

**SOUTH CAROLINA STATE  
HOUSING FINANCE AND DEVELOPMENT  
AUTHORITY**

**Multifamily Tax-Exempt  
Revenue Bond Program**

**Compliance Monitoring Manual  
for Pre-86/Transition Rule Developments**

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*The mission of the South Carolina State Housing Finance and Development Authority (“the Authority”) is to create quality affordable housing opportunities for the citizens of South Carolina. We expect to create and maintain a positive work culture that reinforces our mission, encourages innovation, and is based on a spirit of cooperation and teamwork. We will work to improve customer service and enhance employee performance by constantly reviewing processes and using technology. The Authority will strive to develop mutually supportive relationships that expand our ability to provide affordable housing while enhancing the value of investments. We will actively seek new and innovative ideas to improve affordable housing opportunities throughout the State.*

## Introduction

The South Carolina State Housing Finance and Development Authority (“the Authority”), through its Multifamily Tax-Exempt Bond Finance Program, provides financing for the development of qualified multifamily rental property through the sale of its tax-exempt revenue bonds.

As required by Internal Revenue Code, the operation and management of each development financed through the issuance of tax-exempt bonds must be monitored throughout the Qualified Project Period to ensure compliance with the applicable provisions of State and federal law and with the Agreement As To Restrictive Covenants. The Authority's procedures for Compliance Monitoring have been established to conform to all currently applicable statutes and regulations. Statutory or regulatory change may require that these procedures be revised from time to time.

## Purpose of Manual

This manual is designed to summarize the statutes, regulations, and program rules that govern the management of Multifamily Tax-Exempt Revenue Bond (“TEB”) developments. It provides guidelines to property owners and managers for operating their properties in compliance with these rules. The staff of the Authority uses the manual as a program guide for administering its compliance monitoring procedures. We hope the manual will be a useful source of information for owners, developers, management companies, and on-site management personnel. It is our objective to provide the regulatory oversight, guidance and training necessary to ensure that the interest on the Authority's bonds remains tax-exempt. Developments financed at different times are subject to different federally imposed regulations. This manual is intended to discuss requirements for developments which were funded prior to the 1986 Tax Reform Act.

1. **Pre-86 Developments are characterized by the following:**
  - a. Financed prior to 1985

- b. Federal Low-Income Minimum Set-Aside (Type A) of 15/80 or 20/80 – Either fifteen percent of the units in the development must be occupied by or held vacant for households with a combined anticipated income at or below eighty percent of Area Median Gross Income (“AMGI”) or twenty percent of the units in the development are occupied by or held vacant for households with a combined anticipated income at or below eighty percent of AMGI. Since income limits are not adjusted for household size for developments funded prior to 1986, there will be only one SCSHFDA published income limit per county.
- c. Gross Rent Limits for Federal Low-Income Set-Aside (Type A) – Since income limits are not adjusted for household size, there will be only one SCSHFDA published gross rent limit per county for developments funded prior to 1986.

2. **Pre-86 Transition Rule Developments are characterized by the following:**

- a. Financed after 1985 but prior to the 1986 Tax Reform Act
- b. Federal Low-Income Minimum Set-Aside (Type A) of 15/80 or 20/80 – Either fifteen percent of the units in the development must be occupied by or held vacant for households with a combined anticipated income at or below eighty percent of AMGI or twenty percent of the units in the development are occupied by or held vacant for households with a combined anticipated income at or below eighty percent of AMGI. Income limits in Transition Rule developments ***are adjusted for household size***. As a result, there are SCSHFDA published income limits, for each county, that correspond to the number of household members in the unit.
- c. Gross Rent Limits for Federal Low-Income Set-Aside (Type A) – Since income limits are adjusted for household size, there will be corresponding SCSHFDA published gross rent limits, per county, that correspond to the number of household members in the unit. Generally, the Gross Rent limit is 28.5% of the monthly income limit, based on the number of household members (income limit divided by 12), rounded down to the nearest whole dollar.

The laws and regulations, governing the Multifamily Tax-Exempt Revenue Program, as well as the interpretation of these laws can and do change. Owners and managers should obtain copies of the applicable regulatory documents and keep abreast of all changes in the Internal Revenue Code, the Code of Federal Regulations and all SCSHFDA policy changes that affect their properties. This may require consulting qualified tax professionals for advice.

## Key Concepts

The following, while not intended to cover every concept pertinent to the Tax-Exempt Bond Program, will provide an overview of basic terms used in later sections concerning compliance responsibilities:

1. **Agreement As To Restrictive Covenants** – Since applicable federal and state regulations may vary, depending on the year a tax-exempt development was financed, most property-specific requirements which are elected by the developer or imposed by state or federal regulations, are contained in the development’s Agreement As To Restrictive Covenants. This legally binding agreement, executed between the Owner/Developer and the Housing Authority, outlines the following property-specific requirements:
  - a. Minimum Set-Aside Test
  - b. Definitions of Beneficiary Classes
  - c. Length of lease terms
  - d. Required certification/frequency of recertification
  - e. Maximum allowable rents
  - f. Any additional restrictions, elected or imposed
  - g. Reporting requirements
2. **Annual Income** – As defined in 24 CFR § 5.609, annual income is all amounts, *monetary or not*, that go to or are received on behalf of the family head, spouse or co-head (even if the family member is temporarily absent), or any other family member; or all amounts anticipated to be received from a source outside the family during the 12-period following admission or recertification effective date; including amounts derived (during the 12-month period) from assets to which any member of the family has access. A more detailed discussion of Annual Income can be found in a later section of the program manual titled, “Qualifying the Household”.
3. **Assets** – As defined in 24 CFR § 5.603, net family assets are the net cash value that would be derived, after deducting reasonable costs incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and the equity accounts in HUD homeownership programs. In determining net family assets, owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant received important consideration not measurable in dollar terms. A more detailed discussion of Assets can be found in a later section of the program manual titled, “Qualifying the Household”.

4. **Beneficiary Classes** – Federal law requires that a portion of the units in each development be reserved or set aside at all times for occupancy by Federal Low Income Households (“Type A”). The remaining units at the development must be occupied by Federal Moderate Income Households (“Type B”). These two classifications comprise the beneficiary classes. Non-Qualified Tenants (“Type C”) may be admitted only if, despite reasonable marketing efforts, sufficient Type B applicants/tenants cannot be found to occupy the remaining vacant units at the development. Type C Households are *not* part of the beneficiary classes and can be admitted only on a temporary, conditional basis. A more detailed discussion concerning Type C households and the conditions which must be satisfied in order to house them can be found in a later section of the manual titled, “Qualifying the Household”.
  - a. **Federal Low Income Households (Type A):** Total anticipated household income may not exceed eighty percent (80%) of the AMGI. Households may not be comprised completely of Full-Time Students who cannot satisfy the eligibility provision of married and entitled to file a joint tax return.
  - b. **Federal Moderate Income Households (Type B):** Total anticipated household income may not exceed the SCSHFDA published Federal Moderate Income Limits (approximately 150% of AMGI).
  
5. **Educational Institution** – An educational facility that maintains a regular faculty and curriculum and which has a regularly enrolled body of students in attendance at the place where its educational activities are regularly conducted.
  
6. **Fees** – Generally, fees that are charged to the resident must be included in the gross rent calculation if they are non-refundable, a condition of occupancy and no reasonable alternative exists. The Owner may charge an application fee which is limited to recover of the actual costs associated with the management screening and eligibility determination processes. This one-time application fee will not be included in the gross rent computation. In addition, any fee which is refundable (such as the security deposit fee) or optional (such as pet fees) will not be included in the rent calculation. Non-refundable fees associated with returning a vacated unit to “rent ready” condition may not be charged (refurbishment fees, redecorating fees, administrative fees).
  
