

WASHINGTON STATE HOUSING FINANCE COMMISSION TAX CREDIT COMPLIANCE FREQUENTLY ASKED QUESTIONS

Latest Revision Date: **December 2024**

These FAQs are based on WSHFC staff interpretations or understanding of IRS rules and guidance for the LIHTC program. Ultimately, Owners are responsible for making sure their properties are in compliance with all applicable rules and regulations. Owners and managers should consult their tax credit legal counsel for further clarification or specific application to their properties.

CERTIFICATIONS & LEASING

Discrimination in Leasing

Q: Can I refuse to rent to a person if I don't like their source of income?

A: No. All vacant units must always be available to the general public and must be rented in accordance with local and state law, including nondiscrimination ordinances and Fair Housing regulations. Please consult your attorney if you are unfamiliar with your local and/or WA state landlord-tenant laws. You can learn more about nondiscrimination and Fair Housing by reviewing Fair Housing resources on WSHFC's website, under the **Resources** heading.

Initial Lease Term

Q: Can I switch a resident's lease term to month-to-month after they have lived at my property for a few months?

A: No. Owners/managers must sign a **minimum six-month lease** at the time a household moves into a tax credit unit. The **initial** lease term can be for longer than six months, but it **cannot be less** than six months.

Overcharging Rent

Q: What happens if I accidentally overcharge a resident on their rent?

A: If a resident's gross rent (utilities + fees + rent) exceeds the **federal** (i.e., 50% or 60%) tax credit maximum rent limit for any month during the reporting year, WSHFC is obligated to issue Form 8823 to the IRS for owner noncompliance. This is still true even if you have promptly notified WSHFC of the problem and corrected the issue.

The IRS takes overcharging of rent very seriously. In fact, once a unit is determined to be out of compliance with the rent limits, the unit ceases to be a low-income unit **for the remainder of the year**. This means that the potential financial repercussions for the owner could be significant. The unit isn't back in compliance **until the first day of the next year**, even if the owner has already lowered the resident's rent and refunded them any overpayments made.

If the owner has overcharged rent on a unit meeting a State income set-aside (under 50%), WSHFC will issue a letter of State noncompliance and will require the owner to reimburse the resident all overpaid monies. Failure to timely adjust the rent and reimburse the resident could hinder the owner's future applications for credit.

Acquisition/Rehab Properties Financed with Tax Credits and Bonds

Q: Does it matter when the Owner takes credits, e.g., at closing (for acquisition), at PIS, or the year after PIS?

A: The bond closing isn't important. The first year for both the acquisition and rehab credits is the year the rehab is placed in service or, if the Owner elects, the following year.

Q: If the Owner takes acquisition credits from bond closing, do the units need to be rent-restricted in addition to being income-restricted and non-transient?

A: Yes, if the Owner takes credits from the date of bond closing, the units must be rent-restricted from that date.

Q: If the Owner doesn't take acquisition credits until PIS, or the year after, then can the units be income-restricted for qualification only and not rent-restricted until credits are taken?

A: There is no guidance about whether units should be rent-restricted prior to the beginning of the tax credit compliance period. However, as a matter of policy, if households are qualified at acquisition, it makes sense to limit the rents at that time as well.

Q: Does the Owner initially have to sign six-month leases with qualified households?

A: Since the Owner is eventually taking tax credits, six-month leases must be signed with all qualified households at initial move-in. Only bond-financed properties **with no tax credits** may initially sign month-to-month leases with qualified households. Existing households who remain after bond closing do not need to sign new leases. However, they must be tax credit-qualified and sign the most current version of the Commission's *Tax Credit Lease Rider*.

Annual Recertification of Income

Q: At an RD property when an interim certification is done to note a change in household composition or income, it resets the anniversary date for the next RD recertification. Do I have to do separate recertifications for RD and Tax Credits, or is it possible to change the tax credit recertification date to match RD?

A: When a property has both Tax Credits and RD subsidy, it is acceptable to change the Tax Credit anniversary date to match the RD recertification date if no more than 12 months elapse between the recertifications. Please note that WBARS only allows one certification entry per household per year. Therefore, only the last certification entered will show on Table 1 and it may appear more than 12 months elapsed between certifications. In that case, please add a comment in WBARS to explain that a recertification was done on the annual recertification date and an additional RD certification was done because of an income/household composition change.

Example:

3/1/17 Household moves into Unit 10.

3/1/18: Annual recertification completed.

10/1/18 RD interim certification completed due to increase in household income. This resets the anniversary month to October.

You may enter 10/1/18 as the recertification date in WBARS if you include a comment noting the annual TC certification was completed 3/1/18 and the anniversary date is now changing to 10/1 due to an RD-required interim.

Q: I'm completing recertifications for residents at my property. All of my property's units are income- and rent-restricted. Do I have to get third-party verification of everyone's income?

A: No. All recertifications performed at 100% affordable tax credit properties may be completed using our *Self-Certification of Annual Income* form.

Q: Why do I need to get residents to fill out the *Self-Certification of Annual Income* form?

A: Each household must complete the WSHFC *Self-Certification* form to continue certifying the Student Status of each household member, as well as providing minimal compliance information needed for WSHFC monitoring and reporting purposes. The *Self Certification* form is also used by

several other Washington state public funders for purposes of fulfilling their recertification requirements.

Q: What happens if I find out at recertification that one of my residents was over-income at the time they moved into my property?

A: If an Owner/Management Company discovers noncompliance they should contact the Portfolio Analyst for the property and let them know what they found and how they plan to correct the noncompliance. In most cases, noncompliance that is found and corrected prior to a state agency review does not need to be reported to the IRS if it is disclosed and corrected.

If any household is discovered to have been over-income at move-in during a WSHFC audit, WSHFC staff will determine the appropriate remedy, which could include reporting the noncompliance to the IRS and/or requiring 100% third-party recertifications to be re-established for a minimum period on all buildings in the project.

Q: Is back-up documentation required for self-recertifications?

A: WSHFC does not require back-up documentation for self-recertifications. However, other funders may require documentation to substantiate estimated income. Please check with your other funders.

Q: What does 100% "affordable" mean? If my property is only partly restricted by WSHFC but all other units are restricted by another public funder, does that count?

A: Yes, if the Owner can document that all units are rent- and income-restricted at or below 60% AMGI, our policy applies.

Q: What if my property has Market Rate units, but I choose to also limit those units below 60% AMGI?

A: If the Owner is willing to amend the Regulatory Agreement, restricting all units below 60% AMGI, this policy will apply. However, amending the Regulatory Agreement would not result in additional tax credits. The Owner must pay for the recording of the amendment.

Q: We manage a 4% tax credit/bond-financed property. Our property is 100% low-income restricted below 60% AMI by our tax credit agreement, but 20% of our units are also bond restricted. Do we need to third-party recertify the bond units every year?

A: No. You can follow the rules outlined above for 100% affordable properties.

Certifying Households after Year 15

Q: Do we still need to recertify households after Year 15?

A: That depends on the type of property you manage:

1. If a property has been approved by the Commission for Post-Year 15 Monitoring Procedures (see **Chapter 11** of WSHFC's *Tax Credit Compliance Manual*) **and** the property is 100% low-income restricted (60% AMI or lower), then no annual third-party recertifications are required. Each household is still required to annually complete WSHFC's *Self-Certification* form.
2. If a property has **any** Market Rate units, annual third-party recertifications on all households must still be completed for the duration of the Regulatory Agreement.

Certification Effective Dates

Q: What is the Effective Date of the initial certification and when is the first recertification due?

A: The Effective Date of the initial certification is the same date as the commencement date of the lease. This is the date when a resident can move into the unit. The income verifications must be dated within 120 days prior to the commencement of the lease.

Recertifications can be done up to 120 days ahead of the certification date and must be effective as of the anniversary date of the initial certification date. For example, if a household moves into a unit on April 23, 2015, their initial certification date is 4/23/15 and their recertification date is 4/23/16.

For administrative ease, managers may choose to make recertification dates the first day of the month for residents with move in dates within that month.

Example: Mary Smith moves into Greenwood Manor on 10/15/14. Her subsequent recert effective dates can be 10/15 **or** 10/1 each year. Mike Jones moves into Greenwood Manor on 6/2/14. His subsequent recert effective dates can be 6/2 or 6/1 each year. The key is to ensure that the recertification effective date occurs **within 12 months** of the previous recertification effective date.

Late Recertifications

Q: If a property completes an annual recertification late, can a "True and Correct" statement be used when the forms are signed even if recerts are done late?

A: The IRS no longer requires annual recertifications at 100% income-restricted properties, but they do require annual certification of student status. Since no verifications are required, there is no need to provide "True and Correct" statements for recertifications at 100% affordable properties. Both the IRS and the Commission allow owners to find and fix noncompliance such as a missed recertification within the reporting year.

Q: What if my property is not 100% affordable, but includes Market units? Can I use the same instructions as above?

A: No. *Self-Certification of Annual Income* forms can never be used at a mixed income property. The IRS requires that all recertifications at a mixed-income property be fully third-party verified due to the Available Unit Rule. If a third-party recertification is not completed by the household's anniversary date, the household can no longer be considered a qualified household and must be replaced with the Next Available Unit in the building.

If the household is not replaced and the recertification is completed late to correct the noncompliance, the IRS does not allow for use of a 'True and Correct' statement. They do allow for a certification to be completed retroactively using the income limit and anticipated income as of the anniversary date, but the certification documents should be dated with the current date. (see page 5-4 of the *IRS Guide for Completing Form 8823*).

The advantage of the retroactive recertification is that the owner may avoid violating the Available Unit Rule were a nonqualified household to be moved in between the anniversary due date and the time the certification is completed.

