



HOME Program Compliance Manual

2015

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Introduction

The HOME Investment Partnerships Program, or HOME Program, is designed to provide affordable housing to lower-income households, expand the capacity of non-profit housing providers, and strengthen the ability of state and local governments to develop and implement affordable housing strategies tailored to local needs and priorities. Some of the principal uses of HOME funds are for acquisition, construction, and rehabilitation of rental housing. All rental housing units acquired, built, or rehabilitated with HOME funding must meet affordability and income-targeting requirements specified in the HOME Final Rule (24 CFR Part 92).

Properties that have been developed using HOME funds are subject to specific rules designed to ensure that they remain affordable to low and very low-income households throughout the required effective period. This manual is designed to assist Owners and their Agents to plan and maintain compliance with HOME regulatory requirements associated with the utilization of HOME funds in multifamily properties.

The **Asset Management & Compliance Section (AMC)** of Oregon Housing and Community Services (OHCS) monitors the continuing compliance of units that have received HOME funds in accordance with HUD regulations contained in 24 CFR Part 92. Property Owners are required to retain the housing units as affordable for low and very low-income persons throughout the affordability period. This manual covers procedures that apply to all rental properties which have received funds under the HOME Program. Any violation of the requirements of the HOME Program could result in acceleration of the repayment of funds received under the HOME Program.

Successful operation of a HOME-funded property is management intensive; the Owner is responsible for ensuring that the program is properly administered. Thorough understanding of HOME requirements and compliance monitoring procedures requires training of Owners and managers. This training should occur before a property is occupied and should be provided to the on-site property management staff. At a minimum, such training should cover key compliance terms, determination of rents, tenant eligibility, file documentation, procedures for maintaining the required unit mix, reporting and record retention requirements, and site visits. Continuing education each year or at a minimum every other year is strongly recommended in order to keep up with regulatory and procedural changes to the HOME Program. When available, training opportunities will be posted on OHCS' website.

OHCS' obligation to monitor for compliance with the requirements of the HOME Program does not make OHCS liable for an Owner's non-compliance.

The OHCS HOME Program Compliance Manual

This manual is located on our website at <http://www.oregon.gov/OHCS/pages/index.aspx> and can be downloaded from: <http://www.oregon.gov/ohcs/Pages/compliance-monitoring-manual-home.aspx>

- ❖ This manual is a guide to understanding the HOME Program requirements for implementation and ongoing compliance. It was developed, pursuant to Federal Regulations, for use by Owners, management Agents, on-site management personnel and others involved with management procedures for maintaining compliance with the HOME Program at their properties.
- ❖ This manual describes OHCS-AMC's compliance monitoring procedures for the HOME Program. It is the role of the AMC Section to assist Owners and managing Agents to stay in compliance with HUD regulations. It is the Owners' and managing Agents' responsibility to maintain compliance with HOME program requirements/regulations.
- ❖ This manual should be used in conjunction with, and as supplement to 24 CFR Part 92. If OHCS or HUD determines that any provision of this manual is in conflict with 24 CFR Part 92, the federal regulation will govern.
- ❖ This manual may be superseded without notice by changes in income determinations under Part 5 of the Section 8 Program and technical revisions in the OHCS or HUD HOME Program policies, manuals or memorandum.
- ❖ This manual has not been reviewed by the Department of Housing and Urban Development and should not be cited or relied upon for interpretation of federal regulations.

Periodically, as changes to the law and/or procedures occur, updates will be provided by OHCS on our website – see link listed above.

Compliance Overview

Qualified Project Period – Period of Affordability

The HOME restrictive covenants (Grant or Loan Agreements) are recorded as a lien against the property. These regulatory agreements for the HOME Program outline the restricted rent and income limits for households residing in a HOME-assisted unit and specify the required term of affordability that must be maintained. The Recipient must record the restrictive covenants within 30 days after receipt. OHCS will not allow HOME recipients to “buy out” of the affordability requirements.

The minimum HOME program term of affordability can be found in the property’s documents and is based on the amount of HOME funds allocated per unit. HOME recipients opting for a longer affordability period in the NOFA application (previously CFC process) will have a deed restriction which will reflect the extended period. The extended affordability period will remain in effect as agreed and will not be shortened at a later date. Be sure to check the regulatory agreements for each HOME-funded property for the required term. The affordability period begins once the property has completed all requirements and the IDIS close-out date has been established. The IDIS close-out date starts the beginning of the affordability period for the property. For properties funded after August 2013, the certificate of occupancy marks the beginning of the affordability period.

If the property has additional funding sources, the compliance period for those additional funding sources may extend beyond the HOME Program minimum requirements. For properties funded with OHCS HOME funds, it is common for the affordability period to range from 30 to 60 years.

OHCS – Asset Management Responsibilities

Once HOME funds from OHCS are allocated to a property, HUD requires the State, as the Participating Jurisdiction (PJ), to monitor program compliance on an ongoing basis. However, HOME program compliance is the responsibility of the property Owner and OHCS will not assume liability for consequences which result from the Owner’s noncompliance.

OHCS’ Asset Management & Compliance duties include and are not limited to the following:

- **Approve the property’s rent structure at lease-up and must approve all rent increases prior to implementation throughout the affordability period;**
- Provide a HOME Compliance Manual and related materials;
- Offer continuing education on compliance to the Owner, management Agent, and on-site personnel, primarily through the OHCS website and updates to the Compliance Manual;
- Complete desk audit that includes review of the annual OHCS HOME Monitoring Report that is required to be submitted with the annual Owner certification each year;
- Review each HOME property based on OHCS’ risk analysis monitoring procedure. Monitoring will occur a minimum of once every three years if little or no risk has been identified;
- Notify the Owner when the property is found to be out of compliance with HUD or OHCS requirements, including reports and any other requested information not received by OHCS when due;
- Establish schedules with the property Owner for correcting any noncompliance;
- Perform follow-up reviews of any building within a property or the entire property, if deemed necessary. A follow-up review may include a physical inspection of the building(s) and/or a review of property tenant records; and
- Retain records of noncompliance or failure to report for the most recent five-year period and until five years after the term of affordability expires;

The following schedule outlines time frames for certain monitoring events:

<u>Event</u>	<u>Timeline</u>
Inspection Scheduling	OHCS will contact Owner/Agent a minimum of 14 days in advance to schedule review/inspection.
Inspection results/findings report	Owner/Agent will receive findings report within 30 days following the inspection from OHCS.
Physical Inspection EH & S	Owner/Agent will receive list of findings that require 24 hour or 72 hour immediate action the day of the inspection. Owner/Agent is required to complete items in 24 or 72 hours as specified and report back to CO immediately upon completion.
Correction Period	Owner/Agent will have a minimum of 30 days to correct any reported non-compliance findings and respond to OHCS.
Closing	Once all items in review have been completely addressed and corrections made, OHCS will close the review and submit report to HUD.

Inspection Frequency and Sampling Size

The physical inspection frequency will be based on a property risk analysis and meet HUD requirements as found in 24 CFR 92.251 and 92.504. The first property inspection will take place within 12 months of project completion. And, inspections will continue on a regular basis throughout the affordability period.

Inspection Sample Sizes

<u># Total Property Units:</u>	<u>Number that will be Inspected:</u>
1-4 Total Units:	Inspect 100% of the HOME assisted units in the property and all inspectable items for each building with HOME assisted units.
4 Plus Total Units:	Inspect at least 20% of HOME units in each building in the property and not less than 4 total units and/or at least 1 unit in each building along with all inspectable items for each building with HOME assisted units.

HOME Risk Based Monitoring Schedule

HOME monitoring is based on OHCS risk analysis of each property. The property and the Owner's/Agent's current portfolio of properties monitored by the Department must be in compliance with program requirements and other applicable department regulations.

Each property is evaluated using a standardized internal process reviewing asset management and compliance categories with portfolio thresholds. Compliance categories evaluated will include but are not limited to the following:

- Most recent rating received for management reviews;
- Physical inspections;
- Tenant file reviews;
- REAC scores;
- Submission of required reporting including financial audits and certifications of program compliance;
- Owner and Management cooperation with reporting and communication; and
- Change of Ownership or Agent.

Properties with no asset management or compliance concerns will be inspected and audited a minimum of once every three years. Properties that have compliance concerns may be audited more frequently depending on the specific concern and need for additional follow-up or oversight.

Preparing for OHCS Review/Inspection

The Owner/Agent is required to accurately and fully complete and submit the following items prior to any HOME Review/Inspection and will be requested when the scheduling confirmation letter is sent to Owner/Agent:

- Management Agent Questionnaire
- Resident Service Report Form
- HOME Monitoring Report
- Rent Roll with move-in dates
- Copy of Waiting List
- Current Utility Allowance documentation
- Vacancy Report
- Budgetary information reports
- Other documentation as requested necessary for compliance review

Returning all documentation and information on or by the due date listed in the confirmation letter is important. Don't wait until the last minute to submit the requested documentation. The materials are requested prior to a review/inspection so that the compliance officer can prepare in advance so that the time onsite is specifically for reviewing files, affirmative marketing, supportive services, physical inspections and other program requirements. All documentation submitted should be completed in full and double-checked for accuracy.

Owner/Agent **must** provide notice of entry:

- Provide **all** tenants with at least 24-hour notice of entry for inspection. The notice must specify that it is for the **entire day** and be provided to **all** residents.

Before the OHCS compliance team arrives at your property, it is recommended that Management:

- Pre-inspect units to avoid any common physical findings.
- Make sure that tenant files are organized in a consistent manner for ease of auditing.
- Set up a quiet area (if available) where the compliance team can audit tenant files without interruption.
- Make sure that adequate staff is available to accompany compliance team into units for inspection.
- Have all required documents available for review such as the Administrative Notebook, waiting list, AFHMP, denied applications, and any other documents requested and not received by the compliance team prior to the inspection.
- Have staff whom are knowledgeable of the property present during the inspection and exit interview so they can respond to questions, suggestions or comments.

Post Inspection:

- Exit Interview: The Compliance Officer/team will make an effort to provide a brief overview of information to Owner/Agent regarding results of the inspection/review.
- EH & S findings: The Compliance Officer will provide a list of all physical inspection findings requiring immediate action to remedy (OHCS Annual Inspection Immediate Action Required Items form).
- Owner/Agent is required to correct items on immediate action items list and report such correction date to the Compliance Officer within 24 hours for life-threatening items and 72-hours for non-life threatening items.
- OHCS will follow up by providing Owner/Agent a detailed findings report within 30 days following the inspection/review outlining all findings and noting any issues requiring attention.
- Owner/Agent is required to respond to the findings report by the due date indicated in the report: usually within 30 days.

Electronic File Audit Procedures

OHCS has started conducting the file audit portion of some reviews electronically. This is completed using Google Drive (Docs) for file upload into a shared folder with OHCS. The Compliance Officer will notify the Owner/Agent if the review will include an electronic file audit and will provide instructions for its completion. The tenant files that have been chosen for the review will need to be scanned into an electronic file format and must be uploaded into Google Drive within 24

hours. Instructions for creating and using a Google account for this purpose are located on our website at: <http://www.oregon.gov/ohcs/Pages/asset-management-program-compliance-section.aspx>

Statewide & Federal Streamlining

OHCS participates in both statewide and federal streamlining compliance partnerships. Streamlining by housing industry agencies in Oregon and on a federal level combine monitoring and reporting efforts to diminish the overall impact on the residents and staff at each property and to aid in the reduction of duplicated monitoring practices across agencies.

OHCS collaborates with state and federal housing partners who are part of a Memorandum of Understanding (MOU) to complete property inspections and/or file audits at properties that have multiple layers of funding from different agencies. One inspection review and one review report is completed for the property and accepted by the multiple agencies. OHCS may attend the physical inspection along with the partner agencies and/or REAC and is responsible for completing the file audit, writing the review report and following the entire review/inspection to completion. OHCS may require files to be submitted electronically for the file audit portion of the review (noted above).

The following Federal and State assisted-housing programs are governed by the federal agreement:

- HUD's Section 8 Project-Based Rental Assistance Program
- HUD's Multifamily Mortgage Insurance Program
- HUD's Direct Loan and Capital Advance
- HUD's HOME Investment Partnership Program (HOME)
- HUD's Section 8 Project-Based Voucher Program
- Low-Income Housing Tax Credit Allocation
- RD's Section 515 Rural Rental Housing Program
- HFA Mortgage Loan Financing

The Owner/Recipient of Home Funds Responsibilities

In accordance with the HOME program regulations, the Owner of a property receiving a HOME allocation is required, by acceptance of the allocation, to:

1. Implement rent structure approved by OHCS at lease-up and request approval from OHCS for any future rent increases prior to implementation. The approval from OHCS for any further rent increases is required of HOME-assisted properties throughout the affordability period.
2. Manage the property in accordance with the HOME Regulations and all additional requirements agreed to during the allocation process for the duration of the compliance/affordability period. This includes continued compliance with regard to income and rent levels detailed in the initial application.
3. Certify that the property is being managed in accordance with all applicable federal, state and local fair housing laws. (Annual Owner's Certification of Continuing Program Compliance).
4. Retain records/property files documenting eligibility for the HOME final allocation for at least five years after the last year of the compliance period.
5. Retain records documenting the designation of HOME units, HOME-like units, and non-HOME units using a method that clearly shows the status of all units at any point in time.
6. Assume liability for any instances of non-compliance and the correction of such deficiencies.
7. Submit, within 30 days of receipt, a copy of any formal housing discrimination complaint filed against the Owner or Agent.

Each Owner has chosen to participate in the HOME Program to take advantage of available funds. In exchange for accepting HOME funds, certain requirements must be met by the Owner that will benefit qualified low-income tenants. The requirements include Owners placing qualified tenants in at least the minimum number of Low HOME rent and High HOME rent units as detailed in the restrictive covenants, charging appropriate rental rates for each qualified unit and maintaining documentation and verification of qualified low-income tenants.

The Owner must further meet all requirements agreed to in the Home Grant Agreement and HOME Declaration regarding any additional restrictions on rent levels and income restrictions. The Owner must certify annually on the HOME Program Owner's Annual Certification of Continuing Program Compliance (CCPC) that all Program requirements have been met including a completed HOME Monitoring Report and submittal of financial information on an annual basis as requested. If the recipient fails to perform any of the provisions of the agreements, and does not correct such failure within the time frame that Asset Management & Compliance may authorize, OHCS may provide written notice of default to the Recipient and terminate the agreement. Should the Agreement be terminated, the Recipient is liable to repay all of the HOME funds disbursed to the property.

Although an Owner may have a managing Agent acting on his or her behalf, the Owner is responsible for ensuring compliance with all program regulations and rules. When selecting a managing Agent, the Owner should ensure the Agent and all on-site personnel are knowledgeable of the provisions and requirements of the HOME program and have adequate experience in managing HOME-assisted properties. All management Agents must be pre-approved by OHCS.

Conflict of Interest - Applicability

No person who is an employee, Agent, consultant, officer, or elected or appointed officer of the HOME funds recipient, who have exercised or currently exercise any functions or responsibilities with respect to activities associated with HOME funds may obtain financial interest or benefit from a HOME assisted property. This includes themselves or those with whom they have family or business ties during their tenure and for one year thereafter.

No Owner, developer, or sponsor of a property assisted with HOME funds (or officer, employee, Agent, or consultant of the Owner, developer, or sponsor) whether private, for profit or non-profit, (including Community Development Organizations [CHDO], when acting as an Owner, developer, or sponsor) may occupy a HOME-assisted affordable housing unit in the property. This provision does not apply to an employee or Agent of the Owner or developer of a rental housing property who occupies a HOME-assisted unit as the property manager or maintenance worker, if the employee or Agent is otherwise qualified.

Upon written request from OHCS, HUD may grant an exception on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME program and the effective and efficient administration of the program or property.

Proper Administration and Record Keeping

The Owner's record keeping requirements include, but are not limited to:

Inspections

- Records *that demonstrate* each HOME-assisted unit meets applicable property standards – (annual UPCS inspection report or other inspection standards approved by OHCS-AMC);
- Management/Owner inspections;
- Maintenance records.
- Unit turn-over work completion records

HOME Monitoring Report

- Report containing the unit and tenant data necessary to document that unit restrictions and property requirements are being met as required by the HOME Program.

Individual Tenant File Requirements

- ♦ See page 14 in this manual for list of requirements

Administrative Notebook

(Required to be kept on-site & available for review)

Contents must include:

- ♦ All funding type Regulatory Agreements (Reservation, Declaration, Loan or Grant Agreement and all others that apply)

- ◆ Applicable yearly income limits
- ◆ Applicable yearly minimum and maximum rent limits (HUD established)
- ◆ Deed restriction documents associated with the property
- ◆ Minimum and Maximum Rent Limits in Effect at Initial Grant or Loan Agreement
- ◆ Total number of units
- ◆ Total number and/or percentage of units restricted and the type of restrictions
- ◆ Proposed rental and utility rates for the following year; including OHCS rent approval
- ◆ Latest utility allowance documentation
- ◆ Waiting List(s) with dates of application for all families accepted/rejected
- ◆ Current Management Plan
- ◆ Resident Services plan with documentation that support the plan
- ◆ Current Affirmative Fair Housing Marketing Plan and records demonstrating reviews of the plan on a periodic basis; including copies of advertising – ads, flyers etc.
- ◆ Documentation of the actions taken to affirmatively further fair housing in accordance with the Affirmative Fair Housing Marketing Plan

Utility Allowances and Documentation

If utilities are paid directly by the tenant, a utility allowance must be used when determining eligible unit rents. If utilities are included in gross rent, the utility allowance is zero.

Utility allowances must be reviewed annually to ensure that allowances used are comparable to what the tenant is actually paying. Owners may choose to review allowances more than once per year. However, each time a review is completed, whether a mandated annual review, or a self-imposed review, Owners and Agents have a maximum of 90 days after the new allowances are determined to implement them into the maximum allowable rent computation.