7. **File Organization** – Documentation contained in the resident file which pertains to household eligibility must be organized in the following manner:

Leases /Lease Renewals /Lease Addendums (in descending order from current to initial)  HAP Paperwork (if Section 8 Voucher holder)	Certification and Supporting Documentation (in descending order from current to initial, separated by certification years)
	Income and Asset Worksheet
	Clarification for income verification, if applicable
	Verifications:  Certification of Zero Income (must include an applicant or resident disclosure outlining how reasonable basic living expenses are currently being paid)

	Earned and Benefit Income (written 3 <sup>rd</sup> party or documentation demonstrating why 3 <sup>rd</sup> party couldn't be obtained, clarification records placed on top of the verification clarified)
	Asset Income:
	Under \$5000 Asset Certification (if cash value of all household assets does not exceed \$5000)
	3 <sup>rd</sup> Party Verification (if cash value of all household assets exceeds \$5000)
	Disposal of Assets (written 3 <sup>rd</sup> party, where difference exceeds \$1000)
	Student Status (through the educational institution), if an eligibility factor
	Application/Recertification Application

8. **Financial aid** – The inclusion or exclusion of financial aid does not indicate eligibility to be classified as a Federal Low Income household (Type A). The student status of the household must be evaluated for eligibility in accordance with the Full-Time Student Rule (for more information, see Section below, “Full-time Student”). If the household is comprised completely of Full-Time Students, a household member must be married and entitled to file a joint tax return in order for the household to be eligible for classification as a Federal Low-Income household. This section applies only to determining income for those households, containing a student or students, full or part-time, which have been already been determined to be program eligible with regards to student status.

- a. For students, attending on a full or part-time basis, who are in a household that does not receive Section 8 assistance (either Project-based assistance or assisted through the Housing Choice Voucher program), financial aid is excluded from annual household income.
- b. For those students, attending on a full or part-time basis, who are in a household receiving Section 8 assistance:
  1. Exclude the financial aid if the student is living with their parent(s) and the student is not the Head, or Co-Head
  2. Exclude the financial aid if the student is over the age of twenty three (23) and has a dependent
  3. For those students who are Section 8 assisted but who do not meet the exclusions above:
    - 3<sup>rd</sup> party verify student status and amount of tuition
    - 3<sup>rd</sup> party verify financial aid income (other than loans)
    - Include in household income the amount of financial aid in excess of tuition

9. **Full-time Student** – The definition of a full-time student consists of three criteria. If all are met, the individual is considered to be a full-time student. These criteria are that: the individual is attending, has attended or will attend an educational institution on a full-time basis for five or more consecutive months; is attending at first grade level or higher; and is considered, by the educational institution, to be a full-time student. The student status of EVERY household member, including minors, must be considered when determining if the household is comprised completely of full-time students. Generally, a household comprised completely of full-time students is not eligible to be classified as Federal Low-Income household (Type A). There is one eligibility provision that will, if properly satisfied, qualify a full-time student household for this classification. Please note, however, that the owner must carefully verify and thoroughly document that the provision is continuously satisfied since a household's student status is never "grand-fathered in". A previously eligible Federal Low-Income household which becomes comprised completely of full-time students must be immediately reclassified when the following eligibility provision listed cannot be satisfied:

a. **Households comprised entirely by full-time students may be eligible to be classified as a Federal Low Income household if the students are:**

1. **Married and entitled to file a joint tax return** – Per recent guidance by the Service, a married couple that is entitled to file a joint tax return, but has not yet filed one, will still satisfy this exception. SCSHFDA requires documentation in the resident file to demonstrate that this eligibility provision has been satisfied.

10. **Gross Rent Limits & Calculations** – Gross rent must include an allowance for utilities if they are paid directly to the utility provider by the resident. Gross rent does not include utility allowances paid under Section 8 of the U.S. Housing Act of 1937 or any comparable rental assistance program. Gross rent does not include any fees for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the resident in the unit) by any governmental program of assistance (or by an organization described in Section 501 (c)(3) of the Internal Revenue Code and exempt from tax under Section 501 (a) of the Code) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services. All other fees for supportive services must be included in the gross rent. For Pre-86 developments there will be one gross rent limit per county, regardless of the number of persons occupying the unit or the number of bedrooms in the unit. For Transitional Rule developments, gross rent limits per county will be based on the number of persons occupying the unit. Both of these gross rent limits may be found on our website at [www.schousing.com](http://www.schousing.com).

**\*\* NOTE: Any non-refundable, non-optional fees that are charged to the resident are added to the gross rent calculation in order to demonstrate that appropriate rent restriction is in place.**

11. **Household Composition** – As a general rule, a "household" consists of all individuals residing in a unit. A household may consist of unrelated members and still be considered a "household".

a. For TEB purposes, all occupants are considered in the determination of household size except for the following:

1. **Live-in Aide/Attendants** – A live-in attendant lives with persons with disabilities, near elderly or elderly persons and who is determined essential to the care and well-being of the person(s); is not obligated for the support of the person(s); and would not be living in the unit except to provide the necessary supportive services. While a relative may be considered to be a live-in aide/attendant, they must meet the above requirements. The income of live-in aides is not included in the household's income
  2. **Foster Children/Adults**
  3. **Guests**
- b. When determining family size for income limits, the owner must include the following individuals who are not living in the unit:
1. **Children temporarily absent due to placement in a foster home;**
  2. **Children in joint custody arrangements who are present in the household more than 50% or more of the time;**
  3. **Children who are away at school but who live with the family during school recesses;**
  4. **Unborn children of pregnant women (as self-certified by the woman)**
  5. **Children who are in the process of being adopted**
  6. **Temporarily absent family members who are still considered family members;**
  7. **Family members in the hospital, or a rehabilitation facility, for periods of limited or fixed duration are considered a family member;**
  8. **Persons permanently confined to a hospital or nursing home. The family decides if such persons are included when determining family size for income limits. If the family chooses to include the permanently confined person as a member of the household, the owner must include income received by the confined person in calculating family income.**
12. **Income Limits & Calculations** – Every year, the Department of Housing & Urban Development (HUD) publishes median income information for South Carolina by county or metropolitan statistical area (MSA) of the State. An amendment to the 1987 Housing and Community Development Act established a minimum income limit based on the State's non-metro median family income level. This provision had the effect of increasing income limits in a number of South Carolina counties. HUD may also adjust income limits for a small number of counties with unusually high or low housing costs in relationship to income. Since one factor in determining household eligibility for inclusion in the

beneficiary classes is an income test, management is required to obtain the SCSHFDA published income limits annually from our website at: [www.schousing.com](http://www.schousing.com). For Pre-86 developments there will be one income limit per county, regardless of the number of persons occupying the unit. For Transitional Rule developments, income limits, per county, will be based on the number of persons occupying the unit. Newly published Income Limits must be used to determine income eligibility within 45 days of the SCSHFDA publishing date.

13. **Minimum Set-Aside** – Set-asides obligate the property owner to reserve a certain percentage of the dwelling units in the development for occupancy by households of a specified income level. Once elected, set-aside elections are irrevocable. The set-aside is achieved during lease up and must be continuously maintained throughout the Qualified Project Period. Units reserved for low-income tenants must, at all times during the Qualified Project Period, be occupied or held vacant for low-income tenants. Units designated as low-income units must be representative of the bedroom mix in the development and may not be restricted to any specific unit type or size. The units may also not be restricted to one building or the same floor in multi-story buildings. Units reserved for low-income usage must be identified by apartment number. The minimum set-aside test is applied on a project-wide basis. If the development fails to meet the Minimum Set-Aside at any time during the Qualified Project Period, all marketing must immediately cease to other household classifications until the Federal Low-Income Minimum Set-Aside is once again restored. The set-asides for developments financed prior to 1986 are either 15/80 or 20/80.
  - a. **15/80 Test** – Fifteen percent (15%) or more of the residential units in the development are occupied by or held vacant for individuals whose income is eighty percent (80%) or less of area median gross income (AMGI).
  - b. **20/80 Test** – Twenty percent (20%) or more of the residential units in the development are occupied by or held vacant for individuals whose income is eighty percent (80%) or less of area median gross income (AMGI).
14. **Monthly Bond Report** – Once ten percent (10%) of the units at the development are occupied and throughout the Qualified Project Period, the Owner or Management Entity must prepare and submit a monthly Bond Report to the Authority. The report is due by the close of business on the 5<sup>th</sup> of every month. It must reflect the occupancy status of the development as of the last day of the previous month and accurately capture all changes in unit status that occurred at the development during the previous month (i.e. Move-ins, move-outs, re-certifications, transfers, etc.). Contact information, including on-site/management contact information, telephone numbers, fax numbers, email and mailing addresses must be updated every month, if changes occur. After annually obtaining the documentation to verify the Utility Allowances with the appropriate Public Housing Authority (the “PHA”), the Monthly Bond Report must be updated to reflect the new allowances within 90 days of any change. The dates when ten percent (10%) and fifty percent (50%) occupancy are achieved must also be included on the report. Bond Reports will be compared to the previous month’s report to determine if the series of events depicted follow a clear and logical pattern. Noted discrepancies, required corrective action and deadlines for submission of corrective action will be communicated to the designated site contact person via documented telephone conversation, email or other written correspondence.