However, if the household income is found to be over 140% when the recertification is complete, the Available Unit Rule would be invoked as of the household's anniversary date. Noncompliance with the Next Available Unit Rule would occur if any nonqualified household was moved into the building after the household's anniversary date.

In-person Recertifications

Q: Do *Self-Certification* recertifications need to be conducted in person?

A: No. Recertifications which only consist of collecting a completed *Self-Certification of Annual Income* form from a household do not have to be done in person. Managers can email the *Self-Certification* form to the resident or make it available in an online resident portal for them to complete.

Certifying 17-Year-Old Residents

Q: We have a family applying for housing and one of the household members is 17 now but will turn 18 within the next 12 months. They currently have a job. Do I need to have the 17-year-old complete the *Resident Eligibility Application (REA)* and get verification of their wages?

A: Yes. Since owners are required to determine anticipated income, any household member who will turn 18 within 12 months following the certification effective date needs to declare their wage income. The 17 year old's earned and unearned income, as well as their assets, should be recorded on the REA and management must obtain the required verifications for all declared income and assets. Only count the anticipated wages of a 17-year-old for the months **after** they will turn 18.

Q: What if I'm certifying a household with a 17-year-old and the parent/guardian doesn't want the 17-year-old signing the *REA* because they're not an adult?

A: No household member under the age of 18 should sign the REA (unless they are an emancipated minor). Any 17 year old who is turning 18 within 12 months of the certification effective date and who has earned income must declare that income, and it must be counted toward the household's gross annual income once the person turns 18.

Live-in Aides and Their Family Members

Q: An applicant has indicated on their *REA* that they want to include a live-in aide. The issue is that the live-in aide is married with two kids. Are the live-in aide's spouse and kids allowed to live in the unit with this applicant?

A: To treat the aide as a Live-in Aide (LIA) **as defined by HUD** (meaning that the LIA's income is excluded from gross income and the aide has no rights to the unit), the LIA's family members cannot live in the qualified unit. However, if the applicant is willing to consider the LIA a member of the household, then you can qualify the LIA and their family members.

In this case, the aide would not be formally classified as an LIA – they and their family members would be members of the household, have their income counted, and they would all have rights to the unit and be parties to the lease.

Changes in Household Composition

Q: A married couple qualified at the time of move in. They get divorced and the wife moves out. The husband has a new roommate and their combined income now exceeds the household income limit but is still under the 140% level. Does this household still qualify?

A: Yes, because the household was initially qualified and the change in household composition does not constitute a new household since the husband is still residing in the unit.

Q: A household qualified at the time of move in. Four months after moving in, the household wants to add their 22-year-old son. Does this household still qualify?

A: It depends. First, we recommend that all leases include a clause that no household

changes can occur during the first six months, so that questions regarding the household's income-qualified status can be avoided (this applies to adults, not to the birth or adoption of a child). If you wish to allow the household addition, we recommend that you re-qualify the entire household at the time of the addition.

Q: It is my understanding that there must always be at least one member of the original household that remains in a unit for the unit to remain qualified. Is this correct?

A: This has always been WSHFC's interpretation of the IRS' guidance on this issue. However, you can avoid some problems with this issue by re-qualifying the household when a new adult moves into the unit. Many properties have language in their leases stating that the household must be income-qualified when additions are made, and the additional person(s) must sign the lease.

If, when qualifying the new household, you find that together they exceed the income limits for that unit, you can still allow the additional resident to move in. However, if all the original household members ever move out, the new members are no longer qualified (see scenario below).

Scenario: "A" moves in and is the initial (qualified) occupant. Eight months later, "B" moves in with "A." Manager re-qualifies "A" and "B" together as a new household and they are income-qualified.

Q: Do "A" and "B" then become the new household, thus qualifying "B," even if "A" moves out years later, under the "once qualified, always qualified" rule?

A: Yes, if the **verified** combined income of "A" & "B" together (new household) is under the income limit at the point where "B" is added to the lease. If, however, the new household income is **over** the limit when "B" is added to the lease, the household remains qualified until "A" moves out – even if it is several years later. At that point, "B" must be income-qualified as a new household or must vacate.

Q: If "A" had a minor child who has since turned 18, would they be considered a member of the original household (under this rule), even though they were not a resident or co-resident upon move-in?

A: If "A" has a child who has since turned 18 they would be considered part of the original household but once again you might want to include something in your rental criteria that covers this situation.

Changes in Set-Aside Percentages

Q: A property has elected two low-income set-aside levels (e.g., 80% of the units at 60% AMI and 20% of the units at 40% AMI). A resident moves in and is qualified under the 60% set-aside. However, during the year, the resident's income declines and at the time of re-certification their income now falls below 40% of median. Can the Owner re-classify the resident to the 40% set-aside?

A: Yes, if the appropriate rent (40%) is also charged. Keep in mind that the Owner is under no obligation to do an interim review to re-determine the resident's income, nor is the Owner obligated to re-classify the resident to a lower income set-aside at the time of recertification. The Owner may assign a lower income set-aside to a resident even if the property has met its minimum set-asides.

Q: Can a property reassign a qualified household to a **higher** income set-aside at recertification?

A: Yes, provided that the property's income set-aside commitments have been met AND the lease allows for such a change, AND proper written notice is given to the household of the increase.

Changing Status of Low-Income Units to Market Units

Q: I have ten Market Rate units in my property. If a previously qualified low-income household's income goes way up, when can I raise their rent to market?

A: The best time to change status for a household is at recertification. Be certain that you continue to satisfy the requirements of the 140% Rule. If you continue to have enough low-income qualified units **after** raising the rent of a household to "market rent," the household's rent can be increased.

Conversely, if you choose to lower rent for a unit to count that household as "low-income" (switching the status of a unit from Market Rate to affordable), be certain that the household is third-party income qualified before making the change. The right of the Owner to make changes of this nature should be clearly spelled out in the lease.

Leases — Co-signers

Q: Is it okay to have co-signers on tax credit leases? Do we count their income for the purpose of qualifying the household?

A: Co-signers are acceptable if they don't sign the lease; if they are used solely for financial back-up. Co-signers are not part of the household and have no rights to the unit; their income is not counted toward the household's gross annual income.

Leases — Term

Q: We are using a lease that has a month-to-month term but requires the residents to stay a minimum of 12 months or else pay a penalty to get out of their leases earlier. Is this okay?

A: No. All initial leases must state clearly that their term is for a minimum of six full months. After the initial six-month term, leases may convert to month-to-month, but residents cannot be charged additional penalty fees for moving out during a month-to-month tenancy. Residents who vacate a unit without written permission during a lease are obligated under state Landlord/Tenant law to pay the rent for the remaining term of the lease or until the unit is re-rented, but they may **not** be charged additional fees.

Q: Are SRO Units (Single Room Occupancy) required to have a six-month lease?

A: No, SROs can have month-to-month agreements.

Q: We have Transitional Housing for Homeless units. Do they require six-month leases?

A: No, technically units that meet this federal designation may have month-to-month leases. This is different from the Commission's "Homeless" category where initial six-month leases are always required. However, we recommend that Owners strive to have all residents sign initial six-month leases.

Section 8 Vouchers/Project-Based and RD Subsidies

Q: If a resident receives Section 8 or an RD subsidy, can they pay **more** than the applicable tax credit rent limit?

A: Federal law allows Owners who receive a Section 8 Housing Assistance Payment (through a resident-based voucher or project-based Section 8) or RD rent subsidy to charge residents more than the tax credit Maximum Allowable Rent limit as long as the Owner is receiving at least \$1 of subsidy or any rent overage is paid back to RD. Keep in mind that other public funders may restrict residents' rent payments to no more than the applicable rent limit.

Note: If rental subsidy stops for any reason the rent must be dropped to within the Tax Credit Maximum Allowable Rent immediately. If the resident pays more than the Tax Credit Maximum limit after the subsidy has stopped, the unit will be out of compliance.

Social Security Numbers

Q: Is there any way to income-qualify household members who do not have any verifiable Social Security numbers or alternate numbers?

A: Yes. Verifying the income of household members without SSNs is difficult, but not impossible. An alternate method of verifying income is to provide picture identification to employers, allowing the employer to verify the individual who works for them and how much the individual earns. The Owner ultimately is responsible for proper documentation of income and must be able to demonstrate that all income has been verified.

NOTE: Some management companies, funders, investors, or syndicators may be more restrictive than the IRS in this matter. You must follow the **more restrictive** rules, if any, that apply to your property.

Q: What if I have a household where some or all household members do not have Social Security numbers or other approved citizenship documentation?

A: This household could still be eligible. The tax credit and bond programs do not require proof of citizenship or legal status. If the certification process confirms that a household is income-qualified, the household may reside in the property. The property may need to use alternative methods to confirm income sources for affected household members. Individuals with no social security number, no appropriate substitute number (see *Rental Eligibility Application* instructions), or, for privacy reasons do not wish to disclose their SSN, should fill out box #2 of the *Identification Certification* form.

Q: Can I ask applicants to provide proof of citizenship or immigration status?

A: Yes, but requests must be uniform (all applicants are asked the same questions) and nondiscriminatory.

Q: Is a Social Security Number the only acceptable documentation of identity?

A: No, several types of documentation are acceptable such as Work Visas, picture identification and Alien Registrations. Additional acceptable documents are listed on the last page of the *Rental Eligibility Application*.

COMMON AREAS & COMMON AREA UNITS

Differences

Q: What is the difference between a Common Area and a Common Area Unit?

A: **Common Areas** are areas reasonably required for the property and include such things as swimming pools, other recreational facilities, community buildings and parking areas. These areas must be made available to all residents at no extra cost. If the property has a community room and one of the residents wants to use it for a meeting or similar use, the Owner is not allowed to charge the resident for using the area. The Owner can assess a reasonable charge for cleaning.

