and must equip each unit to meet a particular person's need at no cost to the tenant. Special needs populations include:

1. Persons with physical or development disabilities
2. Persons with mental impairments
3. Single parent households
4. Victims of domestic violence
5. Abused children
6. Persons with chemical addictions
7. Homeless persons
8. The elderly

SRO Unit: Single Room Occupancy Unit, defined as single room that may or may not have food prep and sanitary facilities.

Suspension: An *indefinite but temporary* status assigned to an affected person making it ineligible to apply for additional funding until such time that the suspension status is revoked. Suspension is generally invoked for failure to meet federal and/or state compliance obligations and reporting requirements. Other considerations leading to suspension could include but are not limited to: fraudulent activity, financial health concerns, and poor record of past performance. Unlike debarment, suspension is not for a set amount of time and can generally be revoked as soon as IHCDA's concerns and any identified issues have been resolved.

Suspension list: IHCDA's internal roster of entities that have been officially suspended. IHCDA will also maintain a list of entities recommended for suspension but not yet officially suspended. This may also be referred to as the "watch list."

Suspension recommendation: The act of an IHCDA employee recommending (usually based on the persistence of uncorrected noncompliance) that an entity be disqualified from future IHCDA funding by being placed on the IHCDA's Suspension List. A suspension recommendation does not implement an actual suspension until approved by the appropriate IHCDA staff.

Temporarily noncompliant unit: A unit is considered to be temporarily out of compliance when a household that originally income qualified becomes an over-income household. Temporary noncompliance is permissible and does not penalize the owner as long as the owner follows the correct steps to restore the HOME unit mix.

Tenant: Any person occupying the unit.

Tenant/ Unit File: Complete and accurate records pertaining to each dwelling unit, containing the Application for each tenant, verification of income and assets of each tenant, Annual Income Re-certification, utility schedules, rent records, Lease and Lease addendum. Any authorized representative of IHCDA or HUD shall be permitted access to these files upon receipt by award recipient or Management Company of prior written notice of not less than two calendar days.

Third-party Verification: A verification document submitted to management by a third-party entity in order to disclose information about the income or asset sources or other eligibility factors of an applicant or tenant. Third-party verifications must be sent to and received directly from the third-party source, not through the tenant or applicant. An example of third-party verification is an employment verification form completed by the employer.

Unearned Income: Income from assets and benefit sources such as Social Security. The unearned income of all household members (regardless of age) is included in the calculation of Annual Household Income.

Utility Allowance: The amount of utilities for a particular unit, as set by a utility allowance schedule published by HUD, Rural Development, or the PHA, or established by a letter from the utility company which states the rates, an IHCDA estimate, the HUD Utility Schedule Model, or an Energy Consumption Model as calculated by an approved engineer or licensed professional. For more information see Part 3.3.

Vacant Unit: A unit that is currently unoccupied, but was formerly occupied by a qualified household.

Verification: Information from a third-party that is collected in order to corroborate the accuracy of information about income provided by applicants to an award.

Very low-income: HUD uses the term "very low-income" for households at or below 50% AMI.

Section 9- Detailed Table of Contents

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APPENDIX A: HUD Handbook 4350.3, Chapter 5 Excerpts & *Technical Guide for Determining Income and Allowances for the HOME Program*

HUD Handbook 4350.3 Chapter 5 Excerpts

- HUD Handbook 4350.3 REV-1 Change 4, Chapter 5 Sections 1 & 3
- Exhibit 5-1: Income Inclusions and Exclusions
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- Appendix 3: Acceptable Forms of Verification Table
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Technical Guide for Determining Income and Allowances for the HOME Program

APPENDIX B: Compliance Forms

*Forms marked with an asterisk apply only to the Rental Housing Tax Credit Program, not the programs covered in in this manual

1. Annuity Verification
2. Asset Verification
3. Bank Verification
4. Child (or Spousal) Support Verification
5. Crime Free Addendum
6. Criminal Background Check Release and Authorization Form
7. Disposal of Assets Certification
8. Employment Verification

9A. Lease Addendum for Units Participating in Section 42*
9B. Lease Addendum for Units Participating in Government Regulated Affordable Housing Programs- HOME
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9D. Lease Addendum for Units Participating in Government Regulated Affordable Housing Programs- CDBG, CDBG-D, NSP

10. Lease Renewal Addendum
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13. Management Telephone Clarification
14. Marital Separation Status Certification
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17. Release of Information Authorization
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21. Student Status Verification
22. Tenant Income Certification for RHTC*
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25. Unborn Child Certification
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27. Zero Income Certification & Basic Needs Questionnaire
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30: Property Management Change Form
31: Staff Unit Request Form*

32: Extended Use Policy Request Form*
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34: Extended Use Policy Annual Household and Rent Update Form*
35: Student Status Self-Certification for RHTC*
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    - Exhibit D: Asset Management
    - Rental Housing Development and Building Information
    - Rental Housing Utilities Form
    - Property Directional Form
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3. Approval Request Letter- Energy Consumption Model
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5. Approval Request Letter- Qualified Engineer Estimate
6. IHCDA Tenant Usage Data Forms (Flats & Townhomes)
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2. 2013 HOME Final Rule- Applicability Chart
3. 2013 HOME Final Rule- Section by Section Summary
4. Compliance in HOME Rental Projects: A Guide for Property Owners

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1. Are You A Victim of Housing Discrimination Brochure

2. Fair Housing Poster
3. Federal Register Volume 64, Number 63: Implementation of the Housing for Older Person's Act of 1995
4. HUD 935.2a Affirmative Fair Housing Marketing Plan form
5. HUD/DOJ Guidance on Reasonable Accommodations
6. HUD/DOJ Guidance on Reasonable Modifications

APPENDIX I: Tenant Guides

1. FAQ- What is HOME Rental Housing?
2. Tenants' Guide to HOME Rental Housing