**\*\* NOTE: Failure to promptly submit monthly Bond Reports or failure to promptly respond to requests for corrective action will significantly impact the management rating assignment resulting in an “Unsatisfactory” management rating. Management reviews that result in a rating of “Unsatisfactory” are forwarded to SCSHFDA’s General Counsel for additional review and action.**

15. **Qualified Project Period** – The Qualified Project Period is the period of time during which the development must comply with all applicable provisions of State and Federal law and with the Agreement As To Restrictive Covenants. The Qualified Project Period begins on the date when 10% of the units in the development are occupied and ends on the later of:
  - a. The date which is ten (10) years after the date when 50% occupancy is initially achieved;
  - b. The half-term of the longest bond’s maturity date;
  - c. The first day on which no tax-exempt bond issue is outstanding;
  - d. The date when Section 8 assistance, if any, terminates.
  
16. **Standardized Forms** – State agencies can determine how documents are maintained and may mandate the use of standardized forms to document an owner’s compliance with the TEB requirements. The Forms Section of this manual contains the standardized forms required by SCSHFDA for use in the TEB Program. Only substitution of comparable forms containing the same information as the required forms is permissible
  
17. **Tenant Income Certification** – When properly executed, the Tenant Income Certification is the document which summarizes household eligibility for inclusion in the beneficiary classes. The use of SCSHFDA’s Tenant Income Certification is required for all Tax-Exempt Bond units (See Forms Section – Tenant Income Certification). The Tenant Income Certification found in the forms section of this manual does not require notarization.
  
18. **Utility Allowance** – A utility allowance is an estimate of the monthly cost of a resident’s utilities, other than telephone and cable, which are not included in the rent and are paid **directly to the service provider by the resident**. Documentation from the Public Housing Authority (“PHA”) to support the Utility Allowance must be retained at the site and be available for SCSHFDA review. To calculate the maximum amount of rent that can be charged for a low-income unit, the utility allowance is subtracted from the applicable Gross Rent Limit. Utility allowances must be obtained at least annually to ensure that gross rents do not exceed the TEB gross rent limits for Federal Low-Income Households (Type A).

**\*\* NOTE: Utilities, that are paid by the Owner and then billed to the resident by the Owner or by a third-party billing service, are NOT considered part of the Utility Allowance. Instead, these are considered to be recurring, non-refundable fees that are a condition of occupancy and as a result, are a part of the gross rent calculation.**

- a. **Rural Development Properties** – Rural Development (formerly Farmers Home Administration) approved utility allowances must be used to calculate maximum net rent for any building which is RD-assisted or occupied by any resident receiving RD Assistance (even if the building is occupied by one or more residents who receive HUD assistance).
- b. **HUD Properties** – HUD approved utility allowances must be used for any building whose rents and utility allowances are reviewed annually by HUD.
- c. **Non-assisted Properties** – For developments not regulated by RHS or HUD, the applicable PHA utility allowance must be used.

**\*\* NOTE: New utility allowances must be used to compute rent on low-income units within 90 days after the date of the estimate.**

19. **Waiting List** – SCSHFDA’s Tax Exempt Bond Compliance Monitoring procedures require the creation and maintenance of a manual property waiting list which demonstrates that marketing/leasing efforts are being performed in compliance with established program requirements (See Forms Sections – Tax Exempt Bond Waiting List). Authority compliance monitoring officers will review the waiting list during annual management reviews and at other times, as deemed necessary. The originally reviewed waiting list must be maintained, seamlessly and continuously, since subsequent reviews of the list will cover activity which has occurred subsequent to the last review date.
20. **Zero Income Applicants/Tenants** – All contributions to the household, monetary or not, from a source outside of the household are considered to be income, with the exceptions of food and child care paid directly to the childcare provider. Program regulations require that all income from all income sources be disclosed, verified and included on the Tenant Income Certification. Even if receiving rental assistance, households with zero income or with income insufficient to cover reasonable basic living expenses are required to provide a statement outlining how these basic living expenses are currently being paid. If gift or recurring contributions are disclosed, verifications must be obtained for these contributions and this income must be included in certified income.

## Owner Responsibilities

Each property owner or developer has chosen to participate in the Multifamily Tax-Exempt Revenue Bond Program to take advantage of the benefits it provides. In exchange for these benefits, the owner must meet requirements that are designed to ensure that the housing development will benefit a chosen class of low-to moderate income tenants. The owner must ensure that the on-site management team understands and complies with all rules, regulations and policies that govern Tax-Exempt Bond developments. In order to ensure that all program requirements are met, monitoring activities will include, but are not limited to, review and verification that the Owner has satisfactorily achieved the following:

1. **Payment of Administrative Fees** – During the Qualified Project Period, and as a condition upon which the Authority issued its bonds, the project will pay the Authority annual administrative fees equal to fifty dollars (\$50.00) for each unit in the development. The initial fees are due at the time the development places in service. In each of the subsequent years throughout the Qualified Project Period, fees must be paid in accordance to the development's Agreement As To Restrictive Covenants. A fee will be assessed for any checks that are returned to the Authority for any reason.

**\*\* NOTE: Owners and developers should take note that participation in Authority programs requires a certification of good standing with the Authority. Failure to pay fees will bar any further participation in the programs administered by the Authority.**

2. **Notification to the Authority of Transfer of Ownership** – It is the owner's responsibility to notify the Authority of any transfer of ownership, utilizing the Current Owner and Management Information Form (See Forms Section – COMIF).
3. **Notification to the Authority of Change in Management** – If any changes occur in the management entity or management contact information, the owner must notify SCSHFDA, utilizing the Current Owner and Management Information Form (See Forms Section – COMIF). Changes in on-site staff only should be communicated to the Authority through the Monthly Bond Report.
4. **Low-income Occupancy** – During the application process, the Owner/Developer submitted a representation of the proposed development that met federal and state income targeting requirements. This representation, plus all other regulatory documents, becomes the basis for monitoring. Monitoring staff will verify the following:

- a. **Building/Unit Breakdown**

- i. Number of buildings (residential, nonresidential, commercial)
- ii. Number of total units (by br size)
- iii. Number of low income units (by br size, type, location)
- iv. Number of moderate income units (by br size, type, location)

- v. Number of non-qualified units, if applicable
  - vi. Number of special targeting units (SRO/Transitional, Handicapped Equipped, Large Family, Older Persons, etc)
- b. Minimum Set Aside Test** – The minimum set-aside test is calculated on a project basis. If, at any time during the Qualified Project Period, the low-income occupancy of the project falls below the applicable minimum set-aside elected, marketing activity must cease to all other household classifications until the set-aside is once again restored.
- i. In order to be included in the Tax-Exempt Bond Federal Low-Income set-aside, a unit must:
    - 1. Be suitable for occupancy, based on the Uniform Physical Condition Standards
    - 2. Be occupied by a qualified low income household or held vacant for a qualified low-income household
    - 3. Be appropriately rent-restricted, if occupied
    - 4. Be used on a non-transient basis (except for transitional housing)
5. **Appropriately Restricting Gross Rents (including obtaining and utilizing appropriate utility allowances) for low-income units** -- In order to demonstrate that a program unit is rent-restricted, the net tenant contribution, plus any additional non-refundable non-optional fees, plus the utility allowance cannot exceed the applicable Gross Rent Limit. Gross Rents must include an allowance for utilities, if they are paid by the resident.
6. **Determining, verifying and certifying household eligibility** – This compliance responsibility is covered in greater detail in a later section of this manual titled, “Qualifying the Household”.
7. **Ensuring that the units are available for use by the general public (used on a non-transient basis, except for transitional housing)**
8. **Submission of Monthly Bond Reports** – Once ten percent (10%) of the units at the development are occupied, the Owner or Management must prepare and submit a monthly Bond Report to the Authority. The report is due by the close of business on the 5<sup>th</sup> of every month. It must reflect the occupancy status of the development as of the last day of the month and accurately capture all changes in unit status that occurred at the development during the previous month (i.e. Move-ins, move-outs, re-certifications, transfers, etc.).