Common Area Units are provided by the Owner for use by full time managers, maintenance, or security personnel. These units are not considered residential rental units since they are not for rent to the general public. The occupants of such units do not need to be income-

qualified. The Owner must be able to clearly document the need for a Common Area Unit as necessary for operations of the project. The building(s) in which Common Area Units are allowed are shown on Exhibit B to the Regulatory Agreement.

Q: Can I charge rent for a Common Area Unit?

A: Yes.

Q: Can a staff member residing in the Common Area Unit pay for their own utilities?

A: Yes.

Q: If the unit is not needed to house an employee, can I rent the unit at Market Rate?

A: No. If the unit is not needed as a Common Area Unit, then it should be rented to an income-qualified household at the highest AMI level at the property and the rent should be restricted accordingly. Please discuss the matter with your property's monitoring Portfolio Analyst if

Q: Can a staff member continue to reside in the Common Area Unit if they are no longer employed at the property?

A: When a staff person ceases employment, they must either move out of the Common Area Unit or be income-qualified and pay the appropriate restricted rent. It is recommended this language be included in their lease or employment contract.

Changing Designation of Common Area Unit

Q: If a CAU isn't needed for a property manager, maintenance or fulltime security personnel, what income percentage should it be rented at (if leasing to an income-qualified household)?

A: You can rent the CAU at any income set-aside noted in your Regulatory Agreement, as long as you are meeting the minimum requirements for each set-aside chosen by the owner. If the minimum set-aside elected for the property was Average Income, we will include the AMI assigned to the unit when completing the Average Income Test.

Note: We previously allowed properties past Year 15 with all units restricted at lower state set-asides, to rent CAUs to households at the highest allowed federal set-aside (50% or 60%, based on the owner's Federal Election for the property). This resulted in noncompliance when a household qualified at the higher federal set-aside remained in place, and the CAU was moved to another unit and occupied by staff. Therefore, no CAUs may be rented at a higher federal AMI level. If there are existing residents in CAUs qualified at higher federal set-asides, you may not be able to utilize a CAU for staff.

Changing Location of Common Area Unit

Q: How do I change the location of my Common Area Unit?

A: The following are the requirements for changing the location of a Common Area Unit:

The Owner must submit a written request to the property's assigned Portfolio Analyst. The request should include:

1. The proposed changes in Common Area Units and the rationale for each proposed change.
2. The bedroom size and square footage of the current Common Area Unit and the size of the proposed Unit.

3. The location (building and unit number) of the current and proposed Common Area Unit.

For 100% Low-Income properties: with Commission approval, a Form 8823 will not be filed notifying the IRS of the change.

For Mixed Income properties (Market Rate Units with Low-Income Units): IRS Form 8823 **must** be filed to inform the IRS of a possible change in qualified basis.

FEES & CHARGES

Assisted-Living Fees

Q: Can Owners charge fees for assistance with daily living, such as meals and medical or professional assistance?

A: Yes, if these fees are **entirely optional**. Mandatory fees of any kind, including assisted living fees, must be clearly optional or the Owner risks loss of tax credits for those units affected. Your marketing materials and application forms must clearly explain these fees as optional. Written materials should include rules for opting in or out of service packages and staff should be trained to explain options to residents.

Cable/Phones

Q: A resident does not own a television, but they were told by the property manager that they had to pay an additional \$20.00 for cable. It was stated that this was mandatory since the majority of the residents voted in favor of having cable. Can the property manager do this?

A: Yes, but if the charge for cable is mandatory then it is treated as a utility and deducted from the Maximum Allowable Rent along with the other utilities. This also applies to mandatory telephone for security entrances as an additional fee.

Month-to-Month Fees

Q: May I charge month-to-month "fees" to residents who do not want to execute a new lease (after the initial required six-month term expires)?

A: The month-to-month lease "fee" is considered additional rent. If the rent + fee + utility allowance does not exceed the Maximum Allowable Rent limit, you may charge this "fee." We recommend simply having a different published rent for long-term leases vs. month-to-month leases and avoiding calling this a "fee."

Parking

Q: May a property charge for parking?

A: It depends. If the Owner financed the parking areas with tax credits, i.e., parking was part of Eligible Basis, the parking spots must be available to all residents on a non-discriminatory basis and the Owner **may not** charge an additional parking fee (meaning, a parking fee which is separate from the rent calculation) for the entirety of the Regulatory Period, including the Extended Use Period.

If the Owner did not include parking in Eligible Basis, the owner may charge residents a parking fee. The parking fee must be included in the maximum rent calculation **UNLESS** the owner can substantially demonstrate that there are reasonable alternatives to on-site parking (e.g., uncovered free parking on premises or nearby, nearby bus stops, resident shuttle serving the property) readily available to residents.

Pets

Q: Can I charge pet fees/deposits?

A: There is no restriction on pet fees. The WSHFC's *Tax Credit Compliance Procedures Manual* does state that a reasonable fee may be charged but this has not been defined. Properties may determine a reasonable pet fee/deposit to charge residents. That fee can be partially, or all, non-refundable upon move-out. Any fee scale that is charged must be consistent for all residents (same amount for same size dogs, cats, etc.). If the pet is considered a service, therapy, or assistance animal, a pet fee/deposit cannot be charged.

Q: Can I charge a month-to-month pet fee in addition to an up-front pet fee/deposit?

A: Yes, since having an animal is optional, such a fee would not be considered as part of the rent calculation. Again, however, you may not charge a monthly pet fee for service, therapy, or assistance animals.

Renter's Insurance

Q: Are we allowed to require residents to have renter's insurance?

A: In order to require all residents to have renter's insurance, the premium for the insurance would need to be considered a mandatory fee.

The premium would need to be recorded on the *Household Eligibility Certification (HEC)* on the 'Other Non-Optional Charges' line and the rent + utility allowance + Other Non-Optional Charges could not exceed the Maximum Allowable Rent limit.

Since insurance premiums vary, if you want to require mandatory renter's insurance you would need to contact the Portfolio Analyst for the property with your prescribed method of documenting this fee for each resident and obtain written approval prior to instituting the requirement.

This would not apply when renter's insurance is specifically required due to an item a resident chooses to have in their apartment such as a waterbed or large fish tank, as long as the requirement is clearly documented in your lease or house rules.

Surety Bond

Q: I work for a property management company that wants to implement surety bonds at our property. Is this okay?

A: Yes, if the surety bond is only an option and is not required. If an applicant has the choice to either pay a security deposit OR purchase a surety bond, then there is no problem.

Washers & Dryers

Q: May we charge extra for washers and dryers?

A: We assume your question about charging for washers and dryers is about putting them in units at the resident's request and that there are other laundry facilities on site or close by (coin washers and dryers). There is no problem with charging for these washers and dryers if these appliances were not included in basis and it is optional and not a requirement of leasing the unit. You may not tell a potential resident that they may not rent a particular unit because they don't want to pay extra for the washer/dryer and management doesn't want to move the appliances.

If you are not sure if washers & dryers were included in eligible basis, check with the Portfolio Analyst assigned to the property and/or ownership. If washers/dryers were not specifically

noted as excluded on the *First Credit Year Confirmation letter* or *Final Cost Certification*, then it will be assumed they were included in eligible basis.

Other Fees

- Security Deposits must be refundable.
- Break-lease fees are permitted if they are in lieu of paying rent for the remaining term of the lease.
- Application/screening fees must not exceed “out of pocket expenses” to the Owner. No fee may be charged for recertifications.

INCOME AND RENT LIMITS:

Q: How are income/rent limits calculated for tax credit properties?

A: HUD annually creates 50% and 60% limits for the tax credit program. States like Washington which also have additional set-asides (30%, 35%, 40%, 45%) then calculate the limits for those set-asides based on the HUD 50% limit. Limits may go up or down from year to year based on the latest census data and other household income data HUD uses to calculate the limits.

As a result of federal legislation passed in 2008, tax credit properties which placed in service prior to 2008 are safeguarded from seeing their applicable limits go down. If limits in a particular county go down, pre-2008 properties can use higher “HERA” limits for their properties, rather than the current, lower limits.

Q: What if my tax credit property was funded with assistance from other public funders in Washington State?

A: If your property is monitored by additional public funders, your property will be required to apply the lowest income/rent limits to each household, depending on which funder is involved, and which set-asides are shared by which funders. At this time, all other public funder agencies use HUD’s Section 8 income/rent limits for their properties. HOME units use HOME income/rent limits.

Example: Happy Valley Apartments is funded by WSHFC, State Housing Trust Fund, and King County. The property has three income set-asides – 30%, 40%, and 60%. The 30% and 40% set-asides are shared by all three funders. The 60% set-aside is required only by WSHFC. For 30 and 40% households, the owner must compare the Section 8 and tax credit limits sets and apply whichever amounts are lower. Since only WSHFC requires the 60% set-aside, the owner can apply tax credit limits to any 60% household.

Q: Is WBARS set up to pick the lowest applicable limits based on the set-asides and the funders involved in each project?

A: Yes.

Annual Income Limits for Nine or Ten Person Household

Q: Where can I go to find the income limits for a 9- and 10-person household?

A: Please refer to the Novogradac Rent & Income Limit Calculator found at <https://www.novoco.com/resource-centers/affordable-housing-tax-credits/rent-income-limit-calculator>.

INCOME CALCULATIONS AND VERIFICATION:

Rules for Rounding

Q: How/when should I round a household's income and/or assets during calculation?

A: Per HUD, round only the **final total** household gross income amount.

