

## Introduction

# *Post-Year 15 Monitoring Procedures*

The Commission has established monitoring procedures for approved qualified tax credit properties operating after Year 15 of their Extended Use Agreement. These procedures, designed to both preserve the long-term affordability of properties and lessen reporting burdens for Owners, are called Post-Year 15 Monitoring Procedures.

Tax Credit properties allocated credit in 1990 and after were required to record a commitment to affordable housing for a minimum of thirty years. The Commission refers to this agreement as the Regulatory Agreement or the Extended Use Agreement (EUA). The first fifteen years of the EUA is called the “Compliance Period.” During the Compliance Period, the Commission is obligated to report events of noncompliance to the Internal Revenue Service.

The IRS calls the ensuing period after the Compliance Period the “Extended Use Period.” The Commission also established an “Additional Low-Income Use Period” in the EUA as a further commitment by the Owner. During these periods, the Commission must continue to monitor properties for low-income housing commitments made in the EUA, but is no longer required to report instances of noncompliance to the Internal Revenue Service.

In light of the IRS’ allowance for lessened reporting after Year 15, the Commission has adopted the following procedures for approved properties to ensure compliance with the EUA while allowing for the streamlining of reporting requirements during this period.

**NOTE:** If your project is mixed-income (i.e., it has Market Rate units in addition to affordable units), it will not be approved to use the Commission’s *Self-Certification* form for recertifying households. An approved mixed-income project will still be obligated to third-party verify all household income and assets at all household recertifications.

An approved mixed-income project will be eligible for all other Post-Year 15 Procedures noted in this chapter.

## Qualifying for the Waiver

Properties must satisfy a qualifying threshold to be eligible for Post-Year 15 Monitoring Procedures in years 16 through 40. To qualify, a property must be free of Material Noncompliance issues in years 13-15 of the compliance period (the “Qualifying Period”). Properties must have three consecutive years of annual reports and on-site inspections free of Material Noncompliance as determined by Commission staff.

Properties that meet the required threshold will continue to qualify for Post-Year 15 Monitoring Procedures unless they have a year with Material Noncompliance, at which time a new three-year Qualifying Period will begin.

A transfer of Ownership or switching to a new Property Management company will also trigger a new three-year Qualifying Period.

During any Qualifying Period, properties are subject to normal monitoring procedures as outlined elsewhere in this **Tax Credit Compliance Procedures Manual**.

Owners who wish to participate in the Post-Year 15 Monitoring Procedures must be in good standing during the three-year Qualifying Period and must continue in good standing. They must submit a written request for a Post-Year 15 waiver to the Asset Management & Compliance Division Director. After review, Owners will receive a written waiver letter for each property that qualifies for the procedures.

## Annual Reports

Owners will continue to use the existing annual reporting forms. Owners will report all data for new households on the Table 1 report in WBARS, and complete all Owner certification information on the *Owner’s Annual Certification* document. Commission staff will request a sampling of **new move-in** resident packages (minimum of 10% every 3 years) after reviewing Table 1 and the *Owner’s Annual Certification*.

## Initial Resident Qualifications

Owners must continue to third-party verify and income-qualify all households upon initial occupancy of any affordable unit. Owners must also continue to limit Up-Front Charges & Fees (see Chapter 3 of this Manual for more information about restricting Up-Front Charges).

**Re-Certifications**

Third-party verified re-certifications are not required for existing households after Year 15 on 100% affordable properties that qualify for and continue to meet Post-Year 15 Monitoring Procedures.

The Commission works closely with several other public funding agencies that require annual recertifications. Most of these agencies do not require third-party verification of income for a recertification. To satisfy the IRS and other funder requirements, the Commission has adopted a *Self-Certification of Annual Income Form*.

After initial qualification, households must self-certify their income and Student status annually on their anniversary date on this form.

**The *Student Certification* is still required even after Year 15 of the Regulatory Agreement if the household is comprised of all fulltime Students, even if the household meets a Student exemption. If an Owner is considering a resyndication of their tax credit property, it is vital that there are no fulltime student households in the property, as this could jeopardize credits under the new allocation.**

If a Resident's gross household income exceeds 140% at the first recertification, or if the household income has increased by a significant degree (e.g., +10K or more), the Commission will request third-party verification regarding the household's income to determine the cause of the increase and whether or not the household truly qualified upon initial move-in.