Each year when the allowances are reviewed, the Owner or Agent must retain **all source documentation** and any supporting documentation or data collected that is used to calculate the utility allowance. This information should be kept on file in order to provide proof of compliance during the entire credit period and made available to the HUD or OHCS on request. Owners or Agents must submit the utility allowance documentation paperwork to OHCS each year with the CCPC, at inspection, and when requested. The information must be made available to all tenants at the beginning of the 90-day period before the new utility allowance can be used to calculate rent. Proof of resident notification should be kept on file for OHCS review. If the utility allowances are not changed, documentation must be maintained to show that the U/As have been reviewed and no changes were made.

Changing methods

Owners are not prohibited from changing methods as long as the method is permitted by HUD-HOME regulations and is used for calculating a utility allowance in order to most accurately calculate the utility allowance. However, OHCS must be notified in advance of the change per the notification requirements listed above and must approve the provider of the energy consumption model calculation if applicable.

Utility Allowance Noncompliance

- The appropriate utility allowance is not used;
- The utility allowance is not calculated properly;
- Rents are not reduced when the tenant is paying for the utility;
- Owner/Agent did not review the basis on which the utility allowance was established at least once during the calendar year;
- Owner failed to update rents for a UA changed within the 90-day period;
- Owner failed to maintain adequate documentation regarding the computation of utility allowances. Without proof of the UA or how it was calculated, there is no way to correctly calculate the rent.

Important Note: All HOME properties with written agreements dated before 1/24/2015 may use the PHA method of calculating Utility Allowances. HOME properties with written agreements dated after 1/24/2015 may NOT use the PHA calculation method and MUST use the HUD Utility Consumption Model or another method as approved by HUD (to be determined).

Over-Charged Rents

If the correct utility allowance is not applied as required, the wrong net rents could be charged to the residents. If the residents are over-charged rents due to a wrong utility allowance being used, the full amount of the over-charged rents must be returned to each resident affected. See section on Rent Adjustments.

For any HOME property that also has RD or HUD funding, the RD and HUD utility allowances must be used.

Tenant-Paid Utilities in Properties with both HOME & LIHTC

When a tenant pays for utilities, both HOME and LIHTC require the Owner/Agent to deduct a utility allowance from the current rent limit, in order to determine the maximum amount that an Owner/Agent may charge for rent. However, each program may use a different utility allowance schedule and may have different rent limits. Therefore, when determining the maximum allowable HOME rents, Owner/Agent must subtract the tenant-paid utilities from the HOME rent limit using the authorized utility allowance. Then, Owner/Agent must use the LIHTC utility allowance to subtract tenant-paid utilities from the LIHTC rent limit. Once the Owner/Agent determines the maximum allowable rent for each program, the lower rent must be used. Rent limits for each program are updated and issued at least annually. U/As must be reviewed for updates at least annually. It is important to use the most current allowances and to charge the most restrictive rent.

Record Retention

All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided below:

“For rental housing properties, general rental records must be retained for five years after the property completion date; except that records of individual tenant income verifications, property rents and property inspections must be retained for the most recent five-year period, until five years after the affordability period terminates.” CFR 92.508C.1p89

Lead-Based Paint information and records must be kept at least three years.

All records must be available upon request for Asset Management and Compliance monitoring staff review. If the property has Low Income Housing Tax Credits, refer to the LIHTC Compliance Manual for further record retention requirements.

Management & Reporting Requirements

Management Agent Plan & Qualifications

Owners/Management Agents of HOME properties are required to submit a Management Plan & Qualifications Packet. The plan must be reviewed and approved by Asset Management & Compliance prior to lease-up activities, property completion and anytime a change in management is needed. From time to time, OHCS will issue notices to explain, augment, or interpret these requirements. The Owner or Management Agent must amend the Management Plan to include any changes in program requirements or management policies. The Management Plan provides information regarding the Owner/Agent relationship, site staffing and their specific responsibilities, marketing efforts and resident services. In addition, it addresses management's Fair Housing procedures and policies, the process for screening of applicants, mediation protocol, and compliance procedures, etc.

Changes of Management Agent

The selection of the management Agent is the responsibility of the Owner; however, the Agent is subject to approval by the Asset Management & Compliance section of OHCS. Owners must submit requests for changes in management Agent at least 60 days prior to implementation. A completed Management Plan and Qualifications Packet is required and must be submitted to OHCS for the proposed new management company. OHCS does not give blanket approval for any management company. Proposed management must be reviewed and approved on a property-by-property basis, regardless of the number of HOME properties currently managed by the management company.

Copies of the Management Agent Plan and Qualifications Packet are available on the OHCS website at:

<http://www.oregon.gov/ohcs/Pages/asset-management-program-compliance-section.aspx>

Resident Services Plans

At the time of funding or at reservation of awards, OHCS requires the Owner of the property to complete and subsequently implement an approved Resident Services Plan. The Resident Services requirement has two major objectives:

- Through coordination, collaboration, and community linkages, residents will be provided the opportunity to access appropriate services which promote self-sufficiency, maintain independent living, and support them in making positive life choices; and
- To effectively maintain the fiscal and physical viability of the development by incorporating into ongoing management the appropriate services to address resident issues as they arise.

General, low-income population support and services may include improving residents' ability to maintain their lease obligations, enhance quality of life through programs for employment, education, income/asset building, child and youth development, community building and improving access to services.

OHCS reviews the Resident Services Plans along with Management Plans. Both plans share common goals and in many instances one person performs the duties of both site manager and resident services coordinator. In other cases, the Owner will hire or work with an Agency to help coordinate the services plan. The resident services activities review is part of ongoing monitoring compliance of a State-funded property. When the Agent and its employees perform the duties of a resident service coordinator, they are advised to work closely with the Owner in all aspects of the resident services requirement. The Owner carries the ultimate responsibility for compliance.

Resident Service Plan Requirements:

- Resident Services Plans must remain the same or similar as originally planned for the property.
- Owners must review the plans at least every 5 years to determine they remain relevant for the current resident population at the property. Some Owners utilize resident surveys for the purpose of determining that the services being offered are what the current resident population desires or needs.

- All changes made to the Resident Services Plan must be pre-approved by OHCS. Any proposed changes to the plan must be comparable or better than the original services plan and meet the needs of the current tenant population; contact the OHCS-AMC Compliance Officer for questions.

Resident Services Reporting:

OHCS approves and monitors the resident services plans and the Owner/Agent's implementation and ongoing provision of the approved services plan for each property. The following is a sample list of items that OHCS will review during each review/inspection:

- Service Provider and their qualifications;
- Agency providing services for the property through an MOU;
- Owner's oversight process for services with property management;
- Method of services delivery; including who is responsible for delivery and plan monitoring;
- Description of how onsite resources (community room, etc.) are utilized;
- Examples: copies of calendars, fliers, newsletters and marketing efforts;
- Detailed list of actual services provided, who provided them and the number of resident participants in each;
- If the approved plan is being followed or changed; and
- Description of methods and tools used to evaluate the services plan.

Each property's Owner/Agent is expected to complete the Resident Services Plan Report prior to each inspection/review and submit to the Compliance Officer as part of the required pre-inspection documentation.

Management Agreement

The Management Agreement between the Owner and management Agent stipulates the contractual requirements for property operations. The Agreement will continue in force until canceled by either party. A provision for this must be included in a section of the Agreement titled EXPIRATION AND TERMINATION. A copy of the management agreement must be submitted to OHCS along with the completed Plan & Qualification packet.

The Owner is responsible for keeping the Asset Management & Compliance section informed of any event that might affect the property's compliance with 24 CFR, Part 92, and for certifying annually the property's continued compliance. The Owner must submit written notification of changes in Ownership, the Management Company, portfolio/asset manager or Agent, and site manager. All changes of contact information such as email address, mailing address, telephone number and fax number must be submitted in a timely manner. Owner/Agent changes must be pre-approved by OHCS.

Transfer of Ownership

An Owner which has received a grant, tax credit, or loan from OHCS shall not transfer Ownership, lease, or otherwise encumber any property which serves or will serve as security for a program without prior written approval from OHCS. Approval will not be unreasonably withheld. Review the Property's program documents for more information.

If a transfer is completed without prior OHCS approval, OHCS may, at its sole discretion, enforce remedies as provided under the program documents or OARs which may include additional charges assessed up to reversal of transfer of Ownership.

For more information view the Transfer of Ownership request for Approval Sale, Partial Sale, Lease, or Merger and Ownership Entity Changes document at: <http://www.oregon.gov/ohcs/Pages/asset-management-transfer-of-Ownership.aspx>.

Annual Certification of Continuing Program Compliance (CCPC)

Throughout the affordability period, the Owner shall prepare and submit to the Department a Certification of Continuing Program Compliance (CCPC), in the form required by OHCS and include a completed HOME Monitoring Report.

The Owner of a property with HOME units must certify compliance with the following provisions:

- If the property has five or more HOME units, at least 20% of the HOME units must be designated as Low HOME – i.e., rented to households with gross incomes not exceeding 50% of area median income adjusted for family size; and
- The remaining HOME units must be designated as High HOME - rented to households with gross incomes not exceeding 60% of area median income adjusted for family size – some properties have other HOME funding requirements such as: 100% of the units are HOME units;
- The Owner has received an annual low-income Tenant Income Certification (TIC) from each low-income tenant and required documentation to support each certification;
- That each low-income unit is rent-restricted as defined in HOME regulations;

Note: Some Owners may have agreed through the Grant Agreement and/or other program funding documents to reduce rents lower than the requirements; if so, the lower (more restrictive) rents must be followed;

- That all units in the property are for use by the general public, and used on a non-transient basis;
- That each building in the property is suitable for occupancy;
- The Owner has not refused to rent a HOME unit to a Section 8 voucher holder, on the basis of their status as a voucher holder; and
- The Owner has not floated the HOME assistance away from a Section 8 voucher holder;

Note: If other restrictive programs were included in the financing of the property, separate reporting requirements exist. Please refer to the appropriate manual(s) for details on other program requirements.

Annual Reporting - Noncompliance

Failure to submit a completed annual Owner's Certification of Continuing Program Compliance and HOME Monitoring Report is considered to be noncompliance. The Certification and Monitoring Report are to be signed by the Owner or a managing Agent with legal signature authority and submitted to OHCS annually. A late fee will be imposed for any annual certification not received by OHCS by the due date issued each year. Effective February 2016, all CCPCs will be due by the end of February each year.

Further, the Owner (HOME Recipient) is also responsible to correct any non-compliance findings within the required time frame. Failure to correct within the time specified by Asset Management and Compliance may result in termination of the HOME Grant or Loan Agreement. If the Agreement terminates, the Recipient is liable to repay all of the HOME funds disbursed to the property.

Monitoring Fees

Per the HOME Final Rule, OHCS will be able to charge monitoring fees per HUD regulation for HOME funded properties. However, this will only apply to properties that receive HOME funds on or after August 2013.

Management Agent and On-site Personnel

The Agent and on-site personnel are responsible to the Owner for implementing the HOME Program requirements and the provisions of the property's management plan. Anyone who is authorized to lease apartment units to tenants should be thoroughly familiar with and follow all federal and state laws, rules, and regulations governing certification and leasing procedures including but not limited to Oregon Landlord/Tenant Law and Fair Housing Law.

The Agent must provide information requested by the Asset Management & Compliance section and submit, on behalf of the Owner, all required reports and documentation in a timely manner. Annual certification documents may be signed on

behalf of the Owner by the managing Agent with legal signature authority. Proof of legal signature authority may be requested by OHCS.

Management Agent/staff should ensure that tenant occupancy information remains confidential, but is accessible to authorized representatives of OHCS and/or HUD.

Compliance Monitoring

Monitoring by OHCS is an ongoing process involving continuous communication and evaluation. The process begins with the allocation of HOME funds through the NOFA process (previously the CFC process). Asset Management and Compliance (AMC) will monitor HOME compliance throughout the affordability period of the property.

The Compliance Officer's responsibilities

The AMC Section Compliance Officers perform file reviews and on-site visits as scheduled to ensure the Owner and property management Agent are operating the property in compliance with applicable rules, regulations, and policies.

The areas to be reviewed for compliance will include, and are not limited to:

- Tenant qualifications, income calculations, and appropriate supporting documentation;
- The gross rent (rent plus tenant-paid utility allowance);
- Provisions memorialized in the HOME Grant Agreement, HOME Land Use Declaration of Restrictive Covenants and other applicable documents;
- Property characteristics attested to in the initial application for which ranking points may have been awarded;
- Resident Services;
- Property's waiting list and applicant placement procedures;
- Property's AFHMP and updates; and
- Property's Fair Housing Violations.

The Compliance Officers will also:

- Provide technical assistance to the sponsors, Owners, and Agents when needed or requested to assist Owners/Agents understand compliance with program requirements;
- Review and approve any requested rent increases, the vacancy history of both low-income and market-rate units and the marketing strategies used to fill vacancies;
- Report instances of noncompliance, when appropriate, to HUD or the OHCS Finance Committee after giving the Owner reasonable time to correct the issues of noncompliance (depending on severity of non-compliance);
- Maintain/keep the information used to complete the monitoring visit/audit for a period not less than six years following the calendar year in which it was received; and
- Work with Asset Management & Compliance to determine each property's risk analysis and rating.

The HOME Monitoring Site Visit/Audit Process

Is based upon the following components:

- HOME Regulatory Requirements
- The Compliance Manual
- Tenant File Review
- Property Site & Unit Inspections
- Annual Owner's Certification of Continuing Program Compliance and all attachments, including the HOME Monitoring Report
- Utility Allowance Documentation
- Use of Correct Income and Rent Limits
- Lease and Tenant Selection Criteria Review and Approval; including waiting list
- Record Keeping and Record Retention
- Noncompliance/Plans to Correct Noncompliance
- HUD communication and or requirements
- Fair Housing Requirements
- Property Standards

- Tenant communication
- All other applicable documentation

Home Compliance Forms

OHCS requires the use of certain forms. No other forms will be considered acceptable. All required forms are located on our website – see link noted below.

The following are required forms:

- Owner’s Certification of Continuing Program Compliance
- Applicant/Tenant Questionnaire
- Annual HOME Certification of Student Status
- HOME Program Monitoring Report
- Tenant Income Certification
- Employment Verification
- Income Status Certification
- Asset Verification
- Student Status/Financial Assistance
- HOME Program Self-Certification
- Assessment of Household Demographics; if unit has Section 8, the HUD form is allowed
- HOME Lease Compliance Form
- VAWA

The following are recommended forms:

In addition to the required forms, the following **recommended forms** are also available. Any format the Owner or managing Agent chooses that provides, at a minimum, the information requested on these forms is acceptable to Asset Management & Compliance:

- Divestiture of Assets Certification
- Estrangement/Separation Certification
- Public Assistance Verification
- Periodic Monetary Assistance Verification
- Public Housing Authority Statement
- Certification of Child Support/Alimony
- Social Security Benefits Verification
- Lead-Based Paint Disclosure [This form or similar is required for properties built prior to 1978]

All forms listed above and more are located on the Oregon Housing website at: <http://www.oregon.gov/ohcs/Pages/compliance-monitoring-manual-home.aspx>.

Asset Management Tenant File Reviews & Property Inspections

The following are required documents that must be maintained in each tenant file:

- Rental Application
- Applicant/Tenant Questionnaire
- Tenant Income Certification (TIC)
- Third-party verifications and source documentation
- Lease & HOME Lease Compliance Form
- Tenant acknowledgement of provision of lead based paint information pamphlet and other notifications (as applicable)
- Unit maintenance records (separate maintenance file is acceptable)
- Other records (relevant to each tenant’s residence in the property)
- Other forms as required by OHCS; check the website regularly

OHCS is required to review tenant files and/or to perform physical inspections of all HOME properties throughout the affordability period for each property.

When a property is scheduled for inspection, the CO will:

- Notify the Owner and Agent in writing of the date and approximate time of inspection;
- Perform the on-site file review, property inspection, and unit inspections (file audits may be conducted electronically);
- Inform the Owner and Agent of any findings of noncompliance with regard to the review- conduct an exit interview summarizing issues found while onsite;
- Provide Owner with findings letter that includes time period to correct non-compliance findings and respond to OHCS accordingly with corrective action/s required.

Recommended Tips for Submitting Satisfactory Corrective Action/s

- Review the findings letter to ensure that what you are sending was requested. Sending too much information could result in additional questions and/or additional findings;
- Submit the documentation in an organized manner. Accurately label items. Be sure that the property's name is on the materials;
- Prepare cover letter to explain the corrective action/s and put the corrective action in the same order as the findings letter;
- If e-mailing, request an acknowledgement that the person has received the corrective action/s;
- Always send with identifying information or explanation.

Don't wait until the last minute to start working on the response-corrective action/s. Incomplete and/or late responses could result in a lower review rating. It is always acceptable to turn in your fully completed response prior to the due date. However, don't be late. As a last resort and prior to the response due date, contact the Compliance Officer for an extension if needed.

On-Site Physical Inspections UPCS/ Property Standards

The Owner/Agent must keep all property units in decent, safe, and sanitary condition at all times and in compliance with Uniform Physical Condition Standards (UPCS) along with any other local/state/federal building codes.

OHCS is required to perform on-site inspections of all HOME properties throughout the affordability period. If there are any additional funding sources for which OHCS is responsible for monitoring compliance, the time frame for inspections and reviews may be extended accordingly (longer affordability periods). The inspection will include monitoring of the Owner's/Agent's property management practices including routine maintenance, capital planning, property standards, unit turn-over, security concerns and marketability. These on-site physical inspections will be conducted using UPCS and include physical inspections of the building exteriors, property grounds, common spaces, and a reasonable sampling (minimum of 20%) of HOME units in each building. Additionally, if other programs are allocated by OHCS, such as Low-Income Housing Tax Credit (LIHTC), Risk Share, Oregon Affordable Housing Tax Credit (OAHTC), HELP, Tax-Exempt Bond financing, GHAP, Trust Fund or any other source, a review of all requirements may be conducted along with the HOME program review.