Example: Mary Smith receives \$944.60 per month in pension benefits, and \$250.00 per month in gift income from her daughter. She also receives \$150.33 in asset income per year. Calculate the annual amounts as follows:

$$\begin{array}{r} 944.60 \times 12 = 11,335.20 \\ 250.00 \times 12 = 3,000.00 \\ 150.33 \times 1 = 150.33 \end{array}$$

Add all annual amounts together. In this case, the total gross annual household income is \$14,485.53. Because the final total is greater than 50 cents, the final total should be rounded to \$14,486.00.

Acceptable Income Verifications

Q: Can we use documentation provided by the applicant/resident to verify income?

A: Yes, this is known as Level 4 verification and is suitable for verifying household income and assets. Please review **Chapter 5** in the *Tax Credit Compliance Procedures Manual* for more information on all verification levels and what should be obtained for various types of income and assets.

Q: Can we accept pay stubs in lieu of an *Employment Verification* form?

A: Yes. Two current (i.e., dated within 120 days of review) and consecutive pay stubs are the minimum acceptable requirement for documenting household member wages, assuming management is not verifying wages through a third-party income data website (i.e., "up-front verification"). Please see **Chapter 5** in the *Tax Credit Compliance Procedures Manual* for more information about verifying income and assets.

The Work Number for Everyone (or other third-party income verification service)

Q: The Work Number is now charging for each verification within the timeframe requested. There are options to select a pay date range of 3 Full Months, 6 Full Months, 1 Full Year, 3 Full Years and Purchase All. Which pay date range does the Commission want to see in a certification?

A: The minimum period of time used to calculate wages is no less than two current and consecutive pay stubs. Note this could encompass a time period as short as two weeks or as long as two months, depending on how often a household member is paid. The maximum amount of time to use to calculate wages is no more than 12 months, unless you are verifying income with a tax return.

Q: Are we allowed to use pay stubs instead of obtaining a verification from this or other companies like it that charge a fee?

A: The highest level of verification for wage income is the use of Level 5, Up-front Verification, according to HUD. The Commission has adopted HUD's verification hierarchy and therefore considers use of third-party income verification services, i.e., up-front verification, to be the best form of wage verification. We strongly encourage management companies to use these services. The Commission does not have a preference for any particular up-front verification service nor does it recommend any particular service. Having

said that, if management does not obtain wage verification from an up-front verification service, then the Commission would expect to see Level 4 verification of wages, which is, at minimum, two current and consecutive paystubs. Please see **Chapter 5** in the *Tax Credit Compliance Procedures Manual* for more information about verifying wage income.

Q: Can I charge the cost of obtaining up-front verification back to the applicant/resident?

A: The Commission **strongly discourages** management companies from passing along the cost of up-front verification services to applicants/residents. Requiring households to pay these costs creates additional barriers to accessing affordable housing. It is also worth noting that HUD prohibits owners from passing such costs along to applicants/residents. If management needs to pass along these costs, we strongly urge you to pass along only partial or minimal costs to applicants/residents.

Q: Do I have to get pay stubs if I have a verification from The Work Number or other up-front verification service?

A: No. Having said that, if there are discrepancies or contradictions between what the household has declared on the REA and the verifications received, managers may wish to obtain additional forms of verification to help them create an accurate picture of the household's income.

Anticipated Social Security Income

Q: If an applicant anticipates Social Security Income on their application but benefits have not been awarded yet, do we still have to verify and count the income?

A: Please be aware that if someone states on their *REA* or *Income Asset* form that they are applying for SS/SSI/SSDI benefits within the next 12 months, you **MUST** attempt to verify what those future benefits might be. See below:

1. When someone indicates that they have or will be applying for SS/SSI/SSDI benefits, you need to ask them when they expect to receive it and how much they expect to receive and **document this in the file**. If they know they will be receiving SS/SSI/SSDI benefits of any kind in the near future, then you **must** count that income.
2. If they are of retirement age and have applied or plan on applying within the next 12 months for Social Security (SSA) benefits you **must** have them go onto the Social Security website and use the Benefits Estimator to estimate their benefit income.
3. If they have applied for disability benefits from Supplemental Social Security (SSI) or Social Security Disability Insurance (SSDI or SSD) you need to ask them if they have received anything back from Social Security. If so, request a copy to see the status on their claim and the anticipated benefit amount. If they do not have any documentation and you cannot obtain any information from Social Security then anticipate income at the standard SSI benefit amount for the next 12 months. *If they have been denied, ask if they have filed an appeal. If so, request anything that they have showing the status of the appeal. If there is no conclusive documentation that they may win the appeal, then you do not need to assume any SSI/SSDI benefits. If they have an attorney working on the appeal for them, you should request a statement from the attorney regarding the status of the appeal and likelihood that SSI/SSDI will be obtained and at what amount – count this accordingly. **If they indicated that they will be applying for SSI or SSDI benefits, but have not applied yet, you do not need to count any benefits. This process usually takes several months or longer before benefits are awarded.**
4. If the household has immigrated or is a refugee and applied or plans on applying for SSI, you **must** assume that they will be getting the full SSI benefit as income for the next 12 months.

NOTE: An applicant who is widowed or divorced may be eligible to receive the higher of their own SS benefit amount or that of their deceased or ex-spouse. Therefore, if an applicant is recently widowed or divorced their SS benefit amount may increase.

*Unlike SSI, SSDI benefit amounts are based on past income reported to Social Security and vary widely. However, if no other information can be obtained, this is the best estimate for anticipating benefits.

Q: If a senior applicant discloses on their *REA* they are not receiving any Social Security benefits, have not applied for benefits and will not apply for benefits in the upcoming 12 months, do we need to obtain a verification from Social Security that they are not currently receiving benefits and have no current application pending?

A: Individuals can start their Social Security retirement benefit (SSA) at any point from age 62 up until age 70. Therefore, management staff conducting a certification interview with an applicant 61 or older should stress that the Social Security question on the *REA* asks about plans for the next 12 months as well as current circumstances. Then if a senior applicant **who is not yet 69 years old** answers the Social Security question on the *Resident Eligibility Application 'No'*, the Commission does not require anything further. **If, however, the applicant is 69 or older**, additional information such as a verification from Social Security that they are not currently receiving benefits and have no current application pending, and a statement from the resident addressing why they will not be applying for Social Security benefits would be needed since retirement benefits must start by age 70.

Q: What happens if we don't get any type of verification, and next year during annual certification, we find out an applicant applied for benefits the day after they moved in, and those benefits ultimately put them over the income limit?

A: If it is subsequently discovered that an applicant applied for SSA benefits before or shortly after move-in, we would question it just like we do when a job is obtained shortly after move-in – when did they apply, when was the job/benefit secured, why was it not disclosed at move-in? Depending on the answers to these questions, we may determine the household income should have included this job/benefit at the time of move-in. Therefore, while we do not require verification from Social Security that an applicant between the age of 62 and 68 is not receiving and has not applied for benefits, management may choose to require this to reduce the chance of noncompliance.

BAH Military Income

Q: Is Basic Allowance for Housing (BAH) for military excluded from income for purposes of income qualifying a household?

A: It is at properties in the following counties that placed in service after 7/30/2008: Kitsap, Mason, Jefferson, Pierce, King, Island and Snohomish. BAH must be included in income calculations at properties in these counties that placed in service **before 7/30/2008** and at **all** properties in all other counties in Washington.

History of this exclusion:

- July 2008 – The exclusion of BAH in the seven counties listed above was introduced as part of federal legislation (Sec. 3005 of HERA). It applied to all LIHTC properties within the specified counties for certifications effective until January 1, 2012.
- Effective January 1, 2012, the exclusion of BAH from income was **only allowed at projects in the counties listed above which placed in service between 7/30/08 and 1/1/12**. A list of the affected properties was posted on our website.
- Effective December 31, 2012, as part of the *American Taxpayer Relief Act* of 2012, the exclusion of BAH for all properties in the selected counties was extended until January 1, 2014.

- Effective December 16, 2014, a one-year extension of the tax extenders bill was passed retroactively for 2014.
- Effective December 15, 2015, the *PATH act* made the exclusion permanent.

Changes to Minimum Wage

Q: If an applicant's wages might soon be affected by a minimum wage increase (either state or local), how do I verify the change?

A: If a minimum wage increase is documented in the employment verification obtained by management, then count it in the wage calculation. If there is no minimum wage increase indicated in the wage verification, then there is no need to count it.

Child Support

Q: How do you handle single parents who have dependents living in a unit with them, but receive less than a court ordered child support amount OR are recently separated and have no court order for support?

A: Only the amounts received should be counted. Management should obtain verification from Support Enforcement showing support amounts most recently received by the household and average them together. Please see **Chapter 5** in the *Tax Credit Compliance Procedures Manual* for more information about verifying and calculating child support.

DSHS Diaper Related Payments (DRP)

Q: In November 2023 DSHS started paying an additional \$100 a month to provide diapers and basic needs essential to early development for all TANF/SFA households with a qualifying child under 3 years old. This benefit is listed on a separate line under the TANF section of a DSHS BVS report. Does this additional \$100 Diaper Related payment count as income?

A: Yes, it must be included unless HUD publishes guidance specifically excluding it. We confirmed with Contract Management Services (CMS) that administers HUD in Washington that they will be counting this as income.

EIV System

Q: Can I submit verification from EIV to prove a tax credit property applicant/resident's income eligibility?

A: No.

Estrangement Certification and Income

Q: What is the WSHFC *Estrangement Certification Form* used for?

A: This form may be used for married individuals who are physically separated from their spouses and who receive no income or support from the spouse. This would include victims of domestic violence. To remain eligible the spouse cannot become part of the household for at least six months. In these situations, it is not necessary to verify the income of the absent spouse or to count the income of the spouse in total household income as they are not considered part of the household.

GoFundMe Accounts

Q: How should we treat a GoFundMe or similar type of account where an applicant or resident is receiving donations/gifts?

A: The Commission would be comfortable with counting the balance in an account such as GoFundMe as an asset **IF** documentation was provided that the account was no longer accepting donations/gifts.