9. **Record and Recordkeeping Requirements** – The Owner is required to maintain records for the development for a minimum of five (5) years. These records must include, but are not limited to, the following:
- a. Applications for residency of all current households (for households which have vacated, the application for residency must be maintained for five years from the date of move-out);
  - b. For current households, all Tenant Income Certifications (TIC), from the date of initial occupancy to current (for households which have vacated, the application for residency must be maintained for five years from the date of move-out);
  - c. For current households, all Third-party income verifications (Employment Verification) and/or other supporting documentation for each Certification, from the date of initial certification to present (for households which have vacated, the application for residency must be maintained for five years from the date of move-out) ;
  - d. For current households, documentation showing that full-time students households are married and entitled to file a joint tax return, if classified as a Federal Low Income Household (Type A), from the date of initial certification to present (for households which have vacated, the application for residency must be maintained for five years from the date of move-out);
  - e. For current households, properly executed leases indicating the rent charged for each Tax-Exempt Bond unit, from the date of initial occupancy to present (for households which have vacated, the application for residency must be maintained for five years from the date of move-out);
  - f. Documentation of applicable utility allowances, from the PHA, initial through current;
  - g. Monthly Bond Reports;
  - h. Waiting List;
  - i. Documentation to demonstrate marketing efforts.
10. **Reporting Noncompliance to the Compliance Monitoring Staff** – The Compliance Monitoring Staff should be notified immediately upon the Owner’s discovery of any noncompliance with Tax-Exempt Bond requirements. Most noncompliance issues are correctable and the Authority will work with owners to remedy noncompliance within a reasonable amount of time.
11. **Maintenance of the development** – The Authority’s compliance monitoring procedures include physical inspections of the development, buildings and a random sample of at least 20% of the program units. The Authority may use local codes, HUD’s Uniform Physical Condition Standards or any other habitability standards when performing the physical inspections. Major violations of health, safety and building codes include, but are not limited to, items such as impaired structural integrity, exposed wiring, inoperable plumbing, inoperable smoke detectors etc. Patterns of minor health and safety issues include those that require correction but do not impair essential services and safeguards

for tenants. It is the owner's responsibility to ensure that the site, common areas, buildings and units are regularly inspected and that routine and preventative maintenance is performed. On-site staff performing the periodic inspections of occupied units should also identify and address with the resident those behaviors that will place a unit in noncompliance (disconnection or disabling of smoke detectors, unsanitary conditions, blocked ingress/egress, extension cords, telephone cords or cable cords running across a hallway, etc.). After being vacated, vacant units must be returned, within a reasonable period of time, to a condition suitable for occupancy. Should any vacant unit require additional time, over and above the normal "turn" time, documentation should be kept at the site explaining the reason for the delay.

## Qualifying the Household

As is evident in the previous overview, Recordkeeping and Record Retention is one of the primary areas of responsibility for the owner. Within this area, many of the compliance requirements involve the qualification of households for program units. To ensure that the requirements are satisfied, it is essential that the owner implement a systematic and consistently applied procedure for qualifying households. This procedure must include the following processes, to be completed in the order given: the interview, the application, the verification, and calculation of anticipated annual income. Only when these steps have been completed can a determination of household eligibility be made. Once this determination is made, the owner must certify the household's eligibility. Legal occupancy (execution of the Lease Agreement) may be granted only after the household is appropriately certified.

1. **The Interview Process** – During the prospective residents' initial visit to the development, management should explain the Tax-Exempt Bond Program, its benefits and program requirements to determine household eligibility. Management should explain the requirement for disclosure of all anticipated income for all household members (including temporarily absent members) and verification of disclosed information PRIOR to move-in. When educated and properly prepared at move-in, most residents will not object to the requirement to disclose again during the recertification process. It is helpful to explain that all information provided is confidential and will be handled accordingly.
2. **The Application Process** – As stated in the Recordkeeping and Record Retention responsibilities, an application for residency is required for each program unit. After the interview has been conducted, the prospective resident(s) should complete the application. The application form should be simple but thorough, capturing enough information to proceed with the verification process. Questions on the application that typically cause confusion (i.e. assets, temporarily absent household members, etc.) should be explained. Whenever possible, management should review the submitted application with all prospective resident(s), eighteen (18) years of age and older, at the time submitted. Any information that is missing should be obtained and any unclear information clarified. Please note that any change or alteration to the application must be made by and initialed by the applicant, not management. Contact information for verification sources and releases of information should be obtained. The application for residency should include:
  - a. The legal names, ages, relationships to head of household, Social Security Numbers and if any changes to household composition are anticipated within the next 12 months (If the applicant voluntarily discloses a pregnancy, the unborn child may be counted as a household member for income-qualification purposes, if disclosed);
  - b. Student status of all household members and if any changes are anticipated within the next 12 months;
  - c. Disclosure as to whether the household receives Project-based Section 8 rental assistance or is assisted through a Housing Choice Voucher and if any changes are anticipated during the next 12 months;

- d. All sources and amounts of current income (including financial aid, if applicable), and if any changes to annual income are anticipated during the next 12 months;
  - e. All currently held assets and amounts of income generated by assets and if any changes are anticipated during the next 12 months;
  - f. All assets disposed of for less than fair market value during the preceding twenty-four (24) months;
  - g. Signature and signature dates of all household members 18 and older.
3. **The Verification Process** – Owners are required to verify information collected in the application process in order to make a determination of household eligibility. If misrepresentation is suspected, additional steps should be taken to verify the accuracy of the information provided by the applicant.
- a. **Requirements for Verifications** – In order to be valid, verifications must be properly completed, legible and unaltered. Too often, however, requests for verification are sent without prefacing, explanatory material that communicates these requirements to the verifying source. This often results in an invalid verification. To avoid this, it is helpful to include a brief cover letter with the request explaining the proper completion of the form and acceptable correction methods. The verification form itself must state the reason for the request; contain a release statement that is signed and dated by the applicant or resident; provide a section for the information being verified; and provide space for full mailing address, the verifying person's signature, signature date, printed name, title and phone number. Once returned, verifications should not be altered by management. Calculator tape may be attached to show income calculations taking care not to obscure pertinent information on the verification. Unclear information should be clarified with the verifying party by management and documented on a separate record in the resident's file. Verifications are valid for one hundred twenty (120) days from the date of the verifying party's signature. In the case of computer printouts, the one hundred twenty day period begins on the date that the report is printed, not the effective date listed on the printout.
  - b. **Information to be Third-Party Verified** – The owner is required to verify all regular sources of income; income derived from household assets with a combined cash value greater than \$5000; disposal of assets for less than fair market value; student status, through the educational facility; and foster status for adults and children, through the state or local agency. Additional information that impacts program eligibility, while not specifically listed above, may also require verification.
  - c. **Methods of Verification** – HUD's Occupancy Handbook 4350.3 REV-1 Chg. 2 outlines three methods of verification. They are, in descending order of acceptability, third-party verification, review of documents, and family certification.
    - 1. **Third-Party Verification** – Third-party verifications are sent directly to and from the verifying source. The applicant or resident does not handle the verification

other than to sign the appropriate release of information. The following describes methods for obtaining third-party verification:

- a. **Written** – The owner must obtain written third-party verification whenever possible. The owner is required to use the Employment Verification form, provided in Forms Section of this manual.