UPCS are divided into inspectable areas and items that are separated into Level 1, Level 2 and Level 3 deficiencies that indicate the severity of the defects (findings) that must be corrected. Level 1 is the least severe with Level 3 being the most severe. For the Level 3 (and some Level 2) defects there are 3 categories of defect as follows:

Level 3 – **Life Threatening:** This level of defect must be addressed and corrected *immediately*

Some examples follow (not limited to this list):

- Propane/natural gas/methane gas odor,
- Exposed wires/open panels; water leaks on or near electrical equipment
- Missing smoke detector
- Open fuses/breaker slots

Level 3/2 – **Non-Life Threatening:** This level of defect must be addressed within **72-hours**

Some examples follow (not limited to this list):

- Mold/mildew/sewer odors

- Blocked heaters
- Flammables stored in a way that cause risk
- Trip hazards

Level 1 – Correction completed timely; same as all other defects found

Some examples follow (not limited to this list):

Busted or missing window pane

Cracked electrical cover

GFCIs won't test

Clogged drain

Immediately following the completion of the physical inspection, the Compliance Officer/s (COs) will complete an Immediate Action Required Items form indicating all of the Life Threatening or Non-Life threatening defects that need corrected immediately or within the following 72 hours. Owner/Agent is then required to correct all of the items listed within the required time frame and send the completed report to the Compliance Officer by the due date noted. The COs may ask for documentation to support the correction has been completed and the date of completion. The supporting documentation requested may include but is not limited to:

- Completed work orders
- Invoices
- Contractor's reports
- City or county inspector's reports
- Photos with date imprint

Lead-Based Paint

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, Owners must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling and keep records of each disclosure. Tenants must receive a federally approved pamphlet on lead poisoning prevention entitled "*Protect Your Family from Lead in Your Home*". For more information about lead-based paint requirements, you can visit the HUD website at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/disclosure and or the FHCO website at: <http://www.fhco.org>

Record Keeping and Retention

Owners must retain project records that document the compliance of their HOME-assisted rental properties for a minimum of five years beyond the property's required effective period. Required records include: tenant records, including income verifications, unit rents, affirmative marketing, property standards and unit inspections. These records must be retained for the most recent five-year period, until five years after the period of affordability.

Owners must maintain applicant and tenant information in a way to ensure confidentiality. Any applicant or tenant affected by negligent disclosure or improper use of information may bring a civil action for damages against the Owner and/or Agent and seek other relief as appropriate. Owners must dispose of records in a manner that will prevent any unauthorized access to personal information, e.g., burn, pulverize, shred, etc.

Correction and Consequences of Non-Compliance

If OHCS does not receive the required certifications and/or compliance reports when due or discovers by audit, inspection, or review, or in some other manner that the property is not in compliance with the requirements of the HOME Program or with the property's loan documents, including the Declaration, OHCS will notify the Owner as soon as possible.

Notice to Owner

OHCS will provide prompt written notice to the Owner of a HOME-assisted property if OHCS does not receive the Annual Owner Certification and HOME Monitoring Report, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records, or discovers by inspection, review, or in some other

manner, that the property is not in compliance with the requirements of the HOME Program, or with the property's regulatory agreements including the loan and/or grant agreements and the declaration.

Correction Period & Extension Requests

The correction period will be established by OHCS and set forth in a Review Report to the Owner. OHCS may extend the correction period, but only if OHCS determines there is good cause for granting the extension. Requests for an extension must be in writing from the Owner, must be received by OHCS no later than the last day of the correction period identified on the Review Report and must include an explanation of the efforts to correct the noncompliance and the reason the extension is needed.

Owner's Response

OHCS will review the Owner's response and supporting documentation, if any, to determine whether the noncompliance has been clarified, corrected or remains out of compliance.

Clarified noncompliance is, for example, where income eligibility was not properly documented and the Compliance Officer cannot make a reasonable determination that the unit is in compliance but the Owner/Agent conducts a retroactive (re)certification which completely and clearly documents the sources of income and assets that were in place at the time the certification should have been effective, and applies income and rent limits that were in effect on that date. If documentation is complete and it supports that the household was eligible as of the effective date, the file is considered clarified.

Corrected non-compliance is when a violation is observed, there is a period of time during which the unit is out of compliance, but the unit is ultimately brought back into compliance. For example, a late certification or re-certification is out of compliance on the certification due date, and back in compliance as of the date the last tenant signs the Tenant Income Certification.

Uncorrected non-compliance is a violation that is not corrected or clarified by the end of the correction period.

Consequences of Non-Compliance

Failure to correct all non-compliance could result in increased monitoring and reporting requirements, extension of the affordability period, repayment of the HOME grant or loan, or other legal remedies and may also affect the Owner's eligibility for future financing from OHCS under any or all of its programs. Further, OHCS may require the management Agent be replaced.

Compliance Training

Asset Management and Compliance will conduct periodic Compliance Trainings. The purpose of the state-sponsored training is to provide Owners/Agents with the tools to maintain property compliance.

Typical trainings will cover:

- A sampling of the basic HOME compliance requirements;
- OHCS policies and procedures for compliance monitoring;
- Specific information on the following low-income tenant eligibility requirements:
 - ✓ Income and Rent Limits
 - ✓ Definitions of Income and Assets
 - ✓ Tenant Income and Asset Certification
 - ✓ Leases
- Other Owner responsibilities, including notifying Asset Management and Compliance of any change in management or Ownership of the property.

Compliance training workshops are not intended to be the only training resource or a substitute for more formal certification or other technical recordkeeping training.

Regulations & Requirements

The following discussion highlights *some* of the HOME Program regulations directly affecting property compliance. **It is not a complete listing of compliance regulations.**

Maximum Income Limits

HUD requires that every HOME-assisted rental unit be occupied by a household that is low-income. For properties with five or more HOME-assisted units, HUD also requires that at least 20% percent of the units be occupied by households that are very low-income. The HOME income targeting requirements specify who can live in HOME units (based on income) and how much rent the tenants can pay.

The following are the HOME income targeting requirements for the State of Oregon:

- **Low-income household:** The household's annual gross income is no greater than 60% percent of the area median income. These limits apply to tenants that live in High HOME rent units.
- **Very low-income household:** The household's annual gross income is no greater than 50% percent of the area median income. These limits apply to tenants that live in Low HOME rent units.

The maximum amount of annual gross income that a household may earn to qualify for a HOME-assisted unit is called the **income limit**. HUD establishes HOME income limits for different localities and adjusts them for household size, from one to eight persons. These limits establish the specific maximum annual dollar amount that a low-income and very low-income household can earn in order to qualify to reside in a HOME unit. Please refer to your HOME Grant or Loan Agreement to confirm how many units must be reserved for housing tenants at the very low-income level - **50%** of area median income **and** for housing tenants at the low-income level – **60%** of area median income. The property must maintain these percentages throughout the term of affordability.

HUD issues income limits for low-income households and for very low-income households on an annual basis. OHCS posts the limits on our website at: <http://www.oregon.gov/ohcs/pages/research-income-rent-limits.aspx>

Owners **may not anticipate** increases in income limits. Limits remain in effect until new annual limits are officially published by HUD.

Maximum Rent Limits

HUD requires that the rents being charged for HOME-assisted units are affordable to low-and very low-income households. HUD provides HOME rent limits to define what is affordable.

OHCS posts these limits each year on our website:

<http://www.oregon.gov/ohcs/pages/research-income-rent-limits.aspx>

The HOME rent limits are the maximum rents that can be charged to an income-eligible tenant household who is residing in a HOME-assisted unit. The HOME program has two rent limits: the High HOME rent limits and the Low HOME rent limits. The HOME rent limits include utilities. Therefore, the Owner/Agent must deduct tenant paid utilities from the published HOME rents to determine the maximum rents that can be charged for a HOME-assisted unit.

Each property may have two HOME rent levels, as explained in the following:

Low HOME Rents

Low HOME rents apply to a **minimum** of 20% of the units in properties with five or more HOME-assisted units and are occupied by very low-income tenants. These units must have rents that do not exceed the **lesser of**: Low HOME rent as calculated by HUD, with adjustments for the number of bedrooms in the unit, **or**: the Fair Market Rent (FMR) for the unit bedroom size, calculated annually by HUD. Should the FMR be lower than the Low HOME rent calculation, the FMR is then considered the Low HOME rent.

High HOME Rents

High HOME rents are the maximum rents that can be charged to low-income households. These units must have rents that do not exceed the **lesser of**: High HOME rent as calculated by HUD, with adjustments for the number of bedrooms in the unit, **or**: the Fair Market Rent (FMR) established annually by HUD. If the FMR is lower than the High HOME rent calculation but greater than the Low HOME rent calculation, the FMR is then considered the High HOME rent.

Subsidy Programs/Effect on HOME Rents

Tenant-Based Subsidy:

When a household receives *tenant-based rental assistance* provided by a Section 8 program or other funding source, the maximum allowable rent for the HOME-assisted unit cannot exceed the applicable HUD-published HOME rent limit. This means that the total rent collected for the unit (subsidy payment plus tenant rent portion plus utility allowance) cannot exceed the HUD-published High or Low HOME rent limit for the unit type (High or Low HOME).

The HOME Program prohibits properties from collecting more than the maximum HOME rents, **unless**:

Property - Based Subsidy:

The property is underwritten with a *property-based subsidy program* in place, and

- Units are initially occupied by households making no more than 50% of AMI
- Households are paying no more than 30% of adjusted income for rent (which could exceed the maximum HOME rent)

Property-Based Vouchers:

Rent collected in a HOME-funded unit with a *Property-based voucher* (PBV) in a designated low-HOME unit occupied by a very low-income household may be up to the maximum PBV rent (even if above FMR/HOME maximum): 24 C.F.R. 92.252(b) (2). This does NOT apply to designated High-HOME units.

Setting Rents for Single Occupancy Units (SRO's)

Single occupancy units are rooms that do not have a kitchen or cooking area and/or bathroom in the unit. To establish the rents for these units, calculate 75% of the zero (0) bedroom unit (studio) fair market rent (FMR).

Rent Adjustments

OHCS must approve the property's rent structure at lease-up and must pre-approve all rent increases throughout the affordability period. Rent increase requests must be submitted to OHCS-Asset Management & Compliance Section and must follow the guidelines as outlined. Further, only one request to adjust/increase rents per year will be considered. The written request must be submitted no later than 60 days prior to the intended implementation date and must include the following:

- Explanation of the need to increase rents at the property
- Comparison of the current rents with the proposed rents
- A copy of the current utility allowance documentation
- A copy of the current operating budget for the property

OHCS no longer provides approval of rents to the maximum allowed regardless of the actual amount of rents being charged at the property. The requested rent increase must be for actual rents being charged at the property per unit type from the effective date of the new rents forward until the next change is needed (not more than once per year). OHCS considers multiple criteria when reviewing a request to increase rents for a property. The requested rent adjustment/increase will be reviewed for the following:

- Reasonableness for market; market comparable study
- Reasonableness for the tenant population
- Compared to the current maximum HOME rent limits for the property
- Property's vacancy rate history
- Lease; should allow for rent adjustment/increase with notice

If the information reviewed does not support the need for an increase, the request may not be approved. Contact the Asset Management Compliance Officer for the property with any questions.

Please NOTE: the property will be considered out of compliance if a change/increase in actual rents being charged has taken place without the required pre-approval from OHCS. Further, retro-active rent increase approvals are no longer be provided.

Rent increases might occur when:

- HUD-published rent limits increase;
- The tenant pays utilities and the utility allowances decrease;

Rent decreases might occur when:

- The HUD-published rent limits decrease; or
- If the tenant pays utilities and the utility allowance increases causing the total rent plus the utility allowance to be more than the HUD published rent limits.

Owners/Agents are never required to charge rents that are lower than the rent limits that were in effect at the time OHCS made its initial commitment of HOME funds to the property. Any changes in rents for occupied units are subject to the terms of the tenant's lease.

Further, in relation to Housing Choice Section 8 Vouchers utilized within OHCS affordable housing units, the rent cannot be raised resulting in the tenant portion of the rent exceeding the calculated rent based on the tenant's income as established by the public housing authority.

Designated HOME units

At the time of initial commitment of HOME funds, Owners may choose to establish either a “**Fixed**” or “**Floating**” designation for the HOME-assisted units at their property. This designation is made at the underwriting stage and is made prior to the property file being transferred to the Asset Management & Compliance section for monitoring. Once the designation for “Fixed” or “Floating” units is made, it must remain as designated throughout the affordability period.

Fixed or Floating Units

Properties with **Fixed HOME units** have specific units (e.g., Units 101, 102 and 103) that are designated as HOME-assisted for the duration of the affordability period. Owners/Agents must maintain these specific units (Units 101, 102 and 103) as HOME-assisted units throughout the affordability period. In addition, OHCS will tell Owners how many units must be designated as High HOME Rent and Low HOME Rent units. Owners/Agents must maintain the original number of High HOME rent units and Low HOME rent units throughout the affordability period.

Properties with **Floating HOME units** do not have specific units that are designated HOME-assisted for the duration of the affordability period. OHCS designates specific units as HOME-assisted initially, but the Owner does not need to maintain those specific units as HOME-assisted. Instead, throughout the affordability period, the Owner maintains the total number of HOME-assisted and non-assisted units that were originally designated. The HOME-assisted unit designations change, or “float” among comparable* assisted and non-assisted units during this time in order to keep the original mix of assisted and non-assisted units. For example, if a property has an over-income tenant in a HOME-assisted unit, when the next comparable non-assisted unit becomes available, it is re-designated as HOME-assisted and rented to an income eligible tenant. The unit occupied by the over-income tenant is re-designated as a non-assisted unit. In addition, the number of High and Low HOME rent units that are designated at the time of project commitment must also stay the same.

*Comparable units=same square footage, bedroom size and amenities.

When re-designating units in order to maintain the required unit mix, Owners/Agents must substitute a comparable unit. They can choose to substitute a “larger” unit for a “smaller” unit. A “larger” unit is one that might be considered more preferable because of larger size, additional bedrooms, or amenities. This type of substitution is not required. However, Owners/Agents are never permitted to substitute a “smaller” unit for a “larger” unit.

Maintaining the required number of HOME-assisted units, High HOME rent units and Low HOME rent units is called complying with the **unit mix requirements**.

Maintaining the HOME Unit Mix Requirements

The property must maintain the correct number of High and Low HOME rent units.

What are the factors in determining the correct unit mix?

- Does the property have fixed or floating units?
- What was the original type of unit (Low HOME Rent unit or High HOME rent unit)?
- Did the household move-out?
- What happened to household income?
 - Stayed below 50%
 - Went above 50% but stayed below 80%
 - Went above 80%

Remember...

Low HOME Rent Units: Are occupied by *very low-income* households (income at or below 50% AMI). Rents are maintained at the Low HOME Rent Limits per bedroom size.

High HOME Rent Units: Are occupied by *low-income* households (income at or below 60% AMI). Rents are maintained at the High HOME Rent Limits per bedroom size.

The following examples are for HOME only and assume NO LIHTC funding:

Vacated HOME-Assisted Units

Generally, when a fixed or floating HOME-assisted unit is vacated and the property is in compliance with unit mix requirements (no over-income tenants in any of the HOME-assisted units), the Owner must take the following steps to fill the vacancy:

- Rent a High HOME Rent unit that is vacated to a new qualified low-income tenant at a rent that does not exceed the High HOME rent limit.
- Rent a Low HOME Rent unit that is vacated to a new qualified very low-income tenant at a rent that does not exceed the Low HOME rent limit.

However, if there is an over-income tenant occupying a HOME-assisted unit in the property, the steps that the Owner/Agent must take will depend on whether the property has fixed or floating HOME-assisted units. See the following applicable steps for over-income tenants in HOME units.

Increases in Tenant Income - Fixed and Floating HOME Units

When an Owner/Agent recertifies a tenant's income, they may find that the tenant's income has increased. In the HOME program, a tenant is considered **over-income** when:

- The tenant occupies a High HOME or Low HOME rent unit and the household income increases over the current HOME low-income limit for its family size, or
- The tenant occupies a Low HOME rent unit and the household's income increases above the current HOME very low-income limit, but is still below the low-income limit for its family size.

When a tenant is over-income, the unit that the tenant occupies is considered temporarily out of compliance with HOME's occupancy and unit mix requirements. Temporary noncompliance due to an increase in an existing tenant's income is permissible as long as the Owner/Agent takes specific steps to restore the correct occupancy and unit mix in the property as soon as possible. The rents of tenants whose incomes exceed the low-income limit must also be adjusted as soon as the tenant's lease permits. However, Owners/Agents may not evict or terminate the tenancy of a household because their income has increased.

Over-Income Tenants in a Property with Fixed HOME units

When an Owner/Agent recertifies a tenant's income and finds that it has increased above the HOME income limits, the steps that the Owner/Agent takes to restore compliance depend on whether the over-income tenant occupies a High HOME Rent unit or a Low HOME Rent unit. If the tenant occupies a Low HOME Rent unit, the steps also depend on whether or not the tenant is low-income. The possible steps are outlined below:

When an Over-Income Household Occupies a Fixed High HOME Rent Unit:

The property is temporarily out of compliance until the unit with an over-income tenant is vacated and can be rented to another low-income tenant household. The Owner/Agent must raise the over-income household's rent as soon as possible, in accordance with the terms of the lease. The rent for the over-income tenant must be adjusted such that the tenant pays the lesser of:

- The rent amount payable under state or local law;
- 30 percent of the tenant's monthly adjusted family income; or
- If the unit is also tax credit (LIHTC), the tenant must pay the rent dictated by the tax credit program

When a Tenant Household's Income is Low-Income (80%) but is Not Very-Low Income (50%) and the Household Occupies a Fixed Low HOME Rent Unit:

The property is temporarily out of compliance until either: (1) a High HOME Rent unit can be re-designated as a Low HOME Rent unit, or (2) the unit occupied by the over-income tenant is vacated and can be rented to another very low-income tenant household.