If the account is still open to receive donations/gifts, then management would need to verify whether the applicant or resident is taking withdrawals from the account and how often. If withdrawals are not being made more than once a year, then the account would still be considered an asset. If periodic withdrawals are being made, then the withdrawals would need to be annualized and counted as income based on the balance in the account and year-to-date contributions.

For example, if the balance in the account is \$5,000, monthly donations average \$1,000, and the applicant or resident has taken multiple withdrawals from the account during the year that annualize to \$10,000, then the calculation would be: \$5,000 plus \$1,000 per month for 12 months = \$17,000 available to withdraw; annualized withdrawals of \$10,000 would be counted as income. If, however, the balance in the account plus the monthly donation average is lower than the annualized withdrawals, then only the amount available to be withdrawn over the 12 month certification period should be counted as income.

Note: Because this is a new area not covered in the HUD 4350.3, please check with your tax credit limited partner to verify they agree with this practice prior to approving the move-in certification for any household. They may require that the full amount of the donations/gifts deposited into the account be counted as income.

HEN Program Assistance Voucher

Q: Should assistance from the Washington State Housing and Essential Needs (HEN) Program be counted as income?

A: No. WSHFC confirmed that all funds go directly to the landlord or utility company; the recipient does not receive a cash benefit and the recipient does not have to report the assistance to the IRS.

HUD & RD Income Verification

Q: If a HUD-regulated or RD-regulated property uses HUD- or RD-approved forms to verify household and income/asset info, do they still need to complete Commission verification forms?

A: The only additional forms you need to complete are those associated with Commission Special Needs Commitments for Homeless, Farmworker, or Disabled households, the *Student Certification* form, and the *Tax Credit Lease Rider*. Proof of age would also be required on elderly properties.

Q: For a household whose income I verified using HUD/RD forms, can I just send WSHFC the 50058/59/RD-3560-8?

A: No. A HUD or RD resident certification packet must include all the following:

- HUD 50058 or 50059 or the RD 3560-8
- *Income and Asset Questionnaire* for all adults (HUD/RD form or WSHFC's REA)

- Third-party verifications of income (cannot come from EIV)
- Third-party verification of assets if net family assets exceed HUD's \$50,000 net family asset threshold (as annually adjusted for inflation)
- WSHFC forms for any WSHFC Special Needs Commitments at the property
- WSHFC *Student Certification* form
- WSHFC *Tax Credit Lease Rider*

Post 9/11 GI Bill (also known as Post 9/11 VEAA)

Q: Is educational assistance that is part of the *Post 9/11 GI Bill* counted as income? What if part of the assistance is in the form of a housing allowance?

A: Per HUD guidance, Post 9/11 GI benefits for tuition and books **are not counted** as income, even if the household is receiving Section 8 assistance. The housing allowance should not be counted as income, based on IRS guidance that the benefits should be treated as a whole and not as separate components.

Rental Assistance

Q: Should Owners include rental/housing assistance when determining household income?

A: It depends. Rental subsidy from a city, county or state government source that is sent directly to the Owner is not considered income to the resident. For example, funds allocated to Owners from 2060 or 2163 funds that are used to supplement household rents should not be counted as income to that household. The Owner should verify that the government source does not consider the supplement as income to the individual and would not be issuing 1099s to those individuals. Rental assistance from a non-government source, such as a church, charitable foundation, or individual, should be counted as income. Any assistance received directly by the resident is counted as income.

Self-Employment

Q: How do I tell if someone is self-employed?

A: If someone gets a *1099* or *1099-MISC* instead of a *W-2*, then that person is considered self-employed. If the person is unsure how their income is categorized, contact the employer to clarify.

Q: How is income for UBER or LYFT drivers categorized?

A: UBER/LYFT drivers (or anything similar) are considered self-employed.

Q: How do I verify the income of someone who is self-employed?

A: The applicable household member **must** complete a *Self-Employment Verification* form and provide required supporting documentation. If they have been self-employed long enough to have filed a tax return, then this documentation **must** include a signed Return along with a *Schedule C*.

If they have not been self-employed long enough for the income to show on a tax return, they **must** provide a Profit and Loss Statement along with any applicable back-up documentation. For example, "gig economy" workers (like Uber/Lyft drivers) typically have access to an online account and should provide a printout showing their monthly income. We recommend getting at least the most recent two months of statements.

Q: So, if someone is newly self-employed and just gives me a Profit and Loss Statement, I can call them qualified, right?

A: Not necessarily. For the protection of your owner's credits, you should be very careful when verifying self-employment on a new business. You may wish to ask for a previous year's tax return and/or a statement from Employment Security to confirm that the applicant's previous wages are in line with their projections for the next 12 months (since you have no third-party verification of the projected income, just the applicant's statement) and that they are not already employed elsewhere or are already running another business that may impact your income calculations.

Student Income

Q: Do I count all the wages from a fulltime student over 18 when calculating the household's annual income?

A: If the student is employed but **is not** the head, co-head, or spouse, and is a dependent of the Household, you count only the first \$480 of their wages for the entire 12-month period. Note that the \$480 deduction may be annually adjusted by HUD. Be sure to check HUD's website annually for any updates to this amount. Also, count **all unearned income** (Social Security benefits, TANF, unemployment, etc.) for any students. Verification of fulltime student status is required. For students who **are** the head, co-head or spouse, count all earned and unearned income.

Q: Is Student Financial Assistance considered income for purposes of qualifying a household for a tax credit unit? If so, what parts do I count?

A: Yes, if a student is receiving assistance that does not fall under the Higher Education Act of 1965 and the assistance exceeds the student's covered educational costs. This is true for both Section 8 and non-Section 8 households. For more details about how to evaluate, verify and count Student Financial Assistance, please see **Chapter 5** in the *Tax Credit Compliance Procedures Manual*.

VA Disability Benefits and VASH Recipients

Q: I recently heard that the IRS now prohibits counting VA benefits when determining eligibility for a tax credit unit. Can you clarify?

A: In October 2024, the IRS published a new Revenue Procedure (Rev Proc 2024-38) which **excludes VA service-connected disability benefits** when determining eligibility **for those individuals receiving HUD-VASH vouchers**. HUD published a notice in August 2024 in which it waived certain income requirements for veterans receiving HUD-VASH vouchers. The IRS followed suit by issuing the above Revenue Procedure to make the same VA disability benefits income waiver available for tax credit and bond-financed projects.

VA Aid & Attendance

Q: Do I have to include VA Aid & Attendance benefits in household income?

A: Payments to veterans in need of regular aid and attendance are **excluded** from annual income. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

Management should carefully review VA income verification because many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income. For more detailed information on which types of VA income are excluded, please review the current list of income exclusions at 24 CFR Part 5.609.

Zero Income

Q: How do I verify the circumstances of an adult household member with no income from any source?

A: There is no need to get further information from a household member with no income unless they are the **only** member of the household. Any household, regardless of number of members, who receives no income at all will be required to answer the zero income-related questions on the *REA*.

Q: A prospective resident does not currently have a job and has no other income. However, they are looking for and expect to find a job soon. How do I calculate their income?

A: Generally, the Owner must use current circumstances to determine anticipated income. Thus, the property Owner would calculate the resident's projected annual income by annualizing the resident's current income. If the current income is zero, then the annualized income is zero. However, if obtained verification confirms that changes are expected to occur during the next twelve months, then the property Owner should use that verification to determine the total anticipated income.

Thus, if the prospective resident is now earning zero, but is under contract to start a job mid-year, and anticipates receiving \$12,000 in income from that job during the year, then \$12,000 should be included as income. If the prospective resident is receiving unemployment, calculate it for 52 weeks or until the planned start date of another job. However, we will accept alternative calculations if your investor/syndicator has stricter requirements.

ASSET CALCULATIONS AND VERIFICATION:

Banks Outsourcing Verifications

Q: Bank of America is now outsourcing deposit verifications to a company called 'Confirmation'. Confirmation requires a credit card in order to process a verification, even if they do not charge for a 'Government Benefits Eligibility request'. This has created some difficulty in obtaining verifications. Can we use bank statements to verify assets?

A: Bank statements qualify as Level 4 verification and are acceptable to verify any type of bank account balances. Keep in mind that if the household's net family assets are under the HUD threshold of \$50,000 (as annually adjusted for inflation), no verification of bank accounts is required.

Crypto Currency (Bitcoin)

Q: How do I verify Crypto Currency (Bitcoin)?

A: Complete WSHFC's *Crypto Currency Certification* form along with a screenshot or printout of the account balance in U.S. dollars. Crypto Currency can fluctuate instantly. Therefore, the value of the account at the time of completing the income certification should be used. There is no set interest rate or rate of return on this type of account, only the change in value. Therefore, the earnings on this type of account will usually be zero, but the account value must be included on the *Household Eligibility Certification (HEC)* so that the imputed asset income is calculated correctly if net family assets exceed \$50,000.

Debit Cards not Associated with Checking or Savings Accounts

Q: We sometimes see applicants who have their government benefits or other forms of income deposited directly onto a debit card that is just a cash card, it doesn't connect to a checking or savings account. How do we verify the amount of money on these cards?

A: A printout from an ATM or similar machine which shows the card number and the balance

on the card is sufficient for verification. Count the balance on the card as an asset. If money is being deposited on the card on a **periodic** basis (e.g., Social Security benefits, regular family cash assistance), count the periodic payments as income, and verify them based on what type of income they are.

HUD's Passbook Rates

Q: HUD recently announced it would adjust the passbook interest rate by which we determine the percentage of imputed assets to count. It may now change as often as annually. Will WSHFC change the imputed interest rate on all their forms going forward?