**\*\* NOTE: For units receiving Section 8 rental assistance, the 3<sup>rd</sup> party verification requirement *cannot* be satisfied through the use of an income statement from the PHA (LIHTC Form IVS8-1). The income of Section 8 assistance recipients must be directly verified in the same manner as households not receiving assistance through the use of appropriate verification forms.**

- b. **Verbal** – While not recommended, a verbal verification is acceptable to the Authority only as a last resort when written verification is not possible prior to move-in. To document the file, a record of the conversation must be completed and placed in the applicant's file by management. The record must contain all information that would ordinarily be found on a written verification, including: the third-party's name, position and contact information; information reported by the third party; name of the person who conducted the telephone interview; and the date and time of the phone call. A written, third-party verification, confirming the verbal verification, must be obtained within ten (10) working days.
- c. **Electronic** – Per HUD's Occupancy Handbook 4350.3 REV-1 Chg 2, the owner may now obtain third-party verification by facsimile, e-mail, or Internet, if adequate effort is made to ensure that the sender is a valid third-party source.
  - i. **Facsimile** – In order to be considered acceptable verifications, faxes must be completely legible, date-stamped and must include the signature, signature date, name, job title, fax and phone numbers of the person making the verification. Due to record retention requirements, faxes received on thermal paper should immediately be copied to plain white bond.
  - ii. **E-mail** – Electronic mail must contain the name of an appropriate individual and firm to be considered reliable.
  - iii. **Internet** – Computer generated internet site printouts are considered third-party verifications if the owner is able to view web-based information on the computer screen. A

printout should contain pertinent information including information that identifies the transmission source.

2. **Review of Documents (Second Party Verifications)** – If third-party verification is not available, owners must document the applicant or resident’s file to explain why third-party verification is not available. The documentation must include: either (a) a written record in the file explaining why third-party verification was not possible or a copy of the date-stamped original request that was sent to the third-party; or (b) written notes or documentation indicating follow-up efforts to reach the third-party to obtain verification AND a written record to the file indicating that the request has been outstanding for two weeks or more without a response from the third party. The owner may then use a review of documents submitted by the applicant or resident as a verification method. Copies of the reviewed documentation must be placed in the applicant or resident’s file. In order for the documentation to be considered acceptable and valid, the documents must be unaltered originals, be current (dated within 120 days prior to the effective date of the certification) and contain sufficient information and cover a sufficient period of time to anticipate income with accuracy. For example, owners should not accept less than four to six weeks of current, consecutive pay stubs to document employment income. Actual paychecks would not be considered acceptable and valid verifications since only net income, after deductions, is shown.
  3. **Family Certification (First Party Verifications)** – As a last resort, when all other methods of verification prove unsuccessful, a notarized resident self-affidavit may be used as a verification. Notarized resident self-affidavits may also be used to supplement another method of verification. An example of this would be to confirm an amount indicated in a court-ordered child support decree that is not dated within 120 days prior to the certification.
- d. **Application of Verification Methods for Specific Income Types** – Since few household income scenarios are “textbook”, questions may arise about acceptable alternatives when management encounters roadblocks in the verification process. The purpose of the verification methods outlined above is to give management the ability to move beyond delays and obstacles, without compromising the validity of the determination of household eligibility. The following specific income types will illustrate practical applications of the procedure outlined. Keep in mind that the methods are given in descending order of preference and the applicant or resident’s file must be documented as outlined in Section 3.c.2 titled “Review of Documents” prior to moving from written third-party verifications to the next method of verification.

1. **Employment**

- a. Employment Verification form (See Forms Section – Employment Verification) completed by the employer or a statement from the employer on company letterhead or EIV, if applicable;

- b. Four to six, consecutive weeks of the resident's most current check stubs (if the frequency of pay is monthly, at least two must be obtained to sufficiently demonstrate an income pattern); or a copy of the most recent income tax returns signed by the applicant which provides the amount of income, including income from tips and gratuities; or copies of the resident's most recent W-2 forms.
- c. A notarized resident affidavit that projects annual income for the 12-month period following certification.

**2. Self-employment**

- a. An accountant's or bookkeeper's statement of net income and salaries distributed to household members;
- b. Financial statement(s) of the business plus a notarized affidavit from the resident forecasting the anticipated net income for the 12-month period following certification;
- c. The resident's most recent income tax return, with the appropriate IRS schedules plus a notarized affidavit from the resident forecasting the anticipated net income for the 12-month period following certification.

**3. Social Security, Pensions, Supplemental Security Income (SSI), Disability**

- a. An award or benefit notification letter, prepared and signed by the authorizing agency, dated within 120 days of the effective date of certification;
- b. If (a) is not dated within 120 days prior to the effective date of certification, the award or benefit notification letter should still be obtained and a notarized resident affidavit that confirms the amount in the award or benefit letter also obtained;
- c. A notarized resident affidavit that projects income for the 12-month period following certification.

**4. Unemployment Compensation**

- a. A verification form completed by the unemployment compensation agency;
- b. Printout from the unemployment office stating payment dates and amounts;

- c. A notarized resident affidavit that projects income for the 12-month period following certification.

**5. Alimony or Child Support**

- a. A copy of the complete separation or maintenance agreement, divorce decree, or support order stating the amount and frequency of payment;
- b. If (a) is not dated within 120 days prior to the effective date of the certification, copies of the complete court documentation should still be obtained and a notarized resident affidavit obtained confirming the amount and frequency of payment in the decree.
- c. If a copy of the separation or maintenance agreement or divorce decree is not available or if the support is voluntary (not court-ordered), a notarized affidavit should be obtained from the person providing the support that states the amount, frequency of pay that indicates if the support will continue during the 12-month period following certification;
- d. A notarized resident affidavit stating the amount and frequency of support being received.

**6. Recurring Gifts and Contributions**

- a. A notarized affidavit, from the person providing the recurring gift or contribution, that states the purpose, amount, frequency and that indicates if the assistance will continue during the 12-month period following certification (affidavit must also contain full contact information, signature and signature date);
- b. A letter from a bank, attorney or trustee providing required verification;
- c. A notarized resident affidavit giving the same information.

- 4. Calculation of Anticipated Annual Income** – As defined in 24 CFR § 5.609, annual income is all amounts, monetary or not, which go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or are anticipated to be received from a source outside the family during the 12-month period following admission or reexamination effective date; and which are not specifically excluded. Owners must project or estimate the annual income that the household expects to receive in the 12-month period following certification. Generally, the owner must use current circumstances to anticipate income. If information is available about reasonably anticipated changes that are expected to occur during the 12-month period, this information should be factored into anticipated income. Income that may not last for a full 12 months (e.g.,

unemployment compensation) should be calculated assuming current circumstances will last a full 12 months.

**a. Annualization Factors:**

<b>If income is given:</b>	<b>Multiply by the following to annualize:</b>
<b>Hourly(Full-time/40 hours/wk)</b>	<b>2080 hours</b>
<b>Weekly</b>	<b>52 weeks</b>
<b>Bi-Weekly</b>	<b>26 weeks</b>
<b>Semi-Monthly</b>	<b>24 periods</b>
<b>Monthly</b>	<b>12 months</b>
<b>Bi-Monthly</b>	<b>6 periods</b>
<b>Quarterly</b>	<b>4 periods</b>

**b. Example of Annualizing Income:**

On the Employment Verification, the employer indicates that the resident/applicant earns \$10.00 per hour, works 35-40 per week, 52 weeks per year. A raise of \$.50 per hour will occur on 11/15/07 which is 6 weeks from the effective date of the certification, 10/01/07. No overtime, bonuses, commissions, no loss of pay, etc are anticipated. Annualize the income:

	<b>Rate</b>	<b>Freq</b>	<b>Number</b>	<b>Number of Periods</b>	<b>Subtotal</b>
<b>Base</b>	<b>\$ 10.00</b>	<b>Hourly</b>	<b>40</b>	<b>52</b>	<b>20,800</b>
<b>Raise</b>	<b>\$ .50</b>	<b>Hourly</b>	<b>40</b>	<b>46</b>	<b>920</b>
<b>OT</b>	<b>\$</b>				
<b>Other</b>	<b>\$</b>				
<b>Loss of Pay (-)</b>	<b>\$</b>				
<b>Total</b>					<b>\$ 21,720</b>

**c. Income Includes:**

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
2. The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net assets in excess of \$5000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate (currently 2%), as determined by HUD;
4. The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of period receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (e.g., Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action). See paragraph (13) under Income Exclusions for an exception to this paragraph.
5. Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, except as provided in paragraph (3) under Income Exclusions;
6. Welfare Assistance.
  - a. Welfare assistance received by the family.
  - b. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

- i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
  - ii. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage;
7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling; and
8. All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided in paragraph (7) under Income Exclusions.
9. For Section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. "Financial assistance" does not include loan proceeds for the purpose of determining income.