The unit that is occupied by the over-income tenant retains its designation as a Low HOME Rent unit until another unit can be re-designated as the Low HOME Rent unit. For as long as the unit retains the Low HOME Rent designation and is occupied by a low-income household, the Owner/Agent may not increase the tenant's rent above the Low HOME rent limit.

When a High HOME Rent unit in the property is vacated, regardless of bedroom size, the unit must be re-designated as a Low HOME Rent unit and rented to a very low-income tenant, at no more than the Low HOME Rent. Once a new Low HOME Rent unit has been designated, the unit that is occupied by the over-income tenant must be re-designated as a High HOME Rent unit. At this time, the Owner/Agent can increase the tenant's rent up to the High HOME Rent, subject to the terms of the lease.

When a Tenant Household's Income is Above the Low-Income Limit (80%) and they occupy a Fixed Low HOME Rent Unit:

The property is temporarily out of compliance and will continue to be out of compliance until the over-income tenant moves out and a new income-eligible tenant household moves in. The Owner/Agent must adjust the over-income household's rent as soon as the lease permits. The over-income tenant must pay the lessor of:

- The rent payable under or state or local law;
- 30 percent of the tenant's monthly adjusted family income;
- If the unit is also tax credit (LIHTC), the tenant must pay the rent dictated by the tax credit program

When a High HOME Rent unit becomes available, regardless of bedroom size, it must be re-designated as a Low HOME Rent unit. This unit must be rented to a very low-income tenant, at no more than the Low HOME Rent. Then, the unit that is occupied by the over-income household must be re-designated as a High HOME Rent unit. Even though the unit is re-designated a High HOME Rent unit, since the tenant is over the low-income limit the property continues to be temporarily out of compliance.

See **FLOW CHART 1** page 57.

Over-Income Tenants in a Property with Floating HOME units

When an Owner/Agent recertifies a tenant's income and finds that it has increased above the HOME income limits, the steps that the Owner/Agent takes to restore compliance depend on whether the over-income tenant occupies a High HOME Rent unit or a Low HOME Rent unit. If the tenant occupies a Low HOME Rent unit, the steps also depend on whether or not the tenant is low-income. The possible steps are outlined below:

When an Over-Income Household Occupies a Floating High HOME unit:

- The Owner/Agent must adjust the rent of the over-income tenant household so that they pay 30 percent of their monthly adjusted income as rent. The rent adjustment must be made as soon as the lease permits, and in accordance with the terms of the lease. Note, unlike the rule for properties with fixed HOME-assisted units, in a property with floating HOME units a tenant household is not required to pay more than the market rent for a comparable, unassisted unit in the neighborhood.
- The next vacant, comparable, non-assisted unit must be designated as a High HOME Rent unit. A comparable unit is one that is equal or greater in terms of size, number of bedrooms, and amenities. The Owner/Agent may not replace the unit with one that is lesser, unless doing so preserves the original unit mix. The newly designated High HOME Rent unit must be rented to a tenant whose income does not exceed the low-income limit, at a rent that does not exceed the High HOME rent.
- Once a comparable non-assisted unit is designated the new High HOME Rent unit, the unit with the over-income household is re-designated as a non-assisted unit. At this point, the Owner/Agent may adjust the tenant's rent without regard to the HOME rent requirements (other funding source requirements may still apply). Rent increases are subject to the terms of the household's lease.

When a Tenant Household's Income is Low-Income (80%) but is Not Very-Low Income (50%) and the Household Occupies a Floating Low HOME Rent Unit:

- The unit that is occupied by the over-income tenant keeps its designation as a Low HOME Rent unit until a comparable unit can be substituted. The rent of the over-income tenant must not exceed the Low HOME rent limit while the unit is a Low HOME Rent unit.
- When the next High HOME Rent unit in the property is vacated, it must be re-designated as Low HOME Rent unit rented to a household whose income does not exceed the very low-income limit, at a rent that does not exceed the Low HOME Rent.
- Once the new Low HOME Rent unit is designated, the unit with the over-income household is re-designated as a High HOME Rent unit. The household's rent may be adjusted to no more than the High HOME rent limit.

When a Tenant Household's Income is Above the Low-Income Limit (80%) and they occupy a Floating Low HOME Rent Unit:

- The next vacant, comparable, non-assisted unit must be designated as a Low HOME Rent unit, and rented to a tenant whose income does not exceed the very low-income limit, at a rent that does not exceed the Low HOME Rent limit.
- Until a comparable Low HOME Rent unit is designated, the unit that is occupied by the over-income household is considered a Low HOME Rent unit that is temporarily out of compliance.
- The rent of the over-income household in the original Low HOME Rent unit must be adjusted as soon as the lease permits, and in accordance with the terms of the lease.
- Until a comparable Low HOME Rent unit is substituted, the over-income tenant must pay 30 percent of the household's monthly adjusted income as rent.
- After comparable Low HOME Rent unit is substituted, the unit with the over-income tenant is re-designated a non-assisted unit. The Owner/Agent may adjust the tenant's rent without regard to the HOME restrictions. Rent increases are subject to the terms in the household's lease.

The process utilized for re-designating HOME assisted units in order to maintain the correct unit mix must be outlined in the Tenant Selection Plan for the specific property. Be sure the Tenant Selection Plan provides for a

consistent and fair method for the re-designation of HOME when needed and be sure to regularly follow the plan as outlined. It is recommended to keep supporting documentation to show the plan has been followed.

See **FLOW CHART 2** on page 58.

Moving Existing Tenants to a different HOME Unit

There is no such thing as a unit transfer in the HOME Program. Transfers from one HOME unit to another HOME unit **must be treated like a new move-in.** All applications, verifications, and certification procedures must be completed for the transferring tenant(s), including the execution of new income and asset verifications to determine continued eligibility for a HOME unit.

Adding a New Household Member

OHCS recommends Owners/Agents include language in the lease prohibiting the addition of a new household member during the first six months of occupancy. The only exception would be the addition of child/children born to or adopted by a member of the original household.

In the event a tenant wishes to add an additional person to the household, the following steps must be taken:

- The prospective tenant must complete an application and provide verification of income and assets as required of the initial tenant;
- Once accepted as a qualified tenant, the new household member must sign the lease;
- The new household member's income must be added to the next annual certification (or self-certification). Owner/Agent can choose to execute a new Tenant Income Certification immediately to reflect the new composition and income of the household; however, it is not required.

Fees and Other Surcharges

Mandatory fees and surcharges are not encouraged in HOME properties, and are subject to OHCS' written approval before they can be imposed. Generally, if imposed, HUD requires the Owner to deduct all mandatory fees from the maximum HOME rent limit to determine the maximum rent that can be charged for a unit. OHCS approved fees cannot create an undue burden on low-income households and they must be reasonable and consistent with types of fees and amounts charged at other affordable properties in the market area. OHCS does not allow pet rent, non-refundable deposits and non-refundable lease origination fees. Application and screening fees may be charged to cover the actual cost of checking a prospective tenant's income, credit history, and landlord references. However, the fee is limited to the recovery of the actual out-of-pocket costs. No amount in excess of the average expected out-of-pocket costs to check tenant qualifications may be charged.

OHCS Policy on Mandatory Renter's Insurance

If the Owner's purpose in requiring tenant-paid renter's insurance is to assure that the household has liability coverage for damages to the property or other residents, then the monthly cost of this insurance must be included in any gross rent calculation. In this case, if properties are charging rents at the **program** maximum, the rent charged to the tenant must be reduced by any monthly insurance payment amount. This policy applies to rent calculations affected by **any** program funding source.

The exception to this policy is when the property has mandatory renter's insurance based upon the resident's option to have household items that may have specific insurance coverage requirements such as waterbeds or large aquariums.

Student Rule

The definition of "low-income families" and "very low-income families" remains unchanged. However, the 2013 Rule specifically excludes certain students from participating independently in the HOME program. The HOME program adopted the Section 8 Housing Choice Voucher (HCV) program restrictions on student participation found at 24 CFR 5.612. Any student enrolled in an institution of higher education must meet at least one of the following exceptions to be eligible to reside in a HOME assisted unit. For the HOME Program, student rules apply for both part-time and full-time students.

Exceptions:

- Over the age of 24
- A veteran of the US Military
- Married
- Have one or more dependent children
- Under 24: has documentation to support independence from parents for at least 1 year
- Under 24: not independent of parents and parents are eligible based on their income

Excluded students are prohibited from receiving any type of HOME assistance, including renting HOME-assisted rental units, receiving HOME tenant-based rental assistance, or otherwise participating in the HOME program independent of their low-income or very low-income families.

Verification of Student Status

Owner/Agents are now required to verify student status annually of all occupants that reside in a HOME assisted unit. The question on the Applicant/Tenant Questionnaire about student status is now relevant for the HOME program.

Applicants and tenants must certify that they meet at least one of the exceptions for a student to qualify to reside in a HOME assisted unit.

If the household residing a HOME assisted unit has qualified students and the household receives Section 8 rental assistance, student aid must be counted in the annual income. Any student aid over the amount of tuition and fees must be counted (excludes loans).

VAWA-Violence Against Women Act

VAWA 2013 was signed into law on March 7, 2013. VAWA 2013 extends the documentation and confidentiality provisions found in all existing VAWA requirements to all HUD covered programs. While HUD is developing regulations to codify these important protections for HUD-covered programs and to provide guidance on such statutory provisions as “reasonable time” and “notice of rights,” housing providers in HUD-covered programs should not wait on HUD regulations to extend the basic VAWA protections to tenants residing in HUD-assisted housing. As a reminder, certain policies and practices that treat victims of domestic violence, dating violence, sexual assault, or stalking different from other tenants may be considered to be discrimination on the basis of sex under the federal Fair Housing Act.

Housing protections in VAWA 2013 includes the requirement that each appropriate agency develops a notice of rights under VAWA 2013 for tenants and provide such notice at the time a person applies for housing, when a person is admitted as a tenant of a housing unit, and when a tenant is threatened with eviction or termination of housing benefits. Each appropriate agency must adopt a model emergency transfer plan for use by public housing agencies, Owners or managers of housing, and other housing providers participating in HUD covered programs. Tenants must request an emergency transfer and must reasonably believe that they are threatened with imminent harm from further violence if the tenant remains in the same unit.

Owners/Agents are required to incorporate VAWA provisions into their lease document or use a VAWA Addendum for this purpose. Examples of VAWA forms are located on the OHCS website at: <http://www.oregon.gov/ohcs/Pages/asset-management.aspx>

VAWA protections

- Bars eviction and termination due to a tenant’s status as a victim of domestic violence, dating violence, or stalking and requires landlords to maintain survivor-tenant confidentiality.
- Expressly extends housing protections to survivors of sexual assault and adds “intimate partner” to the list of eligible relationships. Protections also now cover “affiliated individual”.
- Allows for a lease bifurcation so a tenant or lawful occupant who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking may be evicted without evicting or otherwise removing or penalizing a victim who is a tenant or lawful occupant.

Leases

OHCS does not provide a model lease agreement. However, Owners must execute lease agreements with tenants that incorporate specific provisions that establish tenant responsibilities and avoid certain prohibited provisions. In addition to the Owner/Agent required lease, OHCS requires the use of the HOME Lease Compliance Form.

Lease provisions must include:

- The legal name of the parties to the agreement and all other occupants;
- A description of the unit to be rented;
- The term of the lease;
- The rent amount;
- Utility information;
- The permitted and restricted use of the premises;
- The amount of the security deposit and/or fees charged;
- The signatures of all parties;
- Any security deposit collected must be refundable;
- Non-refundable “fees” for the purpose of covering the cost of cleaning the apartment at the end of tenancy are not permissible;
- Any other deposits or fees must be defined and reasonable, i.e., application fees are allowable to cover the cost of tenant screening.

All tenants in HOME assisted units must be *offered* a one-year lease. A shorter term is acceptable only by **mutual agreement** between the tenant and Owner. If a shorter term is agreed on, documentation must be provided that the tenant was offered a one-year lease and elected a shorter term. As an example of such documentation, the lease might include language such as: “I have been offered a one-year lease and have elected a:

[] one-year Lease [] ___-month Lease [] month-to-month”

- A provision that upon a 24-hour written notice to the tenant, OHCS, accompanied by the Owner or Agent, shall be permitted to enter the dwelling unit during reasonable hours for the purpose of performing an inspection;
- A mechanism that will allow termination of the agreement and eviction for violation of the lease;

An Owner may not terminate the tenancy or refuse to renew the lease except for serious or repeated violation of terms and conditions of the lease; for violation of applicable federal, state, or local law; for completion of the transitional housing tenancy period; or for other good cause. ***The HOME program does not allow “no-cause” evictions.***

- A provision that to terminate tenancy or refuse to renew the lease of a HOME assisted unit, the Owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before termination of tenancy;

The 30-day notice requirement applies regardless of the reason for termination, including failure to pay rent.

- A provision that the tenant(s) must provide accurate information to determine HOME Program eligibility at move-in and required re-certifications, and failure to provide such information and cooperate with the re-certification process will be deemed a violation of the lease;

Note: If, at the annual recertification, a household’s income reaches 80% of area median income adjusted for family size, the household shall be required to pay rent equaling 30% of their adjusted income (as defined by the HUD Handbook 4350.3 REV 1 Change 4) for rent and tenant-paid utilities. While this is not a required lease provision, this information should be provided to the household prior to move-in. (*However, for HOME coupled with LIHTC, the maximum tenant rent may never exceed the LIHTC rent.*)

- A provision that the tenant must execute a release for verification of utilities on an annual basis, unless utilities are included in rent, or the property uses the PHA allowance rather than actual consumption (see pages 7-8);
- A clause that the tenant will receive a 30-day advance written notice of any increase in the monthly rent;

- Must clearly state that the Owner/Agent reserves the right to adjust tenant rents, in accordance with the HOME rent limits and in the event a tenant's income increases above the low-income or very low-income limits for the unit type the tenant occupies;
- And, a provision that any material misrepresentation in the tenant's application for the leased premises, whether intentional or otherwise, may be treated by the Owner, at the Owner's sole discretion, as an act of default under the lease and all remedies available to the Owner in the event of other defaults shall likewise be available to the Owner in such case.

Prohibited Lease terms include:

- Agreement by the tenant to be sued, to admit guilt or to a judgment in favor of the Owner in a lawsuit brought in connection with the lease.
- Agreement by the tenant that the Owner may take, hold, or sell personal property of the household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved from the unit. The Owner may dispose of this personal property in accordance with state law.
- Agreement by the tenant not to hold the Owner or Owner's Agents legally responsible for any action or failure to act, whether intentional or negligent.
- Agreement by the tenant that the Owner may institute a lawsuit without notice to the tenant.
- Agreement by the tenant that the Owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties.
- Agreement by the tenant to waive any right to a trial by jury.
- Agreement by the tenant to waive the right to appeal or otherwise challenge in court a court decision in connection with the lease.
- Agreement by the tenant to pay attorney fees or other legal costs, even if the tenant wins in a court proceeding by the Owner against the tenant. If the case is lost, the tenant, however, may be obligated to pay costs.
- Mandatory supportive services: Lease terms that require tenants to accept supportive service (with the exception of transitional housing).

Dispute Resolution

Owners and managers of HOME properties should have written procedures in place that address the following situations:

- Disputes between individual tenants or households;
- Tenant grievances against management; and
- Any complaints made to the local HUD office and thru the Hotline; which most often are communicated through OHCS.

Generally, it is acceptable business practice for the Owner to act as the first intermediary in a conflict under limited circumstances, such as when one tenant complains about noise from another tenant's unit. However, Owners/Agents should establish an impartial way to address complaints about property management staff or the way in which the property is being operated. This generally requires the involvement of a neutral third party.

Qualifying Tenants

The Tenant Application

Applicants for low-income, rent-restricted units should be advised early in their initial visit to the property that there are maximum income limits that apply to the units. Management should explain to potential tenants that ALL income of *all* adult persons and unearned income of all dependent children expecting to occupy the unit must be verified and included on the Tenant Applications, Applicant/Tenant Questionnaires, Verifications, required forms and Tenant Income Certification (TIC) *prior to occupancy and prior to the household's first anniversary date* for continued eligibility.

At the time of application, it is critical to obtain *complete and accurate* tenant information in order to determine eligibility and retain low-income status for program compliance. It is the Owner's/Agent's responsibility to obtain a fully completed application and to ensure sufficient information on all prospective tenants is received. Obtaining accurate and complete information is critical in order to make an accurate determination of tenant eligibility. The Owner's/Agent's application should request information regarding all household members, their sources of income, assets, income from assets and student status.

Applicants and tenants must meet the following requirements to be eligible for occupancy:

1. The household's gross annual income must not exceed the HUD Program limits applicable to the unit.
2. The household must agree to identify/report the gross amount of all income and assets coming into the household. All information reported by the household must be verified according to the HUD Handbook 4350.3-REV 1; Change 4.

The Owner/Agent staff should handle all disclosed information in a confidential manner. Additionally, the applicant may need to be assured that the information they provide is considered sensitive and will be handled appropriately.

The application should include at a minimum

- The name and birth date of each person that will occupy the unit. The applicant's legal name, as it will appear on the lease and other documents, should be given;
- All sources and amounts of annual income (earned and unearned) expected to be received by household members during the twelve month certification period;
- All assets and income values calculated from assets (this includes income values calculated from non-income generating assets);
- The signature of the applicant and the date the application was completed; and
- The signature of the management staff person who accepted the application and the date it was received.

Waiting Lists

After the units are initially occupied, the Owner/Agent must establish a waiting list containing the names of eligible applicants listed in the order each application was received. The waiting list should be maintained in such a way that OHCS and/or HUD can easily follow the progression of applicant placements.