A: We are removing the passbook rate field from our forms and from WBARS. Management must check HUD's website annually to determine what the following year's passbook rate will be and must use the applicable passbook rate to impute asset income when a household's net family assets exceed \$50,000 and the assets do not generate any actual income.

Asset with Multiple Owners

Q: A recent applicant had a Certificate of Deposit (worth \$100,000) they divided into quarters, distributing three portions to three other people (not members of the household), and keeping one portion for themselves. They did this one month prior to moving into our property. How should we value this asset?

A: Include the entire amount of the CD when determining the applicant's income but separate it into two different asset categories. The amount the applicant currently owns (\$25,000) should be counted as a regular asset and the earnings calculated accordingly. The \$75,000 that was given away should be counted as **an asset that was disposed of for less than fair market value**. It should be counted for two years from the date of disposal, so count the \$75,000 at initial qualification and at the first annual recertification.

IRAs, 401(k) Accounts, Annuities

Q: When valuing an asset, do I need to determine the resident's original investment?

A: No. To determine the value of an asset, start with the current value of the asset and deduct any fees and penalties for converting to cash, plus any tax penalties.

Example:

Ms. Hanson has an annuity with a current value of \$68,000, earning annual interest of approximately 4.85%. If Ms. Hanson withdraws the balance, she would need to pay \$7,500 in surrender fees plus \$2,500 in tax penalties. The cash value of her annuity is \$68,000 minus \$10,000 = \$58,000.

The actual income from Ms. Hanson's annuity is $\$68,000 \times 4.85\% = \$3,298$.

Q: Do I need to count the Required Minimum Distribution (RMD) on an IRA account as income?

A: As long as the RMD is periodic (i.e., it's being received even just one time per year), it must be counted. Note that the value of any retirement plan recognized as such by the IRS (such as IRA's, 401k plans, etc.) is NOT counted as an asset.

Q: How does WSHFC define the term "periodic"?

A: "Periodic payments" are those withdrawals or disbursements of income which occur at regular intervals, **at least once per year**. One-time payments that are not expected to be made again are not considered periodic payments and are therefore not counted as income.

Real Estate Valuation

Q: Do I need to get a market analysis to verify the value of real estate owned by an applicant?

A: The goal is to obtain approximate market value and to document your reasonable attempts to get this information. Copies of real estate tax statements (including those obtained from online county property value tools); a realtor's record of recent comparable sales in the real estate's vicinity; and use of online real estate valuation websites can all be used to establish the value of real estate. One good indicator of value is a copy of the listing if the property is currently for sale. The best indicator of actual value would be a copy of the HUD-1 Statement issued at closing, showing net proceeds to the seller.

In the event that there is a significant difference between the appraised and the market value of a property, and the applicant is close to the income limit, you might want to think about a market comparison, but it is not necessarily required. If all else fails, document the file with attempts to get information, and use a self-certification as the last option.

Q: Does market value equal the asset's cash value?

A: No. You must deduct the total amount of mortgages plus the cost of selling the real estate to determine the cash value of an asset.

Q: What if the resident sold the real estate on a contract and receives payments on a mortgage or Deed of Trust?

A: The mortgage or Deed of Trust current value (amount owed to resident holding the DOT) is considered an asset. If the resident receives monthly principal and interest payments, the interest portion of those payments must also be counted as income.

Q: What do I need to get to prove that a house is in foreclosure? Is a notice on a credit report enough?

A: No. Foreclosures are handled by a trustee. The type of proof that you need depends upon the type of foreclosure.

TYPE	Proof Required
1. Regular Foreclosure	Notice of Sheriff Sale
2. Deed in Lieu of Foreclosure	Copy of the Deed
3. Judicial Foreclosure	Notice of Sheriff's Sale
4. Short Sale (before foreclosure for less than what is owed)	HUD1 Settlement Statement (Agreement from lender)

Q: Do I subtract the amount the household lost in the foreclosure from the Adjusted Gross Income?

A: No, you would not subtract the amount lost in a foreclosure when figuring income. Provided the foreclosure can be documented, no adjustment to income should be made for the house-positive or negative.

Timeshare Properties

Q: A prospective resident has a vacation timeshare that they occasionally rent to the public. Do I include the rent that the resident will receive when determining the resident's income? Is there anything else I need to know about vacation rentals or other like assets?

A: A vacation timeshare is considered real property, i.e., an asset. Therefore, income includes rental income, which is considered actual income from the asset.

If the household's net family assets (including the real property) exceed \$50,000, then third-party verification of the real property's cash value must be obtained. In that scenario, if no rental income is received from the real property, then management must use HUD's passbook rate to determine the imputed income from the cash value of the property.

REPORTING & RECORD KEEPING

Annual Reports – Tax Credits

Q: When are tax credit annual reports due and what must be included?

A: Tax credit annual reports are due by January 31 each year. Refer to **Chapter 6** in the *Tax Credit Compliance Manual* for detailed instructions on what to submit in your annual compliance report. Also review the information on our website's Forms and Reports page for additional details.

Q: How do we submit our rental activity data to WSHFC?

A: WSHFC requires all tax credit owners to submit rental activity for each calendar year via our Web-Based Annual Reporting System (WBARS). The reports are required to be submitted via WBARS by January 31 of every year.

Q: If more than one household occupies a unit during the reporting period, should I submit resident certifications on all households?

A: No, you will only submit requested packages for the last occupant of the unit during the reporting period. If any units were vacant for the entire reporting year, provide requested certification packages for the last occupant in the unit the prior year.

Q: Are electronic signatures acceptable?

A: Yes, it is acceptable for owners, managers, and residents to electronically sign forms. Ideally, electronic signatures should follow best practices by having automatically-generated unique ID numbers and dates next to the person's name. The Commission's owner forms and verification forms can be uploaded into electronic signature applications or other software with signature capability. If our forms are in Word format, they can be converted to PDF and have a PDF-generated signature block inserted into them for this purpose.

Record Keeping

Q: How long must I keep resident income qualification paperwork?

A: Records must be retained for six years after the due date for income tax return filing (plus any extensions). For instance, if a resident moved in your property during 2002 and the 2002 partnership income tax return was filed in June of 2003, records for that resident must be retained until June of 2009.

First Year records must be kept for six years beyond the initial compliance period. (15 years plus six years after filing first return = 22 years).

Q: Can I keep records electronically?

A: Yes, if your electronic storage system meets the requirements of Revenue Procedure 97-22.

Q: Does the Commission report noncompliance that happens before final 8609s are issued?

A: Yes, the IRS instructs us to report pre-8609 noncompliance to them.

SPECIAL NEEDS HOUSING COMMITMENTS

Units Eligible for Special Needs Commitments

Q: The owner of our property elected the Large Household Special Needs Commitment. Due to management oversight, we ended up moving in a household of three into one of our 3 bedroom units. To correct this, can we use the Common Area Unit currently occupied by our Site Manager who has a family of five?

A: Yes. For the Commission Special Needs Commitments for Large Households, Persons with Disabilities, Elderly, and Housing for the Homeless, any unit at the property can be used to meet those Commitments. This is because these Commitments do not include any income qualification criteria in order to be met.

Q: Does my property need to be past Year 15 in order for me to use a Market Rate unit or Common Area unit to meet my Special Needs Commitment(s)?

A: No. Because the Special Needs Commitments are not federal set-asides, there are no restrictions on using Common Area or Market Rate units to fill these Commitments during the federal compliance period.

Q: I manage a Farmworker property and am one unit shy of meeting my Farmworker set-aside. The property's onsite manager lives in the Common Area unit and his wife does farm work. Can I count the Common Area unit toward our Farmworker Commitment?

A: Yes, as long as the household living in the Common Area Unit can be fully qualified according to **all** Farmworker criteria, which does involve some income qualification.

Persons with Disabilities Commitment

Q: What is the definition of a Disabled person for purposes of meeting my projects' commitment to serve persons with disabilities?

A: WSHFC follows HUD's definition of Disabled or Disability which is described as a physical or mental impairment that substantially limits one or more major life activities.

Disability Verification

Q: Can Social Security and Supplemental Security Income benefits statements be used as third-party verification of disability?

A: Yes, Social Security disability payments are adequate verification of an individual's disability status. Receipt of veteran's disability payments may also qualify a person as disabled, depending on the amount of information included on the third-party document. The resident must also acknowledge that they have a disability by checking "yes" on the *Disability Certification* form.

Elderly Commitment and Households with Children

Q: We have a property that has an Elderly Commitment for 55 and older residents. Must we allow children in our property?

A: It depends. Fair Housing laws allow Elderly properties to exclude children if all rental eligibility and marketing information clearly identifies the property as an "adult" elderly facility. Also, if you allow a child in one unit, you must allow children in all other units. For more information, please contact the appropriate Fair Housing agency.

Q: Do all household members in an Elderly property have to be 55 or older?

A: No. However, you must actively market **and rent** each unit to Elderly households, and **each unit** must have at least one individual who is 55 or older.

Q: What happens if a 55-year old and a 30-year old live together at a 55+ property and the older person leaves or dies?

A: The 30-year old may remain in the unit. HUD allows up to 20% of the units to be under 55 for purposes of attrition (the 80% Elderly rule). If, at any time, the percentage of units with elderly residents falls below 80%, the property is no longer considered Elderly, and must be open to all age groups.

Q: Does the 80% Elderly rule apply to 62 or older properties?

A: No, **all** residents in a 62+ property must be age 62 or older.

Q: What about Elderly properties with HUD or Rural Development financing?

A: If a property was specifically financed as a HUD or RD Elderly property, the occupancy rules of those programs apply. For instance, many of these agreements allow Elderly properties to house elderly **or** disabled persons.

Farmworkers

Q: What is the definition of a **Farmworker**?