**d. Income Excludes:**

1. Income from employment of children (including foster children) under the age of 18 years;
2. Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, except as provided in paragraph (5) under Income Inclusions;
4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
5. Income of a live-in aide, as defined in 24 CFR 5.403;

6. The full amount of student financial assistance paid directly to the student or to the educational institution (see income inclusions (9), above, for students receiving Section 8 assistance);
7. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm);
8. The following:
  - a. Amounts received under training programs funded by HUD (e.g. training received under Section 3);
  - b. Amounts received by a person with a disability that are disregarded for a limited time for purposes of supplemental security income eligibility and benefits because they are set-aside for use under a Plan to Attain Self-Sufficiency (PASS);
  - c. Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - d. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the project. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident-initiative coordination. No resident may receive more than one such stipend during the same period of time; or
  - e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as a resident management staff person. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
9. Temporary, nonrecurring, or sporadic income (including gifts);

10. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era);
11. Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse);
12. Adoption assistance payments in excess of \$480 per adopted child;
13. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts;
14. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling;
15. Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
16. Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the *Federal Register* and distributed to housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. The following is a list of income sources that qualify for that exclusion:
  - a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 [b]);
  - b. Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044[g], 5058) (employment through AmeriCorps, Volunteers in Service to America [VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);
  - c. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626[c]);
  - d. Income derived from certain submarginal land in the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

- e. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624[f]);
- f. Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552[b]); (effective July 1, 2000 references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 [29 U.S.C. 2931], e.g., employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs, career intern programs, Americorps);
- g. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L-94-540, 90 Stat. 2503-04);
- h. The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);
- i. Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056[f]), e.g., Green Thumb, Senior Aides, Older American Community Service Employment Program;
- j. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent-product liability litigation*, M.D.L. No. 381 (E.D.N.Y.);
- k. Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- l. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- m. Earned income tax credit (EITC) refund payments received on or after January 1, 1991, including advanced earned income credit payments (26 U.S.C. 32[j]);

- n. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
  - o. Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637[d]);
  - p. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
  - q. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
  - r. Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).
- e. **Whose Income is Counted** – Just as there are certain types of income, listed above, that are included and excluded, the incomes associated with certain household members are either included, partially included or excluded, as follows:
- 1. **Adults**-- Count the income (earned income, benefit income and income from household assets, financial aid, if applicable) of the head, spouse or co-head. Exclude the income associated with foster adults and live-in aides since they are not considered household members for program purposes. Persons under the age of 18, who have entered into a lease under state law, are treated as adults (emancipated minors). Their annual income must be counted if they are the head of household, spouse, or co-head. If they are residing with a family as a household member other than the head, spouse or co-head, they would be considered a dependent and his or her income handled as described in paragraph 2.
  - 2. **Dependents** – A dependent is a family member who is under 18 years of age, or over 18 and a full-time student. The head of household, spouse, and co-head can never be dependents. Some income of dependents is counted and some is not.
    - a. Earned income of minors (family members under 18) IS NOT counted.
    - b. Include only the first \$480 of the earned income of full-time students (aged 18 and older who are not the head, co-head or spouse).

- c. The total amount of benefit income or other benefit amounts of minors and full-time students (aged 18 and older who are not the head, co-head or spouse) is counted in annual income.
- d. All forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income except for students receiving Section 8 assistance. This is true whether the assistance is paid to the student or directly to the educational institution.

\*\* For students receiving Section 8 assistance, all financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education in excess of amounts received for tuition is included in annual income *except* if the student is over the age of 23 with dependent children or the student is living with his or her parents who are receiving Section 8 assistance.

- e. Payments received by the family for the care of foster children or foster adults are NOT counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.
- f. Adoption assistance payments in excess of \$480 are NOT counted.

3. **Temporarily Absent Family Members** – Even if temporarily absent, persons who are the head of household, spouse or co-head, where there is a reasonable date of return, must be counted as household members and all income associated counted in annual income. In the case of active military, the person should be included as a part of the household and income counted if: they are the head of household, spouse, co-head; or if the person on active military duty has a spouse or dependent living in the unit.

4. **Permanently Confined Family Members** – An individual permanently confined to a nursing home or hospital may not be named as head of household, spouse or co-head but may continue to be a family member at the family's discretion. If included as a family member, all associated income must also be included.

f. **Alimony or Child Support** – Owners must count alimony or child support amounts awarded by the court unless the applicant certifies that payments are not being made AND that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment. Do not include court fees.

g. **Regular Cash Contributions and Gifts** – Owners must count as income any regular contributions and gifts from persons not living in the unit. This does not include groceries

and/or contributions paid directly to a childcare provider by persons not residing in the unit. Temporary, nonrecurring, or sporadic income is not included in annual income.

- h. Income from a Business** – When calculating annual income, owners must include the net income from operation of a business or profession including self-employment income. Net income is gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis. In addition to net income, owners must count any salaries or other amounts distributed to family members from the business. If the net income from a business is negative, it must be counted as zero income. A negative amount must not be used to offset other family income.
- i. Periodic Social Security Payments** – Count the gross amount, before any deduction of periodic Social Security payments, including payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support.
- j. Adjustments for Prior Overpayment of Benefits** – If an agency is reducing a family’s benefits to adjust for a prior overpayment (e.g. social security, SSI, TANF, or unemployment benefits), count only the amount that is actually being provided after the adjustment.
- k. Periodic Payments from Long-Term Care Insurance, Pensions, Annuities, and Disability or Death Benefits** – The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. Withdrawals from retirement savings accounts such as Individual Retirement Accounts and 401K accounts that are not periodic payments do not fall in this category and are not counted in annual income.

  - 1. If the tenant is receiving long-term care insurance payments, any payments in excess of \$180 per day must be counted toward annual income.
  - 2. If a Federal government pension fund, or any portion thereof, is paid directly to a former spouse pursuant to the terms of a court decree of divorce, annulment or legal separation, it is not counted as annual income. The pension funds paid to the former spouse are counted as income for the applicant or tenant receiving such funds.
- l. Resident Service Stipends** – Resident service stipends are generally modest amounts of money received by residents for performing services such as hall monitoring, fire patrol, lawn maintenance, and resident management. If the stipend exceeds \$200 per month, the entire amount of the stipend must be included. If the stipend does not exceed \$200 per month, none of the stipend is included in annual income.
- m. Withdrawal of Cash or Assets from an Investment** – The withdrawal of cash or assets from an investment received as periodic payments should be counted as income. Lump sum receipts from pension and retirement funds are counted as assets. If benefits are received through periodic payments, do not count any remaining amounts in the account as an asset.

n. **Income from Assets** -- Assets are items of value that can be converted into cash. Household assets include the assets of ALL household members, including minors. Assets may or may not earn actual income (e.g., interest, dividends, etc.), depending on how, or if, the assets are invested. The applicant(s) or resident(s) must disclose the cash value of assets and all associated income generated by the assets held by all household members. If the combined cash value of household assets is \$5000 or less third-party verification of income derived from assets is not required. In these instances, the ACTUAL income derived from assets, as disclosed by the household, will be transferred to the household certification. Owners need to verify the applicant/resident disclosure only if the information does not appear to agree with other information reported by the applicant/resident. However, when the combined cash value of household assets exceeds \$5000, third-party verification is required. Management must also impute income on the combined cash value of household assets (multiply the cash value of assets by .02 (NOTE: As of 01/01/04, the HUD Passbook Savings Rate was set and remains at 2 percent). The higher of these two calculations, ACTUAL or IMPUTED income, will be transferred to the household certification as income derived from assets.

1. **Cash Value of an Asset** – Cash value of an asset is the market value minus reasonable expenses (e.g., penalties for premature withdrawal, broker fees, legal fees and settlement costs for real estate transactions) that would be incurred in selling or converting the asset to cash. Note that the family is NOT required to convert the asset to cash; however, management is required to perform this hypothetical “conversion to cash” calculation in order to determine income from assets.

2. **Ownership of Assets** – It is possible for multiple individuals to own an asset. Determine the percentage of ownership by household members and prorate the asset accordingly. Assume equal ownership if no percentage is specified or provided by state or local law. If an asset is not effectively owned by an individual, do not count it as an asset. An asset is not effectively owned when the asset is held in an individual’s name but (a) the asset and any income it earns accrue to the benefit of someone else who is not a member of the household, and (b) that other person is responsible for income taxes incurred on income generated by assets.