Applicants must be notified of their eligible/ineligible status. A written application or pre-application is required for placement on the waiting list. Once an application is received, the applicant must be notified in writing that either they are ineligible and the reason for such determination **or** they appear to be eligible and they will be contacted when an appropriate unit becomes available. The notification of apparent eligibility should include the approximate amount of time it will take for a unit to become available.

Applicants must be housed in the order indicated by a written Tenant Selection Policy. Applicants must be accepted or rejected **before** the unit is offered to the next applicant on the list.

Rejected Applicants

When Owners/Agents deny an applicant because they are ineligible to reside in HOME-assisted housing and proper notice of the determination has been provided to the applicant, documentation must be kept on file. The applications along with the denial notice should be made available to the OHCS Compliance Officers during the onsite monitoring visit or other review.

Determining Household Size

Based on information provided by the applicant and through careful interviews with Owner/Agent staff, applicant/tenant household size and composition must be determined. Some households may include persons who are not counted as family members for the purposes of HOME Program Income Limits and whose income, if any, is considered when calculating total household annual (gross) income.

Therefore, do not count the following individuals when determining household size for the purpose of comparing “annual income” to HOME Program Income Limits:

- Guests
- Unborn children
- Live-in aides
- Children of live-in aides
- Children being pursued for legal custody or adoption who are not currently living with the household

NOTE: a child who is subject to a shared-custody agreement in which the child resides with the household at least 50% of the time can be counted.

Live-in Aides or Attendants

A live-in aide or attendant is “A person who resides with one or more elderly persons, near-elderly persons or persons with disabilities and who:

1. Is determined to be essential to the care and well-being of the person(s); and
2. Is not obligated for the support of the person(s); and
3. Would not be living in the unit except to provide the necessary supportive services.

Live-in Aides or attendants should not be included on the Tenant Income Certification (TIC) and must not be included or added to the lease. Since the live-in aide does not have any rights to and is not party to the lease, they must vacate the unit when the tenant they assist moves out of the unit. Further, a live-in aid may never be a dependent. Verification of the tenant’s need for a live-in aide/attendant must be obtained and kept in the tenant’s file along with a Live-in Caregiver Affidavit.

Establishing Eligibility

Income

The Owner/Agent must determine that a household is income-eligible before signing a lease to rent a HOME-assisted unit. The income of all household members must be included, and the determination must be based on income that is expected in the next twelve months. For the initial income-eligibility determination, Owners/Agents must examine income source documents and complete 3rd party verifications to ensure the accuracy of the income information that the tenant reports on the application.

A fully completed “Applicant/Tenant Questionnaire” is required and critical to an accurate determination of eligibility. The information furnished on the questionnaire should be used as a tool to determine all sources of anticipated income and assets. Any differences in reported information on the application versus the questionnaire should be investigated to ensure accurate information is received and verified. The file must be clarified and documented.

After the household completes the “Applicant/Tenant Questionnaire”, the Owner/Agent must verify all household income and income from assets. The application, questionnaire, income and asset verifications, and lease are to be executed prior to move-in.

All occupants in a HOME-assisted unit must be certified and have a valid lease on file. All household members age 18 and over must sign the documents.

The Owner/Agent determines the applicant household’s income-eligibility as follows:

- If the applicant will occupy a High HOME Rent unit, the household’s anticipated annual gross income cannot exceed the published Low HOME income limit – **60%** limit for OHCS funded properties.
- If the applicant will occupy a Low HOME Rent unit, the household’s anticipated annual gross income cannot exceed the published Very low HOME income limit – **50%** limit for OHCS funded properties.

Tenant Income Certification (TIC)

Initial Certification

After all income and asset information has been obtained, verified and calculated, management personnel must prepare a Tenant Income Certification – for each household placed in a HOME unit.

The Tenant Income Certification must be executed, along with the lease, on or just prior to the move-in date; must be effective no more than 10 days prior and never after the move-in date. If household members sign the certification prior to move-in date, management must verify at actual move-in that the information included on the certification (TIC) is still accurate and has not changed since signing and make the determination that household remains eligible for the HOME-assisted unit.

Annual Recertifications

Owners/Agents must examine each tenant household’s income every year during the affordability period to determine if the household continues to be income-eligible to occupy their HOME-assisted unit. All households must be re-certified annually at the anniversary of their move-in date. The original move-in date must be carried over onto all subsequent recertifications. Recertifications are completed with a Self-Certification (required OHCS form) or a full certification with the completion of a HOME TIC.

Properties with an affordability period of more than 10 years are required to collect and examine source documentation **every 6th year of the affordability period** to verify tenant income. Therefore, all tenants living in a HOME unit must fully (with third party verifications) recertify every 6th year from the properties IDIS closeout date – regardless of any other funding source certifications taking place for the household. Therefore, Owner/Agent must complete a HOME TIC and 3rd party verifications for all HOME unit households during their move-in anniversary month in each 6th year; no later than December 31st of the 6th year.

How to Determine each 6th Year from IDIS Closeout:

The period of affordability starts the date the project is completed in IDIS or certificate of occupancy for properties funded after August 2013.

Property B has an IDIS closeout date of 1/1/2000. Chart demonstrates first 12 years.

Years from IDIS	Year	Years from IDIS	Year
1/1/2000 – 12/31/2000	1 st – Initial	1/1/2006 – 12/31/2006	7th
1/1/2001 - 12/31/2001	2nd	1/1/2007 - 12/31/2007	8th
1/1/2002 – 12/31/2002	3rd	1/1/2008 – 12/31/2008	9th
1/1/2003 – 12/31/2003	4th	1/1/2009 – 12/31/2009	10th
1/1/2004 – 12/31/2004	5th	1/1/2010 – 12/31/2010	11th
1/1/2005 – 12/31/2005	6th year- Full Certifications	1/1/2011 – 12/31/2011	12th year- Full Certifications

During the interim years between years 6, 12, and so on (every 6 years), the Owner/Agent must still recertify each tenant household’s income and student status. As noted above, during the interim years the tenant household **must** complete a HOME Program Self-Certification. **The Owner/Agent must review the information provided to determine continued eligibility for each household.**

Tips for Reviewing Self-Certifications-

Self-certifications are in place to ease the burden of completing 3rd party verifications annually. However, the use of self-certifications does not absolve the Owner/Agent from maintaining accurate compliance with HOME regulations. Compliance with income limits and HOME unit mix must be maintained even during the interim years when households are completing the required self-certifications. Owners/Agents are required to review the information supplied by the tenants in order to take the necessary actions to keep the property in compliance.

Review of documents should include:

- Check for fully completed information; if information is missing or incomplete ask the tenants to correct the documents.
- Compare information provided to the household's most recent certification; if the new information is quite different than the most recent certification it could indicate the need for further investigation/verification.
- Check for changes in household composition and student status; if the reported household members are different than those last certified, a full certification of the new household is required.
- If the income reported is close to the 80% limit, you should consider completing 3rd party income verifications. This may help to determine if you will need to apply the over-income rules for maintaining the proper HOME unit mix for the property.

Certification Schedule

Certification:

Move-In
First Year
Interim Years*
Every 6th Year from IDIS

Required Documentation:

Full Certification with 3rd party verifications
Self-Certification (**unless the unit is also a tax credit unit**)
Self-Certification (if **No** project-based Rental Assistance)
Full Certification with 3rd party verifications

*If the property has project-based rental assistance, and Annual Recertifications (ARs) for that program (Section 8/RD) are completed annually; HOME self-certifications are not required in the interim years.

Determining Continued Eligibility

Once the tenant household's anticipated annual gross income is recertified, the Owner/Agent must compare it to the most recent HOME income limits for the type of unit the household occupies (High or Low HOME Rent unit). If the Owner/Agent recertifies a tenant's income and finds that it has increased above the HOME income limits for the type of unit they occupy, the tenant is "over-income" and the property is temporarily out of compliance. This is permissible, but the Owner must take steps to restore compliance for the property. See Maintaining Unit Mix Requirements earlier in this manual starting on page 21.

During the interim years, if the household reports their income on the Self-Certification as greater than the current 80% income limit or there is evidence that the household statement failed to completely and accurately provide information about their characteristics and/or income, then an annual income recertification with source documentation is required.

- Households with an annual income greater than the 80% applicable income limit at recertification must be designated as over income and the rent charged must be 30% of the household's adjusted income.
- In 100% HOME properties, if a household goes over income, the next available unit must be leased to a household with an income and rent less than the Low or High HOME limit depending on the designation needed to maintain compliance with the HOME Loan or grant agreement.
- In properties with HOME and Market Rate units, if a household goes over income, the next available unit(s) must be leased to HOME eligible households (Low or High as appropriate) until compliance with the HOME agreement is restored. The over income household unit can be re-designated to a market unit once the over income unit is replaced with another low-income unit in accordance with the lease terms. A 30-day written notice of a rent increase must be provided to the over income household.

For further information regarding over income households, please refer back to Maintaining the HOME Unit Mix earlier in this manual.

RD & Project-Based Section 8 Programs

For HOME-assisted properties, HOME Tenant Income Certifications (TICs) must be completed at initial move-in and every 6th year from the property's IDIS close-out date.

Owners/Agents are not required to complete HOME TICs or self-certifications when completing RD and/or Section 8 Interim Re-certifications (IRs). However, self-certifications are required during each of the interim years for the HOME program if project-based certifications are not being completed annually. Further, a full HOME TIC with verifications must be completed again at every 6th year from the property's IDIS close-out date.

Remember, the HOME TICs & self-certifications must show the household's annual gross income at move-in and recertification (prior to considering any allowances and deductions for the RD or Section 8 programs). See chart on page 31.

NOTE: Annual Certification of Student Status for the HOME Program is required annually regardless of the type of certification being completed.

Moving households - Transfers

Remember, unit transfers are not allowed in the HOME program. When a tenant household moves from one HOME-assisted unit to another HOME-assisted unit or from a non-HOME-assisted unit into a HOME-assisted unit, full HOME initial (move-in) certification procedures must be completed, including a new HOME TIC. RD and Section 8 programs allow transfers; HOME program does not. Be sure to fully complete a new HOME TIC when moving tenant households from one HOME-assisted unit to another or establishing a unit as HOME-assisted.

Moving /Floating HOME

When it is determined that in order to maintain the correct unit mix and the HOME assistance must be 'floated' to a new household/unit, the household in the newly designated HOME unit must be certified as HOME eligible. This means that full HOME certification procedures must be completed for the household receiving the HOME assistance, including the completion of a HOME TIC establishing the household as HOME eligible and therefore, the unit as a HOME-assisted unit.

NOTE: HOME assistance must not be denied, taken away from or 'floated' away from a household with a rental assistance voucher.

Income Inclusions and Exclusions

Owners/Agents must determine the full amount of a household’s income before the family is allowed to move into a HOME-assisted unit. Annual income is the total **gross** income from all sources received by each adult member of the household, including all income from assets, anticipated to be received for the 12-month period following the date of certification of income. The goal in qualifying applicants to live in a HOME property is to use a reasonable method to determine and verify total income for the household. Third-party verifications through outside sources are required.

The most frequent errors encountered in reviews of annual income determinations in tenant files are:

- Applicants/tenants failing to fully disclose income and asset information.
- Applicants/tenants may fully disclose income and asset information and Owner/Agent fails to follow up on it or does not notice inconsistency from the application to the Applicant/Tenant Questionnaire.
- Failure to fully verify all disclosed income and asset information.
- Incorrect income calculations; not using the year-to-date calculation and comparing with hourly calculation.
- Not reading employment verifications or pay stubs correctly (regarding extra income earned such as tips or over-time).
- Not converting assets to cash to determine income from assets (real estate, etc.).
- Not using correct forms or methods of verification.
- Not obtaining and documenting adequate clarification of details when needed; tenants should sign and date all clarifications they have provided.

Management’s careful interviewing and thorough verification practices can minimize the occurrence of these errors.

Annual income is the amount of income that a household receives and that is used to determine a household’s eligibility to reside in a HOME assisted unit. Annual income is defined as follows:

- All amounts (earned and unearned), 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 (verifiable) to be received from a source outside the family during the 12-month period following move-in.
- Full amount of *periodic amounts* received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts are counted.

$$\begin{aligned}
 &\textbf{Types of Income:} \\
 &\text{Earned Income} \\
 &+ \text{Unearned Income} \\
 &+ \text{Income from Assets} \\
 &= \text{Annual Income}
 \end{aligned}$$

Elements of Annual Income

Household Members’ Income - Count Income per the following:

Household Members	Employment Income	Other Income-Unearned (including income from assets)
Head of Household	Yes	Yes
Spouse	Yes	Yes
Co-Head	Yes	Yes
Other Adult (Includes Foster adult)	Yes	Yes
Dependents (Under 18)	No	Yes
Foster Child (Under 18)	No	Yes
Full-Time Student (Over 18)	See Note Below*	Yes
Non-Household Members		
Live-in Aide	No	No
Guest	No	No

*The earned income of a full-time student 18 years old or older who is a dependent is excluded to the extent that it exceeds \$480.

Adults:

Count the annual income of the head, spouse or co-head, and other adult member of the household. In addition, persons who are under 18 and have entered into a lease under state law are treated as adults and their annual income must also be counted. These persons will be either the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

Dependents:

The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents or foster children is counted and some is not.

- *Earned* income of minors (family members under 18 years of age) is **NOT** counted.
- Benefits or other *unearned* income of minors **IS** counted.
- The unearned income of a foster child or foster adult including SSI disability payments and income from assets owned by or on behalf of a foster child or foster adult is counted.
- When more than one family shares custody of a child, and both families live in assisted housing, only one family at a time can claim the dependent. The family that counts the dependent also counts the unearned income of the child. The other family claims neither the dependent nor the unearned income of the child.
- For full-time students, who are 18 years of age or older and are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family, spouse, or co-head. If the earned income is less than \$480, count all of the income. If the earned income exceeds \$480 annually, count \$480 and exclude the amount that exceeds \$480.
- The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors.
- All income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
- Payments received by the family for the care of foster children or of foster adults are **not** counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.
- Adoption assistance payments in excess of \$480 are **not** counted.

Income of Temporarily Absent Family Members

1. Owners must count all income of family members approved to reside in the unit, even if some members are temporarily absent.
2. If the Owner determines that an absent person is no longer a family member, the individual must be removed from the lease and Tenant Income Certification.
3. A temporarily absent individual on active military duty must be removed from the household, and his or her income must not be counted unless that person is the head of the family, spouse, or co-head.
 - a) However, if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head or spouse of the head of the family.
 - b) The income of the head, spouse or co-head will be counted even if that person is temporarily absent for active military duty.

Income of 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 as a household member at the family's discretion. The family's decision on whether or not to include the permanently confined family member as a family member determines if that person's income will be counted.

Count as follows:

1. Family chooses to include them – include the individual as a family member on the TIC and include their income
2. Family chooses to exclude them – exclude the individual as a family member on the TIC and exclude their income.

Annual Income Inclusions:

Annual income includes all amounts that are not specifically excluded by regulation. The following types of income (partial list) are included when calculating annual income and a full list of countable income sources can be found in the HUD Handbook 4350.3 – subject to change at HUD’s discretion:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- 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.
- Interest, dividends, and other net income of any kind from real or personal property.
- Where the family has net family assets in excess of \$5,000, 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, as determined by HUD.
- 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 periodic receipts.
- Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay.
- Welfare Assistance such as TANF received by the family (does not include non-cash food benefits/SNAP/WIC).
- All regular contributions or gifts received from organizations or from persons not residing in the dwelling.
- Annual and periodic child support and/or alimony payments.
- All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided under Income Exclusions.

NOTE: the above listed income inclusions are NOT a complete listing. Refer to Chapter 5 of the current HUD Handbook 4350.3 for full details regarding all income inclusions.

Annual Income Exclusions:

Regulations for multifamily housing programs covered here specifically exclude certain types of income from annual income. However, many of the items listed as exclusions from annual income under HUD requirements are items that the IRS includes as taxable income. Therefore, it is important for Owners and Agents to focus specifically on the HUD program requirements regarding annual income.

The following types of income (partial list) are excluded when calculating annual income. A full list of exclusions can be found in the HUD Handbook 4350.3 – subject to change at HUD’s discretion:

- 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).
- The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.
- 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.
- Income of a live-in aide, as defined in 24 CFR 5.403.
- Temporary, nonrecurring, or sporadic income (including gifts).
- Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse).
- Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts.

NOTE: the above listed income exclusions are NOT a complete listing. Refer to Chapter 5 of the current HUD Handbook 4350.3 for full details regarding all income exclusions.

Persons with Disabilities-Income Exclusion -

During the annual recertification of a family's income, Owners/Agents are required to exclude from annual income certain increases in the income of a disabled member of qualified families residing in HOME-assisted housing. 24 CFR 5.167 (a) outlines the eligible increases in income. These exclusions from annual income are limited duration. The full amount of increase to a qualified family's annual income is excluded for the cumulative 12-month period beginning on the date the disabled family member is first employed or the family first experiences an increase in annual income attributable to the employment. During the second 12-month period, Owners/Agents are required to exclude from annual income 50 percent of any increase in income. The disallowance of increased income of an individual family member who is a person with disabilities is limited to a lifetime 48-month period.

Calculating Annual Income

The HOME regulations at 24 CFR 92.203(d)(1) require that, for the purpose of determining eligibility for HOME assistance, Owners/Agents must project a household's income in the future. To do so, a "snapshot" of the household's current circumstances is used to project future income. In general, Owner/Agents should assume that today's circumstances will continue for the next 12 months, unless there is **verifiable** evidence to the contrary.