**Household Transfers**

(unit-to-unit, building-to-building)

For 100% affordable properties, households may change units, even into a different building, without the requirement of a new household income qualification. Owners should process all household transfers in WBARS using the Transfer button on the Table 1 page.

**Common Area Units**

Employees of a property will not necessarily need to be fulltime employees at the property to occupy a Common Area Unit as long as the Owner can justify the need for the manager/maintenance person/security for that property, and the employee's principle occupation is to manage the subject property.

The owner must notify the Commission in writing if they wish to move the Common Area Unit to another Building in the property, even after Year 15.

**On-Site Visits**

- WSHFC will maintain the standard of inspecting units every three years. Units may be inspected more frequently if needed.
- Generally, the percentage of units inspected will be reduced from 20% to a minimum of 10% of total units, with a minimum of five units inspected each visit.
- Resident certification packages for units inspected will not generally be needed after the on-site inspection, since the Commission will request new move-in packages after reviewing Table 1 and the *Owner's Annual Certification*.

**Compliance Fees**

For properties that meet qualifying threshold requirements, fees will be reduced \$10 per unit, per year, as long as the property remains in compliance. Rural Development properties will be reduced \$100 per property.

**Special Needs Commitments**

Owners may be allowed to change Transitional units to Homeless units with Commission staff approval. Owners may submit written requests for changes to other Special Needs Commitments in cases where they can demonstrate significant demographic changes in the area surrounding the property and demonstrate that these changes have caused significant vacancy and turnover issues and are creating a financial hardship that is affecting the viability of the property.

**Additional Low-Income Set-Asides**

For properties with extreme hardship cases, Owners may submit requests for waivers or changes that will improve financial feasibility issues of the property. Owners will need to justify requests with financial data, reserves analysis, capital needs assessment, market change analysis, and effect of proposed changes to local populations. Extreme hardship cases could include, but are not limited to, the pending foreclosure of a property that is unable to service existing debt and maintain the property.

**Record Retention**

Beginning in year 16, Owners must maintain copies of initial move-in certification packet records for all Households that occupied units in a building for five years from the date of move-in. Original records must be maintained for three years after move-in. Electronic or photocopies of records may be maintained for the remaining two years.

The Commission is not responsible for keeping/providing household eligibility records if the Owner disposes of their copies but then is required to furnish them to the IRS for the purposes of a tax audit. Ultimately, an Owner's decision on how long to keep a property's resident eligibility records should be made in collaboration with their appointed tax counsel.

**Noncompliance**

For chronic problems, temporary suspension and/or debarment procedures may be implemented. Properties that have Material Noncompliance will no longer be eligible for Post-Year 15 Monitoring Procedures and will be required to complete a new three-year Qualifying Period after all noncompliance issues are corrected.

Please note that recurring or uncorrected Material Noncompliance will delay or prohibit the Owner's ability to acquire credit in future deals. It is to the Owner's benefit to ensure that all noncompliance occurring during the Extended Use Period be resolved promptly.

**Post-Year 15 Training**

The Division has created a Post-Year 15 webcast that is available for viewing on the **Tax Credit Compliance Procedures Manual** webpage on the Commission's website. Otherwise, Division staff will provide one-on-one support to any Owner who desires additional assistance to understand these procedures and how they would impact his/her property.

**Fulltime Student Households**

No changes; see *Chapter 2, Federal Requirements*.

**Utility Allowances**

No changes; see *Chapter 2, Federal Requirements*.

**Additional Low-Income Housing Use Period**

No changes; see *Chapter 3, Washington State Requirements*.

**Definitions*****Post-Year 15 Monitoring Procedures:***

A set of procedures outlined in **Chapter 11** of the **Tax Credit Compliance Procedures Manual** which amends certain reporting and monitoring requirements of the Owner for properties, after Year 15 in the Extended Use Period, that meet certain requirements in the "Qualifying Period" and continue to have no event of "Material Noncompliance."

***Qualifying Period:***

Year 13-15 of the Extended Use Period for a property or any three-year correction period after Year 15. During these years, properties must have no event of “Material Noncompliance” to qualify for Post-Year 15 Monitoring Procedures.

***Material Noncompliance:***

- a) A single event of noncompliance that is not corrected by the Owner during the correction period, with any approved extensions, or,
- b) A pattern of noncompliance, whether or not corrected, which is determined to be material by the Commission staff.

**Note:** Capitalized terms are also defined in the Commission’s Tax Credit Policies, Owner Regulatory Agreements and in *Appendix A, Glossary* of this Manual.