A: A Farmworker is someone who earns at least \$3,000 per year from farm work. For additional guidance, please review the Farmworker forms, instructions, references, and video on our website.

Homeless Commitments

Q: What is the difference between Permanent Housing for the Homeless and Transitional Housing Special Needs Commitments?

A: **Transitional Housing for the Homeless** requires that any building having a transitional unit must have 100% transitional units. The **Permanent Housing for the Homeless Commitment** allows set-aside units to float throughout the property (i.e., a building may contain less than 100% Homeless units). There are several other requirements associated with each option, but these are the main differences; please review the Special Needs Commitments information in WSHFC's *Tax Credit Compliance Procedures Manual*, as well as required forms and instructions, for additional information.

Q: Transitional Housing units are intended to house residents for up to 24 months. Do I need to evict residents after they have been there for 24 months? Often there just isn't permanent housing available for residents at month 25.

A: No. It is not necessary to evict a resident who has been living in a transitional housing unit for over 24 months. Transitional housing was created in the federal Stuart B. McKinney Act as a program designed to move formerly homeless residents to permanent housing within 24 months. If there is a service plan for each member and the goal for the transitional building remains "transition to permanent housing," WSHFC will consider units to be in compliance with federal law regarding Transitional housing.

Large Household

Q: What is the definition of a Large Household?

A: To qualify as a Large Household, the household must live in a three-bedroom or larger unit and

have four or more occupants.

Double Counting

Q: A property has elected the Large Households and Disabled Special Needs Commitments. If a household of four, one of whom is disabled, moves in, can this household be used to meet the Special Needs Commitment in **both** categories?

A: In this case, the answer is no. The same household cannot be used for more than one of these Special Needs Commitments, regardless of whether the household is eligible for both. These Commitments are based on a minimum of 10% or 20% of the Total Housing Units for each category.

The exception would be if the property has two Commitments, one for 100% Elderly or one for 75% or greater Farmworker or Homeless/Transitional housing. Under these scenarios, a household could qualify for more than one set-aside. Contact your Portfolio Analyst if you are unsure whether a household can qualify under two Special Needs Commitments.

Initial Occupancy

Q: If I elected the Large Household, Disabled, or Farmworker Special Needs Commitment and my property cannot fill the units with the required population at initial occupancy, can management rent the units to the general population?

A: No, for new construction, the **initial occupant(s)** of a unit **must** meet the specified Special Needs Commitment or the unit must be held vacant until it can be rented to a Special Needs household. For acquisition/rehab properties, Special Needs Commitments may be met through attrition.

Marketing: 30-Day Requirement

Q: Our property made the Large Households Commitment. We met the requirement at initial rent up but now we are having a hard time filling these units. We hate leaving them vacant. Is there anything we can do?

A: Yes, since you met your requirement at initial occupancy, if you market your unit in a rent-ready condition for a period of 30 days and you cannot find a qualified household, you may rent the unit to a household that is not considered a large household but **is** income-qualified. You must document your marketing efforts to the desired population. The next 3-bedroom unit that becomes available must go through the same process. The 30-day recruitment procedure applies to all Special Needs Commitments **except** Elderly, Homeless or Transitional. Elderly, Homeless or Transitional units must always be rented to qualified applicants from those populations.

Marketing Vacant Units

Q: Do I need to advertise our vacant units in newspapers or can I advertise them through other media?

A: There are many ways to advertise units that will meet your marketing requirement. At least annually, the Owner must notify (1) the relevant public housing authority, (2) at least two agencies in the area of the Project, and (3) the general public. To satisfy requirement number three, Owners may use the Internet and/or other media. You should be able to demonstrate that the media method chosen is an effective method of marketing to your property's targeted population in the general area of your property and is in compliance with the Fair Housing Act and state and local law.

Once Qualified, Always Qualified

Q: A property elected the Large Household Commitment (defined as a unit with three or more bedrooms occupied by a household of four or more). A household is initially qualified and during the re-certification process it is found that one of the household members has moved out, would this unit still be in compliance with the three household members left?

A: Yes, as long as the next available, three-bedroom unit is rented to a qualified large household. For all Special Needs Commitments, once the household qualifies at move in, the household remains qualified (as long as at least one member of the initially qualified household remains in the unit).

Q: Do I have to re-confirm that my Disabled residents are still disabled at recertification?

A: No.

STUDENTS

Qualified Resident Goes Back to School

Q: An eligible resident moves in and two months later they go back to school fulltime. Are they still qualified?

A: It is permissible for a unit to be occupied by a fulltime student where there are other residents in the household that qualify. However, when a unit becomes occupied **entirely** by fulltime students (defined as individuals enrolled **fulltime** at an educational organization for at least **five calendar months** during the year), the unit becomes disqualified unless one of the following exceptions applies: The unit is occupied by at least **one** individual who is:

1. Enrolled in a job training program receiving assistance under the *Workforce Investment Act* (formerly *JTPA*) or other similar program funded by a state or local government agency.
2. Receiving benefits under Title IV of the *Social Security Act* (e.g., TANF).
3. A single parent and the single parent is not a dependent of another individual, nor are their children dependents of another individual except another parent of such children.
4. Married and eligible to file a joint return.
5. A student that was previously under the care of a state foster care program.

International Students

Q: We have an international student who attends school fulltime but receives zero credits. Schools generally confirm student status by the number of credit hours taken, so it is possible that the college may verify their status as part time. Should we consider these students full time or part time?

A: International Students are almost **always considered** fulltime Students. This is because their Student Visa specifically requires these students to attend school fulltime to remain in the United States. Households with International Students would need to have at least one other household member who is **not** a fulltime student to remain a qualified household.

Married Students

Q: Do married students need to file a joint return to qualify as an exception?

A: No. It is only necessary to verify that married students are eligible to file jointly, not that they actually did.

Q: Can legally married same-sex couples qualify for the “married, filing jointly” student exception?

A: Yes.

Student Status and Foster Care

Q: Is there now another exception to the fulltime student household for those persons who previously received foster care assistance?

A: Yes. If you have a household composed entirely of income-qualified fulltime students and one of those students was previously under the care of a state foster care program, the household remains qualified for a tax credit unit.

The Owner must obtain written verification from a state foster care administrative entity (DSHS in Washington State) that the student was previously in a foster care program. Washington State DSHS has informed us that residents could obtain this information with a Social Security number. It’s not clear whether the Owner agent, acting as a third party, could obtain documentation. If the Owner agent is unable to obtain written verification directly from DSHS, the Commission will allow copies of documentation directly from the resident as proof of this exception to the fulltime student rule.

Students with Unborn Children

Q: If an applicant completes a *Pregnancy Self-Certification* form indicating they are pregnant, and they are a fulltime student, may I rely on the *Pregnancy Self-Certification* that one other person in the household is not a fulltime student, therefore it will be a two-person household: Mom is fulltime, baby is not?

A: Since an unborn child can be counted toward household size when determining the income limit, we believe the unborn child could also qualify a FT student household (and counted as a household member to qualify as a Large Household if applicable). However, please keep in mind that the ‘once qualified, always qualified’ rule does not apply to student status. Therefore, if the unborn child does not eventually become a member of the household for any reason, and all other members of the household remain FT students, the household would no longer qualify unless a student exception was met.

Verifying Student Status

Q: Regarding a current resident that is intending to start college - how often do we need to verify the fulltime or part-time status? If they go fulltime one quarter and then part-time the next, does that allow them to continue to live here?

A: Students that are “fulltime” for more than five calendar months during the calendar year are generally prohibited from tax credit housing unless they meet one of the exceptions described above. Whether a student is attending school “fulltime” is determined by the school that the student is attending. Property management would need to make an initial determination of whether a household was likely to exceed the five-month rule during the calendar year, and if so, the resident should not be allowed to move in (unless the student is part of an otherwise qualified household).

It is important to inform prospective residents about the Fulltime Student Rule in their lease and ask that they inform management immediately of any student status changes. Many management agencies are checking quarterly to prevent a recapture problem, but there is no requirement to check any more often than annually at re-certification.

UNIT OCCUPANCY

Casualty Loss

Q: I know there has been some guidance by the IRS regarding the treatment of casualty losses. I understand that we must report casualty loss that takes a unit out of service for an “unreasonable” period of time. My understanding is that a two-year period is not a reasonable amount of time. Is this correct?

A: According to the IRS, state housing agencies must always report a casualty loss that takes low-income units out of service. The taxpayer cannot claim the credit while the unit is out of service. However, if the property is in an area designated as a federal disaster area, the Owner likely still can claim credits.

What is “reasonable” depends on the damage, but generally, the two years following the end of the tax year in which the casualty loss occurred is a “reasonable” period to repair the damage or replace the property.

Thus, for severe damages, two years is likely reasonable. However, most damages can and should be repaired within a few months. **When casualty losses occur, Owners should** report it within 10 business days using the link found in the *Reporting Casualty Loss* instructions form on our Forms & Reports web page.

It is the Commission’s policy to report casualty loss to the IRS on any unit that is down for more than 90 days and/or is not in service on 12/31 of a reporting year.

Q: Units are vacant for a variety of reasons, including fires, floods, mold issues, or residents who trash units upon move-out. What exactly is considered a “casualty loss?”

A: Casualty losses are sudden, unexpected damages - generally due to natural causes such as hurricanes, tornados, floods and earthquakes. Damages incurred over long periods of time like dry rot, termites, mold damage, poor construction or resident-caused destruction, do not qualify as “sudden” casualty losses. However, regardless of the cause, Owners must make repairs to units with damages in a timely manner to maintain qualified basis and prevent possible loss of credits.

Daycare/Home Business Use of a Unit

Q: May my residents operate a home business in their unit, such as a small daycare or other small business?