This method should be used even when it is not clear that the type of income received currently will continue in the coming year. For example, assume a family member has been receiving unemployment benefits of \$100 per week for 16 weeks at the time of income certification. It is unlikely that the family member will continue receiving unemployment for another 52 weeks. However, because it is not known whether or when the family member will find employment, the Owner/Agent should use the current circumstances to anticipate annual (gross) income. Income would therefore be calculated as follows: \$100 per week X 52 weeks, or \$5,200.

The exception to this rule is when documentation is provided verifying that current circumstances will change. For example, the family member has been offered a job projected to start in two weeks and has received confirmation of a planned start/hire date. Another common example would be when a third-party verification of employment indicates that the family member will be receiving a pay rate increase/raise in the next 12 months.

In addition to hourly earnings, Owners/Agents must account for all earned income. In addition to the base salary, this will include annual cost-of-living adjustments, bonuses, raises and over-time pay. In the case of over-time, it is important to clarify whether over-time is sporadic or a predictable component of family member's income. If it is determined that the family member has earned and will continue to earn over-time pay on a regular basis, Owners/Agents should calculate the average amount of over-time pay and add it to the total amount of projected income. For those whose annual employment is less stable or does not conform to a 12 month schedule, Owners/Agents should examine income documentation covering the entire previous 12 month period.

Verified income must be converted to an annual figure by using the following calculations:

To annualize full-time employment, multiply:

Calculation Method	Examples
Hourly wages by the number of hours worked per week	\$9.25 per hour x 2080 hours per year = \$19,240 \$9.25 per hour x 40 hours per week x 52 weeks = \$19,240
Weekly wages by 52 weeks	\$190 per week x 52 weeks = \$9,880
Bi-weekly wages by 26 weeks	\$500 bi-weekly x 26 weeks = \$13,000
Semi-monthly wages by 24 weeks	\$400 twice a month x 24 pay periods = \$9,600
Monthly wages by 12 months	\$1,000 per month x 12 months = \$12,000

Note: For those individuals with an annual salary, the annual amount should be used to cover the full 12-month period regardless of the pay schedule.

To annualize income from other than full-time employment, multiply:

1. Hourly wages by the average number of hours worked;
2. Average weekly amounts by the average number of weeks worked;
3. Other periodic amounts by the average number of periods worked.

Year-to-Date Income

Year-to-Date (YTD) income can be found either on the Verification of Employment or on the applicant's/tenant's most recent (current) paystub. However, typically paystubs do not include the beginning date of the YTD period which is needed to properly calculate YTD earnings.

When analyzing income, year-to-date income must be considered and compared to the wage/salary calculation. When annualizing YTD income, you must either round the number of weeks down to a whole week or use fractional weeks carried out to two decimal places.

Minimum Wage Increases & Cost of Living Adjustments (COLA)

Because income calculations are based upon what is expected to be received during the next 12 months, if the minimum wage increases or there is a cost of living adjustment (COLA) during the next 12 months, include the increased income amount annualized as applicable. *For example: a tenant is employed and their employer verifies they will receive an increase in their hourly rate of pay 5 months after they move-in. You would calculate their wages using both rates of pay for the specified time period – the lower rate for the first 5 months and the higher rate of pay for the remaining 7 months.*

Social Security, VA and TANF

- Count amounts **before** Medicare is deducted.
- Delayed SS and SSI payments are not counted as income (also applies to VA payments).
- Count amounts **after** adjustments for past overpayments (also applies to TANF and unemployment).

Watch for Cost of Living Adjustment (COLA) each year (usually announced in October of each year).

Asset Inclusions and Exclusions

Assets are items of value, other than necessary personal items that may be turned into cash. Income from assets is added to regular income to determine the eligibility of a household. Asset information (total value and any income) must be obtained from the applicant/tenant.

All income from all household members' assets must be included in the annual income. All household assets must be third-party verified. The greater of the actual income from assets or the imputed income of the total value of the assets must be added to regular income. See HUD Handbook 4350.3 REV 1 Change 4 Chapter 5 for more detail on imputed income.

An asset has "Market" and "Cash" value:

- Market value is the amount that another person is willing to pay to acquire the asset
- Cash value is just the dollar value of the asset on the open market

Assets include:

- Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in foreign countries are considered assets.
- Revocable trusts. Include the cash value of any revocable trust available to the family. (Do not include irrevocable trusts, e.g., ones that no household or family member can control).
- Equity in rental property or other capital investments. Include the current fair market value less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.).

NOTE: If the person's main business is real estate, then count any income as business income. Do not count it both as an asset and business income.

- 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 the earnings are reinvested. The value of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after rent is calculated and multiple times during the year thereafter. The Owner may assess the value of these assets at any time after the authorization for the release of information has been received.
- 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 occasional withdrawals as income).
- Retirement and pension funds.
 1. While the person is employed, include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs. Follow paragraph 5-7 G.4 of the HUD Handbook 4350.3 on determining the value of assets.
 2. At retirement, termination of employment, or withdrawal; Periodic receipts from pension and retirement funds are counted as income. Lump-sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income, as provided below:
 - a) If benefits will be received in a lump sum, include the lump sum receipt in net family assets.
 - b) If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.
 - c) If the individual initially receives a lump-sum benefit, followed by periodic payments count the lump-sum benefit as an asset and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.

NOTE: This paragraph assumes that the lump-sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump-sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.
- 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 insurance, which has no cash value to the individual before death.
- 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.
- 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.
- A mortgage or deed of trust held by an applicant:
 - a) 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.
 - b) This combined figure needs to be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)
 - c) 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.
 - d) 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 annual recertification.
- Assets disposed of within two years before effective date of certification/recertification:
 1. If the cash value of the disposed assets exceeds the actual amount the family received by more than \$1,000, include the whole difference between the cash value and the amounts received. Do not include if the difference is less than \$1,000.
 2. Do not consider assets disposed of for less than fair market value as a result of a foreclosure, bankruptcy, or a divorce or separation agreement.
 3. Do consider:
 - a) Assets put into trusts,

- b) Business assets disposed of for less than fair market value. (Business assets are excluded from net family assets only while they are part of an active business.)

Example: A couple gave \$2,000 to each of their three grandchildren and deeded a home to their son. The home had a cash value of \$40,000 and the son paid his parents \$12,000 for the home. \$34,000 (\$40,000 less \$12,000 plus \$2,000 x 3) is counted as an asset until such time as the household can certify on an Income Certification form that they did not dispose of any assets during the two years preceding the certification date. (The \$12,000 paid by the son may also be counted as an asset, depending on what was done with the payment.)

Regulatory References (These references are current as of the date of publication. Readers should refer to the latest edition of the Code of Federal Regulations.) 24 CFR part 5.603 defines net family assets as follows: Net cash value after deducting reasonable costs that would be 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 home Ownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. . . . 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 less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Assets do not include:

- Necessary personal property such as clothing, furniture, automobiles, personal jewelry, etc.
- Vehicles specially equipped for the handicapped.
- Interest in Indian Trust Land.
- Value of term life insurance.
- Equity in a cooperative unit in which the family lives.
- Assets that are a part of an active business (“business” does not include rental properties that are held as investments and not a main occupation).
- Assets held in the applicant’s/tenant’s name but are actually owned by someone else, such as;
 1. Assets and earned income that is accrued or paid to the benefit of someone else; or
 2. A situation wherein another person is responsible for income taxes incurred on income generated by the asset(s);
or
 3. An applicant/tenant is responsible for disbursing someone else’s money, such as in the case of having Power of Attorney, but the money is not his/hers and no benefit is received.

Sale or Disposition of Assets

At the time of application or annual certification, all adult members of the household must declare any assets sold or given away for less than fair market value in the past two years before the effective date of the Certification. For certification purposes, the value of the disposed of asset should be counted only for two (2) years from the date of disposal not the certification date. If there is more than \$1,000 difference between the amounts received for the asset and the fair market value of the asset, include the entire difference as the asset. If there is less than \$1,000 difference, do not count it.

Note: Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce or separation settlement are **not** to be included in the fair market value determination. However, if an individual is still the Owner of record of property, include as an asset the value of the individual’s share of the property.

Calculating Income from Assets

Determining the Value of an Asset

When computing asset value, use the cash value of the asset. The cash value is the amount an individual would receive if the asset(s) were converted to cash. Expenses which may be deducted from the value include:

- Penalties for withdrawing funds before maturity;
- Broker and/or legal fees assessed to sell or convert the asset to cash; and
- Settlement costs for real estate transactions.

Determining Income from Assets

All income from assets must be verified using 3rd-party verification and source documentation. If the value of family assets is less than \$5,000, add the verified actual amount of income from the assets to the total household income. If all assets are valued at \$5,000 or more, add the greater of actual income from assets or the imputed income from assets to the total household income.

Count in household income

1. The actual income from assets; or
2. The imputed income from assets based on the passbook rate established by HUD (currently .06%*).

Example: An applicant has \$6,400 in assets. Actual income from assets has been verified at \$168. Imputed income from assets is calculated as \$3.48 ($\$6,400 \times .06\% = \3.48). Use the greater amount, or in this case \$168, and add it to the household's total annual income.

*NOTE: the passbook rate may change annually

Assets Owned Jointly

Assets owned by more than one person should be prorated according to the percentage of Ownership. If no percentage is specified or provided by state or local law, prorate the assets evenly among all Owners. Remember that simply having your name on an account does not mean that you "own" it. *For example: adult children could be on their parents accounts simply for survivorship reasons.*

Helpful questions for determining ownership of an asset:

- Who receives any income from the asset?
- Who pays taxes on the income received from the asset?

Tenant Income and Asset Verification

All sources and amounts of income must be verified. Any assets totaling \$5,000.00 or more must also be verified. Verification must be received by the Owner/Agent prior to the execution of the Tenant Income Certification and the actual move-in date. Verifications must contain complete and detailed information, and include, at a minimum, direct written information from all sources of income and income from assets. Faxed verifications will be accepted as long as the verifiable source receives and re-submits the fax. Verifications are required to in order to establish a household's eligibility to reside in low-income HOME-assisted housing. If income and income from assets cannot be adequately verified, then eligibility of a household to reside in HOME-assisted housing has not been established.

Effective Term of Verifications:

Verifications of income are valid for 120 days from the date of receipt by Owner/Agent. After 120 days, the verifications become invalid and new verifications must be obtained – no exceptions.

A note regarding EIV (Enterprise Income Verification)

OHCS Compliance Officers are not authorized to view any documentation obtained through EIV. Therefore, any tenant files that contain EIV verifications will need to be re-formatted; the EIV documentation will need to be removed from the tenant files prior to an auditing visit or kept in separate files for ease of tenant file maintenance.

Methods of Verification

Source Documentation

Acceptable source documents include:

- Third party verifications from employers, banks or others with first-hand information about the applicant household's finances. These verifications should be in writing
- Wage statements for approximately the preceding 3 months, if employment is steady;
- Interest statements
- Unemployment compensation statements

Unacceptable source documents include:

- An applicant's income self-certification
- The certification from another program

Written Verification

At a minimum, an attempt to obtain written third-party verification is required. If Owner/Agent is unable to obtain third-party verifications, documentation must be maintained in the tenant file to document Owner/Agent attempts to obtain the third-party verifications. Any request for income verification must:

1. State the reason for the request;
2. Include a release statement signed and dated by the applicant (refer to the Forms Section for an example); and
3. Provide a section for the third-party source to disclose the requested information. The signature of the third party source, their job title (if applicable), phone number and date must be included.

Verification Transmittal

1. Applicant/tenant must sign and date each verification form.
2. Income verification requests must be sent directly to and returned by the source, **not through the applicant**. It is suggested that a self-addressed, stamped envelope be included with the request for verification.
3. Verifications may be hand-carried by the applicant only if reasonable attempts to mail or fax the request(s) for verification to the third-party have failed. When using this method, the file should be documented with a phone verification indicating the name and title of the person contacted and confirmation the information received by hand-carry method is accurate.
4. The management Agent should review and check verifications for accuracy and completeness. Verifications should be date stamped as they are received.

Verbal Verification

When written verification is not possible prior to move-in, direct contact with the source will be acceptable to OHCS only as a last resort and must be followed by written verifications. The telephone or personal conversation should be documented in the applicant's tenant file to include all information that would be included in a written verification. Include the name and title of the contact, the name of the on-site management representative accepting the information, and the date.

Differences in Reported Income

The Owner/Agent should give the applicant the opportunity to explain any significant differences between the amount reported on the application and amounts reported on third-party verifications. The file should be documented to explain the disparity and support the actual income figure used.

File Clarifications

Verifications must never be altered and should be clarified when information that was provided on a verification document needs to be changed. White-out should never be used to change, alter or conceal original information. When

there is information in the tenant file that needs further clarification, the Owner/Agent should include written statements that are signed and dated by management to provide such clarification. When the clarification statements are provided by the tenant or contain information clarified by the tenant, the tenant should sign and date each clarification as well.

Acceptable Forms of Income Verification

Specific information must be obtained on income verification forms or alternate methods of verification must provide the same detail or information as contained on the verification forms.

The HOME Program requires Owners/Agents to obtain 3rd party verifications along with at least two months of source documentation for all verifications.

Listed below are the types of income and their corresponding acceptable sources of verification in order of preference.

Employment Income

(Including Tips, Gratuities, Over-time & Bonuses)

1. OHCS Employment Verification Form completed by the employer;
2. Statement from the employer on company letterhead (which must include the anticipated income for the next 12 months);
3. Three months of check stubs (when primary verification) from the employer showing gross income per pay period and frequency of pay; or
4. A copy of the most recent filed Federal Form 1040 signed by the applicant/tenant or copies of Form W-2 providing the amount of income, including income from tips and other gratuities, supported by current check stubs from the employer.

Self-Employment Income

What is Self-Employment?

Self-employment is the act of engaging in a trade or business except as an employee. An individual is NOT self-employed if performing services that can be controlled by someone else such as an employer. Source of income and individual activity from which income is generated determines if it is self-employment income. Some types of work that are often thought of as self-employment may not actually be self-employment such as babysitting. For example, a person is NOT self-employed if anyone other than themselves determines the amount of pay they will receive. Therefore, it is possible a person who appears to be self-employed may actually be receiving income that can be verified using a Verification of Employment or Verification of Periodic Income (babysitting, lawn-mowing, odd jobs). A self-employed person must maintain factual business records. The type of business affects the type of records that must be kept. The records should include a summary of business transactions and is usually made in the business books – accounting journals, ledgers and business checking account statements. The books must show gross income as well as any deductions and credits. Most small businesses will be able to show this record with the business checking account as it is usually the main source for entries in the business books. See types of records noted below.

Examples:

Not Self-Employed –

Sally is a stay-at-home mom and takes care of kids at home. She babysits for a neighbor and her sister. Sally is doing this since she is at home anyway and she doesn't officially keep track of what she has been paid for babysitting and does not report the income to the IRS. Her neighbor and her sister can complete a verification indicating how much they pay her for babysitting. This is an example of a person who is not considered self-employed.

Self-Employed –

Jane is running a day-care in her home. She is licensed by the state and she advertises her services as a child care provider. Jane keeps factual business records that include keeping track of her transactions through day-care records. She also keeps track of her income and expenses in her business checking account. She files taxes each year including a Schedule C. This is an example of a person who is considered self-employed.

Determining Income from Self-Employment

When determining income from a business, Owner/Agent must include salaries paid to adult family members, net income from the business and other cash or assets withdrawn by any family member – except if the withdrawal is the reimbursement of cash or assets the family invested in the business.

When computing net income –

- ✓ **Do NOT deduct:** principal payments on loans, expenses for business expansion, or outlays for capital improvements?
- ✓ **Do NOT deduct** depletion or depreciation/sec. 179 expenses (lines 12 and 13 on Schedule C);
- ✓ **Do deduct:** business expenses (must directly relate to the production of income); interest payments on loans (unless the expenses or loans are for business expansion or capital improvements); depreciation computed on a straight-line basis.

Disallowed business expenses include those derived from capital investments-

- Non-sufficient funds charges
- Some business start-up costs (refer to IRS Publication 535)
- Personal & entertainment expenses
- Payments on principal portion of loan payments
- Interest on loans for business expansion or capital improvements
- Other expenses for business expansion
- Outlays for capital improvements
- Personal transportation
- All expenses for which receipts are not provided

The following documents show income for the previous year. Owners/Agents must consult with the applicant/resident and use this data to estimate income for the next 12 months:

1. Signed copy of individual federal income tax return (1040) including all schedules and attachments for the following:
 - ✓ Schedule C for Small Business
 - ✓ Schedule E for Rental Property Income
 - ✓ Schedule F for Farm Income

Note: If a resident is employed by a business owned by the resident's family, a copy of a recent paystub verifying year-to-date earnings is also required.

2. Copy of Corporate or Partnership tax return (if applicable)
3. Audited or unaudited financial statement(s) of the business
4. If the resident has been in business for **less than one year**, they must complete an actual IRS Schedule C for the period of time the business has been in operation and a *Self-Employment Income Verification Form*. The Schedule C profit and loss statement should be supported with valid business records such as receipts, etc. The amount of net income will then be projected for the full 12-months for the certification.

Business records include:

- Bookkeeping records
- Tax returns
- Receipts for ALL allowable expenses
- Lease agreements for your business (not apartment) – building, vehicle, chair (beauty salon)
- Bank statements (personal & business)
- Signed time sheet and receipt of payroll (if you have employees)
- For rental property: copies of recent checks, leases and receipts for expenses

If a resident is engaged in a business partnership, Owner/Agent must obtain a copy of the partnership's tax return as along with as a copy of the resident's personal tax return.

Note: All tax returns and related documents must be signed and dated by the taxpayer.

Things to watch for on Schedule C:

- ✓ Make sure that the last year's tax return represents a full year's income; otherwise you will need to annualize - **(Line Item H)**.
- ✓ Make sure to include any wages or contract labor listed on the Schedule C that Owner paid to him or herself or any other household member - **(Line Items 11 and 26)**.
- ✓ Make sure that if depreciation is listed, clarification is obtained to demonstrate what method of depreciation was used. If an accelerated depreciation method was used, the applicant/tenant must provide an accountant's calculation of depreciation using the straight-line method. The net income should then be determined using the expense based on the straight-line method – **(Line Item 13)**.
- ✓ If net business income is negative, income is zero. It does not offset other household income – **(Line Item 31)**.