3. **Assets include:**

a. Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, the cash value is the current balance. Income is calculated by multiplying the current balance by the Annual Percentage Rate. For checking accounts, the cash value is the average balance for the last six months. Income is calculated by multiplying the average balance by the Annual Percentage Rate. Note that assets held in foreign countries are considered assets.

b. Trusts. Trusts are legal arrangements in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the

beneficiaries). A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Trusts can be revocable or nonrevocable, depending on whether the principal of the trust is accessible. The beneficiary frequently will be unable to touch any of the trust funds until a specified date or event (i.e., the beneficiary's 21<sup>st</sup> birthday or the grantor's death). In some instances, the beneficiary may receive the investment income but not be able to withdraw the principal. The basis for determining how to treat a trust relies on access to the principal and/or the income from the account.

- i. A revocable trust is a trust that can be accessed and may be amended or ended (revoked). If any member of the household has the right to withdraw the funds in the account (has access), the trust is considered to be a household asset. Include the cash value (the amount, after conversion costs, that the household would receive if they withdrew all that could be withdrawn) of any revocable trust available to the family in total household net assets. In addition, include, in actual income derived from assets, the interest accrued on the trust, even if it is reinvested in the trust.
  - ii. A nonrevocable trust is a trust that, during the certification period, cannot be accessed. If no household member has access to either the principal or the income generated by the trust, it is not considered to be a currently held asset. If only the income is available to a household member, include the income but do not include the cash value of the trust in total household net assets until the principal is accessible.
  - iii. A special needs trust is a trust that is created under state laws, often by family members for disabled persons who are not able to make financial decisions for themselves. Generally, the beneficiary does not have access to the principal of the trust. In those instances where the beneficiary does not have access to the principal or the income, the trust is not considered to be a currently held asset. If the interest is paid to the beneficiary regularly, the payments are included in actual income derived from assets but do not include the cash value of the trust in total household net assets until the principal is accessible.
- c. Equity in rental property or other capital investments. Include the current fair market value minus (a) any unpaid balance on any loans

secured by the property and (b) reasonable costs that would be incurred in selling the asset.

- d. Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts. Interest or dividends earned are counted as income from assets even when they are reinvested. Although the value of these assets is variable, the value is considered to be established or “fixed” at the value on the date of assessment by management.
- e. Annuities. An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals. Annuities can be fixed (interest is accrued at a fixed rate), variable (earnings/losses are based on market fluctuation) or hybrid (combination of fixed and variable features) annuities. The basis for determining how to treat an annuity relies on access to the balance of the annuity and whether periodic payments are being received. If the holder does not have the right to withdraw the balance, the annuity is not considered to be a currently held asset. Once payments are being made to the holder regularly, the payments are included in income but the cash value of the annuity should not be included in total household net assets. If the holder has the right to withdraw the balance, even if penalties would be assessed, the cash value of the annuity is included with household net assets and the interest earned is included in actual income derived from assets, even though they are reinvested.
- f. Individual retirement, 401K, and Keogh accounts. These are included when the holder has access to the funds, even though a penalty may be assessed. If the individual is making occasional withdrawals from the account, determine the amount of the asset by using the average balance for the previous six months. (Do not count withdrawals as income.)
- g. Retirement and pension funds.
  - i. While the person is employed, include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount minus any penalties or transaction costs.
  - ii. At retirement, termination of employment, count periodic receipts as income. Do not include the cash value of any remaining amounts in the account in household net assets. Lump-sum receipts should be included in total household net assets. If the individual initially receives a lump-sum benefit

followed by periodic payments, count the lump-sum receipt as an asset and the periodic payments as income. In subsequent years, count only the periodic payments as income. Do not count the remaining balance as an asset.

- h.** Cash value of life insurance policies available to the individual before death (e.g., the surrender value of a whole life policy or a universal life policy). It would not include a value for term life insurance, which has no cash value to the individual before death.
- i.** Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. Personal jewelry is NOT considered an asset.
- j.** Lump –sum receipts or one-time receipts. These include inheritances, capital gains, one-time lottery winnings, victim’s restitution, settlements on insurance claims (including health and accident insurance, worker’s compensation, and personal or property losses), and any other amounts that are not intended as periodic payments.
- k.** A mortgage or deed of trust held by applicant. Occasionally, when an individual sells a piece of real estate, the seller may loan money to the purchaser through a mortgage of sale or deed of trust.

  - 1.** Payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset.
  - 2.** This combined figure needs to be separated into the principal and interest portions of the payment (refer to the amortization schedule).
  - 3.** To count the actual income for this asset, use the interest portion due, based on the amortization schedule, for the 12-month period following the certification.
  - 4.** To count the imputed income for this asset, determine the asset value as of the effective date of the certification. Since this amount will continually be reduced by the principal portion paid during the previous year, the owner will have to determine this amount at each recertification.

**4. Assets do not include the following:**

- a. Personal property (clothing, furniture, cars, wedding ring, other jewelry that is not held as an investment, vehicles specially equipped for person with disabilities);
- b. Interests in Indian trust land.
- c. Term life insurance policies (i.e., where there is no cash value).
- d. Equity in the cooperative in which the family lives.
- e. Assets that are part of an active business. “Business” does not include rental of properties that are held as investments unless such properties are the applicant’s or resident’s main occupation.
- f. Assets that are not effectively owned by the applicant. Assets that are effectively owned when they are held in an individual’s name, but (a) the assets and any income they earn accrue to the benefit of someone else who is not a member of the household, and (b) that other person is responsible for income taxes incurred on income generated by the assets.
- g. Assets that are not accessible to the applicant and provide no income to the applicant.

**5. Assets disposed of for less than fair market value.** Applicants and residents must declare whether an asset has been disposed of for less than fair market value at each certification and recertification. Owners must count assets disposed of for less than fair market value during the twenty four (24) months preceding certification and recertification. The amount counted as an asset is the difference between the cash value and the amount the household actually received. This amount should be added to the cash value of all other household assets for a period of 24 months following the disposal. When the two year period expires, the income assigned to the disposed asset also expires. The rule applies only when the fair market value of all assets disposed of exceeds the gross amount received by more than \$1000. Assets disposed of as a result of foreclosure, bankruptcy, divorce or separation are not counted as disposed of for less than fair market value. Assets placed in nonrevocable trusts are considered to be assets disposed of for less than fair market value unless the assets were placed in trust were received through settlements or judgments.

SCSHFDA MULTIFAMILY TAX EXEMPT REVENUE BOND  
COMPLIANCE MANUAL

(A) Type of Asset	(B) Market Value	(C) Costs to Convert	(D) Cash Value	(E) Int/ Div	(F) Actual Income
Checking	Avg. 6 mo bal	—	Avg. 6 mo bal	Interest Rate	(B) X (E)
Savings	Current Balance	—	Current Balance	Interest Rate	(B) X (E)
CD/Money Market	Current Balance	# of months of interest penalty (B) X (E)/12 X # mos penalty	(B) – (C)	Interest Rate	(B) X (E)
Stocks/ Mutual Funds	# Shares X the Price per Share	% Commission	(B) – (C)	Dividend per Share	# Shares X Dividend per Share
Bonds	# of bonds X Face Value	—	# of bonds X Redeemable Value	Interest Rate	The greater of (B) X (E) or (D) X (E)
Rental Property	Market Value	Broker fees, closing costs, unpaid mortgage, etc.	(B) – (C)	-----	Rental Income minus operating costs
Total Cash Value of all household assets:			Total of all Column (D)		Actual Income - Total of all Column (F)
If the total of Column (D) is = or < than \$5000, use the total of Column (F) on the TIC.					
If the total of Column (D) is > than \$5000, 3 <sup>rd</sup> party verify all assets then, in addition to calculating actual income, also calculate imputed income.			Total of all Column (D)	HUD Passbook Savings Rate (2%)	Imputed Income (D) X (E)
Use the GREATER of actual or imputed income on the TIC.					