A: Yes, but the Owner must ensure that strict guidelines are placed on any home business. We suggest that Owners work with an attorney to include the following in their lease documents:

- The unit must be the principle residence for all household members included on the lease.
- No sign should be displayed that advertises the home business.
- If a daycare, it must meet state and local laws and ordinances and be properly licensed for the number of children they care for.
- Any business, including daycares, should not infringe on the rights of other residents in the building. Your House Rules, for example, should outline acceptable hours for a daycare or other business; number of children cared for in various sized units; number of children who can be cared for from outside the property; number of clients who may visit a home business in a given day; extra deposits required, if any, for daycare or other business.

Move-out After Lease Signing

Q: We have an applicant who qualified for a unit at our property. They signed a six-month

lease, took the unit keys and gave us a rent check on Monday. On Tuesday the applicant came in, turned in the keys and told us their check would bounce and that they were not going to rent the unit. Can we count this unit as initially qualified by this applicant?

A: As long as you have thoroughly documented the circumstances leading to this vacancy, emphasizing that all signs indicated this applicant intended to rent long-term, you may count this unit as qualified.

Moving Over-Income Households

Q: In a **mixed income** tax credit property, can a previously qualified over-income household move to another unit and remain qualified?

A: Yes, as long as the household moves/transfers within the same building, they remain qualified. The IRS clarified that a household **may also** move to a different building and remain qualified, **if** their income at the last certification did not exceed 140% of the qualifying limit. The units essentially “swap statuses.”

These rules are particularly important during the first credit year. If a qualified household moves from one unit to another, the unit they occupy at the end of the first credit year is “qualified”. The unit they left would revert to its previous “empty” status and need to be occupied by another income-qualified household to be considered a tax credit-qualified unit.

Q: What about moving households in a 100% tax credit low-income property?

A: Since the IRS no longer requires annual recertifications of households (in a 100% low-income property), households that were initially income-qualified may move from building-to-building, without restriction. Owners should ensure that they select the multi-building project box on IRS Form 8609 (box 8b) if there is more than one building in the project.

Q: Does this also apply to 100% tax credit properties that were also financed by **Tax-Exempt bonds**?

A: Yes, as long as the property is 100% low-income restricted, and all units are income-qualified at move-in.

140%/Next Available Unit Rule

Q: Are the 140% rules now the same for 4% tax credit properties (i.e., tax credit property also financed with tax-exempt bonds) as they are for 9% properties?

A: Yes, the Next Available Unit Rule is now a Building Rule vs. a Project Rule. In other words, if the income of a household in a bond and tax-credit financed property increases above allowable levels, that household will continue to be considered “qualified” if the next available unit in the same **building** is rented to an income-qualified household. This provision **does not apply** to properties financed with bonds and other sources, but with no tax credit financing.

Turning a Unit

Q: What’s a reasonable amount of time to turn a unit?

A: The IRS expects that vacant units are always rent-ready and available to the public. That said, the Commission considers up to 30 days to be a reasonable amount of time to prepare a vacated unit for occupancy by the next household. Your management company, Owner or investor may have stricter expectations for this timeframe.

It is important to understand that turning a unit quickly **and** keeping it in rent-ready status are equally important. Any units sitting for prolonged periods of time in a **non-rent-ready** condition constitute material noncompliance and will be reported to the IRS.

Q: What if my unit is not rent-ready for more than 30 days?

A: Units that are unavailable for rental between 30 to 90 days may be considered in compliance if the owner can show continuous work on the unit to make it rent-ready during that time period. If the Commission is not satisfied that the owner's explanation or documentation proves this, then the Commission will issue a notice of noncompliance to the IRS. If the unit is offline 90 days or more, the Commission will **automatically** issue a notice of noncompliance to the IRS, regardless of the reason.

Q: What about when I have to store items abandoned by the resident for 45 days? Can I store the items in a vacant unit?

A: No. Units must be made rent-ready and available to the public to be eligible for tax credits. They cannot be used to store items. We recommend that you check with your legal counsel regarding moving and storing abandoned resident items in a storage facility, garage or other secure area.

Q: If we have a single person household where the resident passes away while living in their unit, what should we list as the move-out date in WBARS – the date the resident passes away or the date we take legal possession of the unit?

A: In WBARS, you should list the date that you take legal possession of the unit. That date may be a while after the resident passes away if you have to hold the unit in order for the resident's representative to access the unit.

Q: How long can we give a deceased resident's representative to remove the resident's belongings?

A: Please consult your attorney regarding this issue.

Q: What if the deceased resident's representative wants to move into the vacant unit?

A: The representative cannot automatically move into the vacant unit. They must apply for the unit and income-qualify as any other applicant. You must qualify them according to your eligibility and leasing policies and should work with your attorney if you have additional concerns.

Q: Can we maintain a Model Unit at our property?

A: Yes, but Model Units must be rotated on a regular basis and always be available to interested renters.

UTILITIES

Alternate Utility Allowance Calculation Methods

Q: I'd like to use an alternate method to calculate the utility allowances at my property. How do I get started?

A: Review *Appendix O* in *WSHFC's Tax Credit Compliance Procedures Manual*. Then contact Compliance staff to start the process. Our staff must approve requests for any alternate methods and the proposed rates must be posted for resident comment **at least 90 days prior** to implementation. We cannot retroactively approve utility allowance schedules.

Q: When structuring proformas, I usually just plug in the area PHA Section 8 utility allowances. However, they tend to be high because the properties that go into those numbers tend to be older and less energy-efficient. What alternate methods are available?

A: Our *Tax Credit Compliance Procedures Manual* outlines detailed utility allowance calculation procedures in *Appendix O*. Utility allowance rules are governed by the IRS and outlined in Section 1.42-10. If the property is not regulated by HUD or RD, you may use an estimate from a local utility company or several other alternate methods described in *Appendix O*.

Studio & SRO Unit Allowances

Q: If a utility allowance schedule doesn't show allowances for studio units, what utility allowance should I use?

A: It is permissible to use the rate for a one-bedroom unit if you are unable to obtain an allowance for a studio unit.

Q: I have SRO (Single Room Occupancy) units; which allowance should I use?

A: You can use the Studio allowances contained in the schedule for any SRO unit.

Water/Sewer Allowances

Q: The Owner of our property is interested in the possibility of our residents paying for their own sewer and water. Is this a question for the Commission or a housing authority? What would be involved if he decided to go this route?

A: The residents may pay for their own sewer and water. The costs of these utilities would need to be included in the utility allowance and subtracted from the Maximum Allowable Rents to determine the rent the residents can pay. To compute such an allowance, separate metering to each unit is required.

MISCELLANEOUS TOPICS

Households found to be over-income at the time of Move-In

Q: What should I do if I find that a household was overqualified at move-in during a tax credit lease up? What do I need to tell the Commission?

A: If you determine that a household is found to be over the income limit at move-in on an initial lease-up certification, you should correct the noncompliance, and immediately email your Portfolio Analyst to inform them what was found, and how and when it was corrected. At that time the Commission is required to issue a notice of noncompliance to the IRS. The notice will be issued as corrected and with an explanation that the owner/manager identified, fixed and reported the noncompliance. The IRS will determine if credits can be taken on the unit. Additionally, the owner must report this type of incident in the *Owner's Annual Certification* form.

Q: What if the household found to be over-income at move-in was not the one to initially qualify the unit for credit?

A: If this is not an initial lease-up unit and you discover noncompliance at any time prior to an annual report request, you should correct the noncompliance, immediately email your Portfolio Analyst to inform them what was found, and how and when it was corrected. Additionally, the owner must report this type of incident in the *Owner's Annual Certification* form. If this procedure is followed, the Commission does not have to notify the IRS of the noncompliance.

If you do not identify the noncompliance, fix it, and notify your Portfolio Analyst prior to the Commission sending an Annual Report request, the noncompliance must be reported to the IRS. It does not matter if the noncompliance was due to management error or the resident

failing to disclose all income sources.

Demographic Data Collection Requirement

Q: Do we need to collect and report demographic information on our residents that reside in tax credit properties?

A: Yes. Federal legislation requires all state Housing Finance Agencies (like WSHFC) to collect and report information on race, ethnicity, family composition, age, income, use of rental assistance, disability status and household rent payments to HUD annually.

Q: How should we collect and report this data to WSHFC?

A: Have all applicants for housing complete our *Household Demographic Reporting Form* **after** you have confirmed that the household is income-qualified. Since the information is optional, residents may check a box on the form indicating their desire not to disclose the information.

This data must be entered annually in WBARS to report to WSHFC. WBARS includes demographic data fields on each household's individual record which will capture this information. Do **NOT** submit the *Household Demographic Reporting Form* to the Commission as part of a file review.

When Applicant/Resident signs with an "X"

Q: Is something special required when an applicant or resident signs their name on a WSHFC form with an "X" or is physically unable to sign?

A: We recommend that managers add a simple attestation by the person witnessing the signature below the resident signature block. The attestation should state something like "On (insert date) I witnessed (insert full name) make an "X" Or "On (insert date), (insert name) reviewed this *REA* with me and acknowledged it to be accurate and complete. They are physically unable to sign the form and asked that I sign on their behalf."

Reporting Resident Misrepresentation of Fraud to IRS

Q: Should fraud be reported to the IRS?

A: Yes, Owners and managers should report instances of resident fraud to the IRS by completing and submitting IRS *Form 211*, which can be downloaded from the IRS website.

Q: Is fraud considered reportable noncompliance?

A: It depends. If the Owner corrects fraud issues and informs WSHFC, noncompliance is not reported. If WSHFC discovers fraud at the time of an annual review an IRS Form 8823 must be filed.

Regulatory Period

Q: How is the expiration date for the regulatory agreement period calculated?

A: For tax credit properties, the date is calculated from the first year the Owner takes credits, which can be either the Placed-in-Service year or the following year.