If an individual's only income is from self-employment, the net amount on the Schedule C should be the same as the gross amount on the first page of the 1040. However, if the household had additional income such as part-time wages or interest income from savings, the net income from Schedule C should be used. Then Owner/Agent must obtain third-party verification for the additional income from wages and assets. Verifying self-employment can be intimidating. Remember, if an applicant/tenant reports self-employment yet is not able to provide the required documentation to support their business/work income, etc. then they have not proven eligibility to reside in HOME-assisted housing.

Social Security & Supplemental Security Income (SSI) Benefits

1. An award or benefit notification letter prepared by the authorizing agency- applicant/tenants can go to the Social Security Administration website at <http://www.ssa.gov/> under Online Services to obtain current benefits statements.
2. A Social Security verification form completed by the agency providing the benefits;
3. As of March 1, 2013, most recipients will receive their monthly benefits either by direct deposit into their bank account or they will receive benefits with a **“Direct Debit Express Card.”** This card is automatically loaded with a recipients benefit amount on the appropriate payment day of each month. Benefits received on this card are considered income. Further, any balance remaining on the card is considered an asset and must be verified and treated in the same manner as a savings account. Card balance amounts can be obtained thru ATM slips, online account service or paper statements. The document used as verification must identify the account and the account holder.
Because income calculations are based upon what is expected to be received during the next 12 months, if the Social Security Administration or other plan provider has published a cost of living adjustment, include the increase as appropriate;

TANF Benefits

When individuals or families qualify for cash benefits, Oregon Trail accounts are set up for them. Benefits are deposited into the accounts each month. The Oregon Trail card, along with a personal PIN number is used to access the benefits provided. Oregon Trail cards are used for food benefits (SNAP) as well. The food benefit amount is **not** counted as income. However, the cards are also used for cash benefits through the TANF program. The TANF cash benefits are counted as income. Further, any balance remaining on the card is considered an asset and must be verified and treated in the same manner as a savings account. Card balance amounts can be obtained thru ATM slips or current sales receipts. The document used as verification must identify the account and the account holder.

1. A verification form completed by the state agency; DHS office;
2. ATM Slips;

Pensions (IRAs, 401Ks & Keogh Accounts) and Annuities treated as Income

Verification must be obtained that indicates whether or not the tenant is receiving periodic payments from their account/s. Annuities are treated as income only when there is no 'lump sum' that can be cashed in and just periodic payments are being received.

1. A verification form completed by the retirement account administrator;
2. A current account statement;

Unemployment Compensation

(Frequency of payments and expected length of benefit term must be verified)

1. A verification form completed by the unemployment compensation agency;
2. Records from the unemployment agency stating payment dates and amounts;
3. Benefit notification letter from authorizing agency;

Alimony or Child Support

1. A copy of a court ordered separation or divorce agreement provided by ex-spouse or court indicating type of support, amount and payment schedule;
2. A printout or statement from the Support Enforcement Agency (for child support verification), recent original letters from the court;
3. Notarized statement indicating type of support, amount and payment schedule provided by ex-spouse or obligated parent.

Recurring Contributions and Gifts

(Sporadic contributions and gifts are not counted as income)

1. A notarized statement or affidavit signed by the person providing the assistance giving the purpose, dates and value of the gifts.
2. A written statement or affidavit signed by the applicant/tenant stating the purpose, dates and value of gifts.

Unemployed Applicants/Tenants

1. The income of unemployed applicants/tenants with regular income from any source, such as Social Security, pension, TANF, child support, alimony, recurring gifts, etc., must be verified as described previously. Additionally, the applicant/tenant must complete an "Income Status Certification".
2. If the applicant/tenant is unemployed but has secured new employment with a start date determined, verification of new employment must take place. Verified income from new employment must be counted on the TIC.

Educational Scholarships and Grants

"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 institute of higher education that is 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." HUD Handbook 4350.3.

Acceptable Forms of Asset Verification

The Owner/Agent must verify all asset income received/earned by household members occupying a HOME unit. Use the OHCS required form: 'Asset Verification'. At times, 3rd party entities do not always complete and return verification forms. If after attempting 3rd party verification of assets is done without success (proof is kept in the tenant file showing the attempted verification), tenants can provide statements or other documentation. The documentation provided must include both the market value and cash value of the asset/s.

The OHCS 'Under \$5,000 Asset Certification' is **NOT** allowed for any HOME unit verification regardless of any other funding source.

Assets Disposed of for Less Than Fair Market Value

Third party verification of disposed of assets is not required. However, a certification completed and signed by the owner of the asset disposed of that shows:

- Type of asset/s disposed of;
- Date the asset/s was disposed of;
- The amount received for the disposed of asset; and
- The market value of the asset at the time of disposal

OHCS recommended form “Divestiture of Assets Certification” can be used for this purpose.

Current Family Assets-from all sources

Written third-party verification of assets:

1. OHCS “Asset Verification” form must be used first to verify all assets for all household members.
2. Benefit letters or statements received from:
 - a. Financial Institutions
 - b. Stock Brokers
 - c. Employers

These documents must show the current value of the asset/s and document the penalties or reasonable costs incurred in order to convert the asset/s into cash.

3. Current copies of:
 - a. Checking account statements (6 months)
 - b. Savings account statements
 - c. Statements for CDs, Money Markets, Stocks, Bonds, IRAs, Keoghs and annuities, etc.
 - d. Other financial statements completed by financial institutions
 - e. Copies of trust documents
4. Real Estate Verification
 - a. First, obtain 3rd-party verification form filled out by a real estate professional that provides all of the required information.
 - b. Second choices:
 1. Tax Returns with all schedules (for rental property)
 2. Sellers Agreement (when a property is on the market)
 3. Tax assessment statements (when a property is not on the market)
 4. Mortgage statements
 5. Zillow (or other website) print outs should be used only as a last resort to show property value

Verification Tips:

- Use current balance in savings accounts and average monthly balance in checking accounts for last 6 months.
- Use cash value of all assets (the net amount the applicant would receive if the asset were converted to cash).

Reverse Mortgages

Reverse mortgages are... loans for seniors taken out against the equity in a home.

- These loans may be paid to the senior in installments or in lump sums.
- In either case, these are NOT considered income as they are the proceeds of a loan.

Such a loan does not require monthly payments be made by the senior to pay it back. However, before the homeowner can permanently move out of the property, or at their death, the loan must be paid off in full.

Since reverse mortgages are actually loans against the property and decrease the cash value, they should be treated the same as other mortgages. Payments made to the homeowner are not considered income as they are proceeds of the loan. The home will continue to be considered an asset to the owner.

Finding and Keeping Tenants

Owners/Agents must comply with all fair housing laws, which prohibit discrimination in housing based on race, color, religion, sex, familial status, national origin, age and disability. Affirmative Fair Housing Marketing Plans (AFHMP) for properties with five (5) or more HOME-assisted units must be established. Owners/Agents must conduct special outreach to those groups least likely to apply for the HOME-assisted housing. Accessible units in HOME-assisted properties must be offered first to persons with disabilities.

Owners/Agents of HOME-assisted properties must treat applicants and tenants fairly and equitably by:

- Establishing and following standard **tenant selection procedures**;
- Using **leases** that protect tenants' rights; and
- Using established procedures to resolve conflicts with tenants.

Tenant Selection Procedures

The Owner/Agent is responsible for establishing tenant selection procedures. These procedures describe the methods and procedures for taking applications and screening tenants at the property. These requirements are found in 24 CFR 92.253(d).

Tenant selection procedures must:

- Be consistent with the purpose of providing housing for low-income and very low-income families;
- Be reasonably related to HOME Program eligibility and the tenant's ability to perform the obligations of the lease;
- Provide for the selection of tenants based on a written waiting list in the chronological order of application, to the extent practicable;
- State that the Owner or manager will give prompt written notice to any rejected applicant, with an explanation of the grounds for rejection; and
- Include a plan to re-designate HOME assistance when a household residing in a HOME unit has annual income that has increased and goes over 80% AMI.

Elements of the Tenant Selection Procedures

The following are the required and recommended elements of tenant selection procedures:

- Tenant selection procedures should identify the criteria that will be used to select tenants.
 - Tenants should be selected based on objective criteria, related solely to program qualification and ability to pay the rent and abide by the terms of the lease. These criteria should include household income & lack of criminal history and might include housing history & credit history. Property Owners/Agents must apply the criteria consistently to all applicants, in accordance with fair housing laws.
 - Tenant selection criteria should expressly prohibit bias in the selection process including discrimination or favoritism toward friends or relatives, or other situations in which there may be a conflict of interest.
 - Tenant selection criteria can give preference to persons with special needs if OHCS has so directed.
- Tenant selection procedures must state that Owners/Agents will promptly notify an applicant in writing if he/she has been rejected, and will explain the grounds for rejection.
- Owners/Agents must maintain a written waiting list and must select tenants in the chronological order of application, to the extent practicable. The tenant selection procedures should describe how the waiting list will be maintained.
- The tenant selection procedures should describe the HOME requirements that affect tenants and tenant selection in terms that are clear and easy to understand. Specifically, the procedures should describe:
 - How vacant units will be filled;
 - HOME unit occupancy requirements;
 - Nondiscrimination policies and the affirmative marketing procedures, including accessibility requirements;

- Marketing strategy for accessible units;
- Tenant selection records that must be maintained; and
- Community Housing Development Organization (CHDO) tenant participation plan as required for CHDO properties

Therefore, it is acceptable to:

- Set reasonable eligibility criteria as long as they are applied consistently for all applicants;
- Require sufficient income to meet rent and utility payments;
- Require certain terms and conditions such as security deposits for fees (if approved), provided they are consistently applied for all applicants;
- Inquire whether an applicant for a dwelling is a currently addicted to or is an abuser of any controlled substance(s);
- Inquire whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance; and
- Restrict the number of occupants in a unit according to policy standards.

Section 8 voucher holders **may not** be refused tenancy based upon status as a voucher holder as long as they are eligible for the HOME-assisted unit.

Exemptions:

The Fair Housing Act provides a specific **exemption from discrimination suits** for housing for the elderly or near-elderly. Housing may be reserved for the elderly under the following “Housing for Older Persons” programs:

“62 and Over”

- Intended for, and **solely** (100%) occupied by persons 62 years of age or older; or

“55 and Over”

- Intended and operated for occupancy by households where **at least** 80% of the units are occupied by households containing **at least** one person 55 years of age or older.

Other Exemptions:

- Housing which could result in common use of bath or bedroom facilities by men and women who are not related to each other
- The rental of rooms within one's home
- A duplex where one unit is Owner-occupied
- The rental of space in a church or other religious institution

Tenant Handbook

It is recommended that properties develop a tenant handbook. This handbook provides management with the assurance that tenants have written reference and access to a more comprehensive explanation of general property residency requirements and rules that may be outlined in the lease and house rules.

Suggested Components:

1. Letter of Welcome and an introduction to the property. The introduction should help to establish the necessary rapport between the manager and each tenant.
2. Emergency phone numbers should be listed prominently. Some important numbers to include are: police station, fire department, rescue squad, ambulance, hospitals, electric, gas, water, telephone, and the resident manager.
3. A section should describe the neighborhood. Information offered might include data on community recreation facilities, nearby schools with addresses and telephone numbers, a map with an index, and more.
4. Property information should pertain to the following categories:
 - a) A summary of information about paying rent, including the date it is due, the name to whom checks are payable and the address where checks are to be sent or delivered.
 - b) List all charges to be assessed for damages, delinquent rents, and returned checks.
 - c) Describe the visitor policy.
 - d) Explain the lead-based paint notice procedure and acknowledgment requirements.
 - e) All community facilities should be listed along with the hours they are open and rules for their use. Describe recreational programs sponsored by management or tenants.
 - f) The cost of using utilities should be emphasized in terms of the relationship between waste and rent increases. Tips should be given concerning how to conserve energy.
 - g) The tenant should be informed of regulations regarding garbage disposal, parking, noise, guests, windows, balconies, appliances, storage rooms, pets, televisions antennas, flammable materials, solicitors, waterbeds, etc.
 - h) How to report maintenance problems and who will be responsible for maintenance.
 - i) Outline both tenant and landlord responsibilities.
 - j) Clearly define process and reasons for eviction along with cause for grievances and procedure to follow in reporting these.
 - k) A section of the Handbook should describe the Owner's policy regarding:
 - Methods for payment.
 - Delinquencies and follow up.
 - The procedures that are to be followed in evicting a tenant.
 - Security deposits.
 - Transfer Policy (Must be treated as new move-in).

Lead-Based Paint

Exempt Housing

- Properties built after January 1, 1978;
- Properties found not to have lead-based paint during earlier testing that meets the requirements of prior evaluations;
- Properties where all lead-based paint has been identified and removed using approved methods;
- Properties where rehab will not disturb paint and no paint hazards are identified; and
- Properties where occupancy by a child is unlikely, typically:
 - Elderly and disabled housing, or SRO units.

Basic Requirements

The HOME Program requires Owners to take actions to reduce lead-based paint hazards in HOME-assisted units. Owners must comply with 24 CFR 35, the regulations implementing the Lead-Based Paint Poisoning Prevention Act along with requirements for dealing with lead-based paint found in the Uniform Physical Condition Standards (UPCS). Current Part 35 requirements stipulate that all occupants receive and acknowledge notice of the possible presence of lead paint.

Notification Requirements

Owners must distribute a HUD or Environmental Protection Agency (EPA) approved pamphlet to prospective buyers and renters of pre-1978 homes, and tenants of homes where renovations will take place. A widely used EPA pamphlet entitled “Protect Your Family from Lead in Your Home” is available for download in both English and Spanish on the OHCS website with the NOFA materials. **OHCS requires that Owners obtain evidence of tenant receipt of any pamphlet distributed.** Owners may create their own receipt of disclosure form or use the form, “*Disclosure of Information on Lead*” located on the OHCS website. The Asset Management and Compliance section will audit for proof of receipt.

Effective October 4, 2011, The Environmental Protection Agency (EPA) revised various materials including the “Renovate Right” Brochure that must be provide to residents prior to many repairs that may disturb lead based paint in homes built prior to 1978. The Brochure can be found on-line at: <http://epa.gov/lead/pubs/renovaterightbrochure.pdf>.

All of these changes are in addition to the requirement to distribute the booklet entitled “Protect Your Family from Lead in Your Home” from the EPA and HUD, and get the “Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards” signed by renters prior to their becoming obligated under a rental contract and the pre-existing Renovation Repair and Painting rule of 2008.

Applicability

The Lead-Based Paint Poisoning Prevention Act applies to **all units** in a property assisted with HOME funds -- **not only to HOME-assisted units**. During the compliance review, the Asset Management & Compliance Section Compliance Officer will monitor to ensure that the Owner has conducted all necessary activities and maintained appropriate documentation in their files.

Affirmative Fair Housing Marketing

The Affirmative Fair Housing Marketing Regulations (24 CFR 200.600) implement HUD's policy of assuring that persons of similar income levels in a housing market area have a like range of housing choices available to them, regardless of race, color, religion, sex, or national origin. The act, pattern, or intent of discrimination also extends to classes or groups.

Basic Requirements:

- Affirmative marketing procedures and requirements **must** be adopted for rental properties containing 5 or more HOME-assisted housing units. *Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.*
- All properties with five or more HOME assisted units **must** have an approved Affirmative Fair Housing Marketing Plan (AFHMP) before the property is transferred to the Asset Management & Compliance Section. This document outlines the strategies that will be addressed to market the property. More specifically, it outlines the strategies necessary to attract to the property those applicants who are considered least likely to apply. It also specifies racial and ethnic targets, not quotas, and the marketing strategies to attract this mix.
- Owners of properties **must** maintain records documenting outreach efforts in accordance with the AFHMP. Outreach and advertising efforts must include varied places and formats. It is NOT acceptable to advertise in only one place such as the internet.
- *Owners of properties must retain data on race and ethnicity of the head of household for all applicants who are accepted or rejected for HOME units.*
- The Equal Housing Opportunity Slogan, logo, or statement **must** be used in all advertisement, public service announcements, press releases, and information mailings.
- The HUD Fair Housing poster **must** be displayed in offices where rental activity takes place for all properties with five or more units.

A copy of the AFHMP and Management Plan, with all attachments, should be retained on site for reference.

Advertising – Marketing Efforts

It is unlawful to make, print or publish any notice, statement or advertisement with respect to the sale or rental of a dwelling which indicates a preference, limitation or discrimination based on any/all of the Federal and State protected classes. All written or oral notices or statements by a person engaged in the sale or rental of a dwelling are subject to this provision.

A file must be maintained with all marketing efforts related to the property including newspaper ads, social service contacts, photos of signs, etc. Records will be reviewed during the monitoring of the property to ensure that all efforts are in compliance with federal requirements and are being adequately documented. Marketing efforts should be reviewed by Owners/Agents on a continual basis and the AFHMP must be updated at least once every five years. Marketing efforts should be sent to various sources. Limiting efforts to one source is not acceptable. Using the internet must not be relied upon as the only source of marketing as some people do not have access to the internet. Further, if a vacancy problem exists at a property, Owner/Agent should update the plan to extent outreach areas or re-evaluate and expand the target populations.

For more information regarding AFHMP advertising guidelines, go to:

<http://www.hud.gov/offices/fheo/library/part109.pdf>

Fair Housing & Equal Opportunity (FHEO)

Title VIII of the Civil Rights Act of 1968 makes it unlawful to discriminate in any aspect relating to the rental of dwellings, or in the provision of brokerage services or facilities in connection with the rental of a dwelling, because of **race, color, gender, religion, or national origin**, (protected classes). The Fair Housing Amendments Act of 1988 expanded coverage of Title VIII to prohibit discriminatory housing practices based on **disability and familial status** (protected classes). In addition, states and local jurisdictions may establish ordinances that identify additional “protected classes” within that jurisdiction. Owners should be aware of the individual laws and ordinances enacted in their areas that may have established “protected classes”.