5. **Certification** – After all of the income and asset information has been obtained and computed, a final determination of household eligibility must be made. At that time, the household’s classification is assigned. The Owner or management representative must complete and execute a Tenant Income Certification, found in the forms section of this manual, for all members of the beneficiary classes (Type A and B). The completed certification form must be executed by all household members 18 and older prior to move-in. Households which are determined to be Non-Qualified may be housed for a temporary period of time, not to exceed the minimum lease term available at the development, only when the conditions indicated on the Non-Qualified Tenant Certification (See Forms Section – Non-Qualified Tenant Certification) have been satisfied.

**a. Certification of household income for beneficiary classes:**

1. All adult household members must sign the Tenant Income Certification exactly as their name appears on the form.
2. The Tenant Income Certification must be executed on or before the date of move-in.
3. Households may not live in a program unit unless he/she is certified. THERE ARE NO PERMISSIBLE EXCEPTIONS TO THIS RULE.
4. The Tenant Income Certification must also be executed (signed and dated) by the owner or owner’s representative.

- b. Recertification** – Generally, Owners must re-verify the income of residents occupying program units within thirty-six (36) months of the date of move-in and complete a recertification for continuing household eligibility. If the recertification is not completed within this timeframe, the Authority considers this to be noncompliance. The recertification process is identical to the initial certification process.

1. **Changes in Household Composition** – Tax Exempt Bond program rules do not generally require that households report income changes to the owner. Properly prepared lease agreements, however, should impose the requirement to report proposed changes in household composition to the owner’s representative. If an additional, prospective resident is planning to move into an existing household, the prospective resident, not the whole household, must apply for residency. Management must verify his or her income, add it to the existing verified, certified income of the household and determine if the new household still meets the TEB program income requirements for the household’s certified classification (please note that this change to the certification must be dated and initialed by all household members, aged 18 and older). If not, the entire household’s income must be completely re-verified and a new Tenant Income Certification completed which reflects the new household composition, income and classification.
2. **Transferring Residents** – If existing households wish to transfer to a new unit, they do not need to be recertified. The Tenant Income Certification must be amended,

using a single strikethrough method, to reflect the new unit number, the new rental rate and the effective date of the transfer. Please note that the resident(s) must initial all changes made to the Tenant Income Certification.

3. Non-Qualified Households (Type C) – Households, who not eligible to be included in the beneficiary classes (Type A and Type B), are permitted to occupy units for a temporary period of time only under specified conditions. Prior to offering a lease term to a Non-Qualified household, the Owner or owner’s representative must certify that the following statements are true by completing a Non-Qualified Tenant Certification:
  - a. During the past thirty (30) days no Qualified Resident has applied to lease the unit
  - b. There are no Qualified Residents on the Waiting List. Reasonable marketing efforts have been performed including media advertisement to secure Qualified Residents to lease the unit and these efforts will continue
  - c. The lease term for the Non-Qualified (Type C) household is no more/no less than the minimum lease term available at the development. The Type C household has agreed, and the lease so provides, to vacate the unit at the conclusion of the lease term if there are Qualified Residents ho have applied to rent a unit
  - d. Documentation to support the preceding declarations is on file at the development
  - e. The minimum set-aside is met

**\*\* NOTE: A Non-Qualified Tenant Certification must be completed prior to initial occupancy and prior to every additional lease term or renewal that is offered (See Forms Section – Non-Qualified Tenant Certification).**

6. Lease – Only after completion and execution of the Tenant Income Certification or Non-Qualified Tenant Certification may the Owner or owner’s representative offer legal occupancy by executing a Lease Agreement. Only qualified households and Non-Qualified households may occupy units at a Tax Exempt Bond development, therefore, “Corporate Leases” are prohibited. All units at a Tax Exempt Bond property must be under a written lease with a minimum initial term of no less than six months, not to exceed thirty-six (36) months. Non-Qualified households may be offered a lease term that is no more or less than the minimum lease term available at the development, not to exceed one (1) year. Lease renewals for Non-Qualified households must conform to the program restrictions outlined above.

The lease agreement should contain the following:

- a.** Provisions stating that intentional misrepresentation of household size or income or any other attempt to mislead the owner as to the tenant's qualifications to occupy a low-income unit will result in the termination of lease;
- b.** Provisions stating that failure to recertify will result in the termination of lease;
- c.** Provisions stating that changes in household composition and student status must be immediately reported to the owner;
- d.** Provisions prohibiting sub-leasing or assignment of lease;
- e.** Provisions stating that the owner, the owner's representative, staff of the Authority and representatives of the Service reserve the right to enter the unit to inspect the physical condition of units;
- f.** If the unit will be occupied by more than one adult (18 years or older, unless a FTS who is not the Head, Cohead or Spouse), the lease should be in the name of all the adult tenants, and should be signed by each adult tenant.

## Compliance Monitoring Activities

This section briefly describes the Authority's Compliance Monitoring program. These monitoring procedures may be modified as the Authority deems necessary, or as required by the Internal Revenue Service, IRS regulations, Revenue Rulings, and Revenue Procedures.

1. **Compliance Monitoring Briefings** -- Owners, managers and any other personnel who are directly involved in the management of a housing development and do not have previous experience with the TEB program may be required to attend a basic, educational Monitoring Briefing prior to issuance of funding. The Authority also reserves the right to require management personnel to attend briefings at any time during the compliance period if the development's compliance efforts are deemed deficient or if staff changes occur. The Authority will also conduct briefings upon request and will periodically hold briefings/training sessions at various locations throughout the State. The purpose of the briefings is to provide instruction on the following:
  - a. Federal regulations for determining eligibility of low-income residents;
  - b. Authority procedures for determining eligibility of low-income residents;
  - c. Specific information, which must be obtained from a prospective resident through the rental application;
  - d. Income and Rent Limits;
  - e. Income Verifications;
  - f. Asset and Income from asset Verifications;
  - g. The certification and recertification required procedures;
  - h. Authority Required Forms and/or Documentation; and
  - i. Such other topics, which the Authority or the representatives of the development may deem necessary to ensure the proper management of the development as a successful Tax Exempt Bond program participant.
2. **Management Reviews and On-Site Building Inspections** – In order to meet its monitoring obligations, the Authority inspects Tax Exempt Bond developments each year. These inspections include a management review and inspections of the site, buildings and a sample of occupied and

vacant units. Households chosen for a record review will be selected at random by the Authority's monitoring officer at the time of review. On-site physical inspections include inspecting the site, buildings and dwelling units for compliance with applicable Uniform Physical Condition Standards. The Authority also reserves the right to perform inspections at any time during the Qualified Project Period.

Property owners will be notified in writing prior to the arrival of the monitoring officer. On-site management staff must notify residents, in writing, at least 24 hours before the scheduled review that their units may receive an inspection. The owner (or owner's representative) must be present to ensure access to records and units selected for inspection. After completing the review, the monitoring officer will prepare a report of their findings.

3. **Authority Discrepancy Reports (Findings Letter)** -- The Authority will provide written notice via Certified Mail to the owner or its designated representative of any noncompliance discovered. If the review reveals no deficiencies, the Authority will notify the owner that no evidence of noncompliance was discovered. If the review indicates that a development is not in compliance with program rules, the Authority will issue the owner a detailed discrepancy report. Some noncompliance situations are correctable. Others are not. If the noncompliance issues are correctable, the Authority will grant the owner a period of time in which to correct the discrepancies. Curing deficiencies usually involves obtaining missing documentation or making repairs to the dwelling units. Problems, which threaten the health and safety of residents, must be corrected in 24 to 48 hours, as indicated by the monitoring officer at the time of review. Other problems must be corrected within a reasonable period of time, generally thirty (30) days. The owner or owner's representative must promptly respond to the Authority's findings and address all discrepancies individually and indicate the manner in which the corrections were made. The management rating will be assigned at the close of the established cure period.

**\*\* NOTE: Failure to promptly submit corrective action will significantly impact the management rating assignment resulting in an "Unsatisfactory" management rating. Management reviews that result in a rating of "Unsatisfactory" are forwarded to SCSHFDA's General Counsel for additional review and action.**

The Authority's monitoring procedures are designed to test a sampling of resident records and dwelling units for compliance. A successful management review and inspection does not mean that the development has completely satisfied all of the program rules since undetected noncompliance may still exist.

## Forms Section