Federal Protected Classes:

- Race: Racial Background
- Color: Additional distinction within the category of race
- Gender: Male/female
- Religion: A person's religion; or lack thereof
- National Origin: Where the person or their ancestors came from
- Disability: A mental or physical impairment that substantially limits one or more of a person's major life activities.
- Familial Status: Familial status means having a child in the household, whether living with a parent, a legal custodian, or their designee. It also covers a woman who is pregnant, and people in the process of adopting or gaining custody of a child.

HUD published a final rule in the Federal Register entitled *Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity* effective March 5, 2012. This rule will ensure that HUD programs, including programs administered by the Office of Community Planning and Development (e.g., CDBG, HOME, NSP, and HOPWA) are open to all eligible individuals regardless of sexual orientation or gender identity.

- HUD-assisted and HUD-insured housing, including housing acquired, rented, or rehabilitated with CPD funds, must be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.
- The definition of “family” is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.
- Owners and administrators of HUD-assisted housing and HUD-insured housing are prohibited from inquiring into an applicant or occupant's sexual orientation and gender identity for the purpose of determining eligibility or otherwise making housing available.*
- Sexual orientation and gender identity may not be taken into consideration by an FHA lender in determining the adequacy of a mortgagor's income.

As a new program regulation, failure to comply with the requirements of this rule will be considered a violation of program requirements and will subject the non-compliant grantee to all sanctions and penalties available for program requirement violations. HUD and its fair housing partners are preparing additional guidance and plan to conduct trainings to assist HUD grantees in understanding the new rule. As these procedures become available, you will be able to access them at: www.hud.gov/lgbthousingdiscrimination.

*Please note: This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for the purpose of determining the number of bedrooms to which a household may be entitled. This provision is intended to ensure privacy, safety and modesty in temporary, emergency shelters. Please also note: This provision does not prohibit voluntary or anonymous reporting of sexual orientation or gender identity pursuant to local, state or federal data collection requirements.

State of Oregon Protected Classes:

- Marital Status: Actions/decisions based on whether or not someone is married, single, divorced, etc.
- Source of Income: Any legal source of income is counted, including alimony, welfare, etc.
- Sexual Orientation
- Gender Identity
- Domestic Violence Victims
- Voucher Holders (rental assistance)

Local Jurisdictions: Counties-Cities in Oregon Protected Classes:

In addition to Federal and State protected classes, some counties and cities in Oregon have designated additional protected classes. These can be viewed at:

www.FHCO.org/pdfs/matrix_ore.pdf

More Information:

Oregon's fair housing laws can be found in the Oregon Revised Statutes (ORS), Chapter 659A at:

<http://www.oregonlegislature.gov/>

For more information regarding fair housing in Oregon, view the Fair Housing Council of Oregon's website at:

<http://www.fhco.org>

ADA, 504 and Fair Housing Accessibility

Most housing properties fall under several different laws. Federal programs and the age of the property determine which laws apply.

- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) protects race, religion, sex and national origin
- The Fair Housing Amendments Act of 1988 (Amendments Act - FHAA) added disability and familial status
- The Americans with Disabilities Act (ADA) of 1990 addresses public accommodations (rental offices and common areas are considered public accommodations)
- Section 504 of the Rehabilitation Act of 1973 (Section 504) applies to those receiving federal assistance
- Persons with disabilities have their rights protected under three main laws (ADA, FHAA, and 504)

Disability Rights in Housing

Definition of Disability: Federal laws define a person with a disability as "Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment."

In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation that substantially limits one or more major life activities. Major life activities include walking, talking and hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

Disability Rights in Private and Public Housing regardless of whether you live in private or public housing, Federal laws provide the following rights to persons with disabilities:

Prohibits discrimination against persons with disabilities. It is unlawful for a housing provider to refuse to rent or sell to a person simply because of a disability. A housing provider may not impose different application or qualification criteria, rental fees or sales prices, and rental or sales terms or conditions than those required of or provided to persons who are not disabled.

- Example: A housing provider may not refuse to rent to an otherwise qualified individual with a mental disability because they are uncomfortable with the individual's disability. Such an act would violate the Fair Housing Act because it denies a person housing solely on the basis of their disability.

Requires housing providers to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change in rules, policies, practices, or services so that a person with a disability will have an equal opportunity to use and enjoy a dwelling unit or common space. A housing provider should do everything they can to assist, but they are not required to make changes that would fundamentally alter the program or create an undue financial and administrative burden. Reasonable accommodations may be necessary at all stages of the housing process, including application, tenancy, or to prevent eviction.

- Example: A housing provider would make a reasonable accommodation for a tenant with mobility impairment by fulfilling the tenant's request for a reserved parking space in front of the entrance to their unit, even though all parking is unreserved.

Requires housing providers to allow persons with disabilities to make reasonable modifications. A reasonable modification is a structural modification that is made to allow persons with disabilities the full enjoyment of the housing and related facilities.

- Examples of a reasonable modification: would include allowing a person with a disability to install a ramp into a building, lower the entry threshold of a unit, or install grab bars in a bathroom.

Reasonable modifications are usually made at the resident's expense. However, there are resources available for helping fund building modifications. Additionally, if you live in federally assisted housing the housing provider may be required to pay for the modification if it does not amount to an undue financial and administrative burden. For more information, see the Reasonable Accommodations section of the Section 504 Frequently Asked Questions page.

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504

Requires that new multifamily housing covered by 504 regulations be designed and constructed to be accessible. In covered multifamily housing consisting of 4 or more units with an elevator built for first occupancy after March 13, 1991, all units must comply with the following seven design and construction requirements of the Fair Housing Act:

- Accessible Entrance on an Accessible Route
- Accessible Public and Common-Use Areas
- Usable Doors
- Accessible Route Into and Through the Dwelling Unit
- Accessible Light Switches, Electrical Outlets, Thermostats, and Environmental Controls
- Reinforced Walls in Bathrooms
- Usable Kitchens and Bathrooms
- In multifamily housing covered by 504 regulations without an elevator that consists of 4 or more units built for first occupancy after March 13, 1991, all ground floor units must comply with the Fair Housing Act's seven design and construction requirements.

For information on how to comply with the physical accessibility requirements of the Fair Housing Act, visit the Fair Housing Accessibility FIRST Web site: <http://www.fairhousingfirst.org/>

These requirements apply to most public and private housing. However, there are limited exemptions for Owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

If you live in federally assisted multifamily housing consisting of 5 or more units, 5 percent of these units (or at least one unit, whichever is greater) must meet more stringent physical accessibility requirements. Additionally, 2 percent of units (or at least one unit, whichever is greater) must be accessible for persons with visual or hearing disabilities. For more information, visit Section 504 Questions and Answers:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504faq

People with Disabilities in Federally Assisted Housing: Federal law makes it illegal for an otherwise qualified individual with a disability to be excluded, solely because of his or her disability, from programs receiving federal financial assistance. For more information on the rights of persons with disabilities in federally assisted housing as well as the responsibilities of housing providers who receive federal financial assistance, visit our Section 504: Disability Rights in HUD Programs site:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504

Zoning and Land Use: It is unlawful for local governments to utilize land use and zoning policies to keep persons with disabilities from locating to their area. For more information, see the Joint Statement of DOJ and HUD on Group Homes, Local Land Use, and the Fair Housing Act:

http://searchjustice.usdoj.gov/search?q=crt%20housing%20final8_1&q=site%3Awww.justice.gov%2Fert&sort=date%3AD%3AL%3Ad1&output=xml_no_dtd&client=default_frontend&proxystylesheet=default_frontend&site=default_collection

State and Local Laws: Many states and localities have fair housing laws that are substantially equivalent to the Federal Fair Housing Act. Some of these laws prohibit discrimination on additional bases, such as source of income or marital status. Some of these laws may impose more stringent design and construction standards for new multifamily housing.

The Americans with Disabilities Act: In most cases, the ADA does not apply to residential housing. Rather, the ADA applies to places of public accommodation such as restaurants, retail stores, libraries, and hospitals as well as commercial facilities such as office buildings, warehouses, and factories. However, Title III of the ADA covers public and common use areas at housing developments when these public areas are, by their nature, open to the general public. For example, it covers the rental office since the rental office is open to the general public.

Title II of the ADA applies to all programs, services, and activities provided or made available by public entities. This includes housing when the housing is provided or made available by a public entity. For example, housing covered by Title II of the ADA includes public housing authorities that meet the ADA definition of "public entity," and housing operated by States or units of local government, such as housing on a State university campus.

For more information on the Americans with Disabilities Act, visit the Department of Justice ADA Home Page.

<http://www.ada.gov/>

For information on how HUD processes housing discrimination complaints, see Fair Housing-It's Your Right:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights

US Department of Housing & Urban Development Office of Fair Housing & Equal Opportunity UFAS Accessibility Checklist:

http://portal.hud.gov/hudportal/documents/huddoc?id=UFASAC_PHAs5708.pdf

Community Housing Development Organizations (CHDOS)

Community Housing Development Organizations, or CHDOs, are specific types of nonprofit organizations defined exclusively for the HOME Program. According to the HOME regulations, CHDOs must be developers, sponsors, or Owners of HOME-assisted housing. CHDOs must have effective management control of properties, and must be organized and structured according to strict standards specified in the HOME regulations.

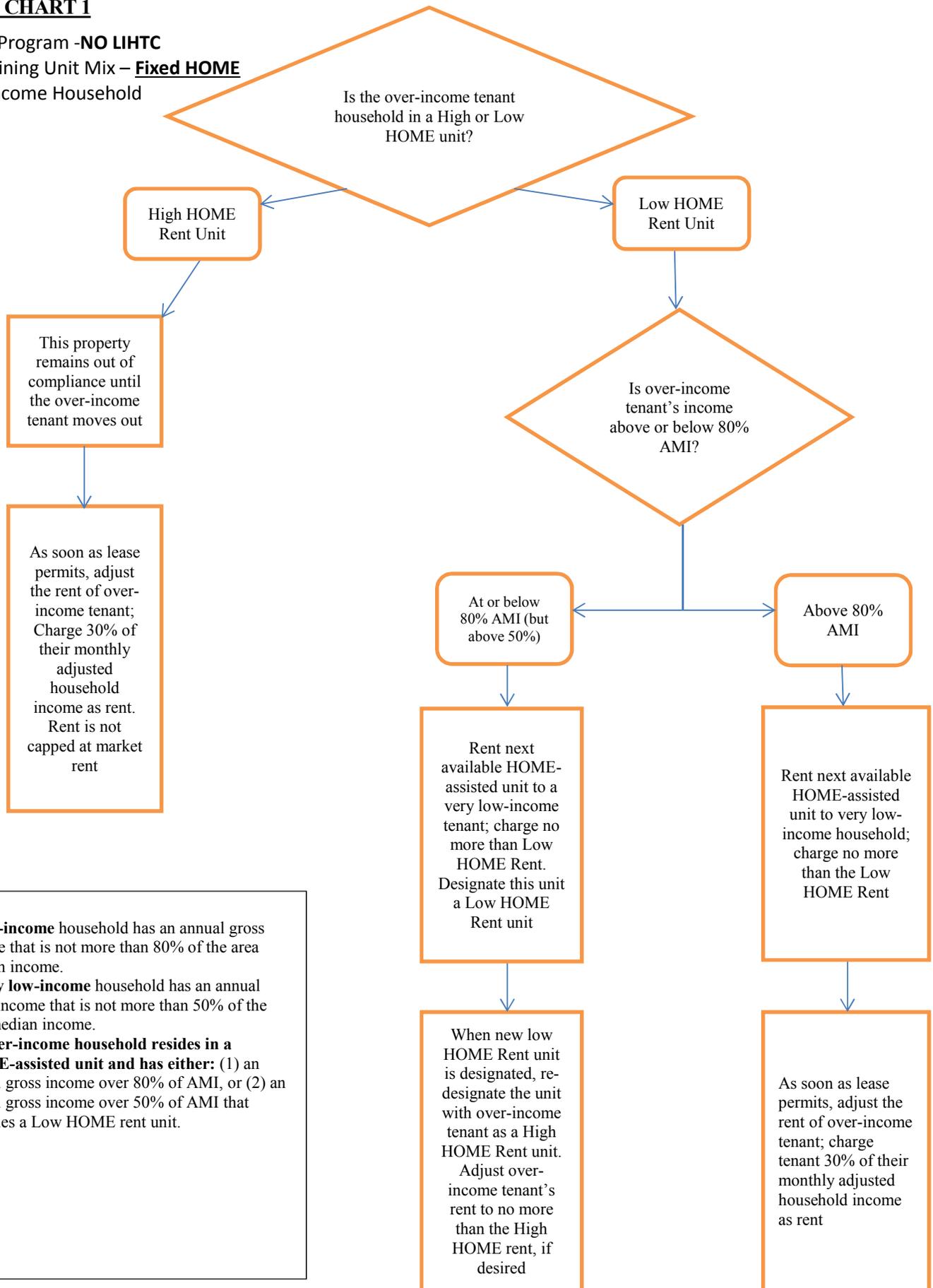
Properties that are owned, developed, or sponsored by CHDOs, must have a tenant participation plan to ensure that tenants are involved in the management and decision-making with respect to the property. Two ways to enable tenant participation in management decisions are:

- Involvement of a tenant association to act as a formal body to provide input for project management; or
- Tenant election of a representative to act as a liaison with management.

Specific questions regarding CHDO requirements and the application for allocation may be directed to the Housing Resources Section of OHCS.

FLOW CHART 1

HOME Program - **NO LIHTC**
 Maintaining Unit Mix – **Fixed HOME**
 Over-Income Household



A **low-income** household has an annual gross income that is not more than 80% of the area median income.
 A **very low-income** household has an annual gross income that is not more than 50% of the area median income.
 An **over-income household resides in a HOME-assisted unit and has either:** (1) an annual gross income over 80% of AMI, or (2) an annual gross income over 50% of AMI that occupies a Low HOME rent unit.

FLOW CHART 2

HOME Program -**NO LIHTC**
 Maintaining Unit Mix **Floating HOME**
 Over-Income Household

Is the over-income tenant household in a High or Low HOME unit?

High HOME Rent Unit

Low HOME Rent Unit

As soon as lease permits, adjust the rent of over-income tenant. Tenant must pay 30% of their monthly adjusted income. Rent is capped at market rent for comparable, unassisted units in the neighborhood

Rent next available non-assisted unit to low-income tenant. Charge no more than the High HOME rent. Designate this unit a High HOME Rent unit. Once a new High HOME Rent unit is designated, re-designate the unit with the over-income tenant as non-assisted if it is not needed to maintain the correct unit mix. HOME restrictions no longer apply

Is over-income tenant's income above or below 80% AMI?

At or below 80% AMI (but above 50%)

Above 80% AMI

Rent next available HOME-assisted unit to a very low-income tenant; charge no more than Low HOME Rent. Designate this unit a Low HOME Rent unit

As soon as lease permits, adjust the rent of over-income tenant. Tenant must pay 30% of their monthly adjusted income. Rent is capped at market rent for comparable, unassisted units in the neighborhood

A **low-income** household has an annual gross income that is not more than 80% of the area median income.
 A **very low-income** household has an annual gross income that is not more than 50% of the area median income.
 An **over-income household resides in a HOME-assisted unit and has either:** (1) an annual gross income over 80% of AMI, or (2) an annual gross income over 50% of AMI that occupies a Low HOME rent unit.

When new Low HOME Rent unit is designated, re-designate the unit with over-income tenant as a High HOME Rent unit. Adjust over-income tenant's rent; may be adjusted to no more than the High HOME rent

Rent next available comparable assisted or non-assisted unit to a very low-income tenant. Charge no more than the Low HOME Rent. Designate this unit a Low HOME Rent unit. Once a new Low HOME rent unit is designated, re-designate the unit with the over-income tenant as non-assisted. HOME restrictions no longer apply

NOTE: If there is more than one over-income household in the property and both a Low HOME Rent and a High HOME Rent unit are needed to restore unit mix, the Owner must restore compliance with the Low HOME Rent unit first.

HOME with Tax Credits (LIHTC)

Important Program Differences for Management Purposes

In general, when a property has both HOME and Low-Income Housing Tax Credits (LIHTC), both sets of program rules apply, so the stricter requirements of each program must be met. Key property management issues that vary between the programs include:

❖ Income Targeting and Occupancy Requirements

The Owner or manager must rely on its use agreements and the rules for each program to determine the number of HOME and Tax Credit units in the property, and the required household income at move-in for each unit. When a household's income meets both sets of requirements and the rent is below the maximum for both programs, the unit that household occupies can be counted toward the requirements of both programs. Otherwise, if a household meets only one set of requirements, the unit can be counted for that one program only.

❖ Maximum Allowable Rent Determinations

The Owner/Agent must determine the maximum allowable rents for both programs and use the lower rents as the rent limit for the unit. Maximum rent limits include utilities for both programs and use the lower rents as the rent limit for the unit. Maximum rent limits include utilities for both programs, so if the tenant pays for utilities, the Owner/Agent must deduct the appropriate utility allowance to determine the rent limit.

- ***Utility Allowances***

LIHTC and HOME may use different utility allowances. The Owner/Agent must deduct the LIHTC utility allowance from the LIHTC rent limit to determine the maximum allowable LIHTC rent. The Owner/Agent must deduct the correct utility allowance from the HOME rent limits to determine the maximum allowable High HOME Rent and the Low HOME Rent. The maximum rent the Owner/Agent can charge is the lesser amount.

❖ Affordability and Market Rents

Home and LIHTC each have established rent limits. In some cases, the rent limits imposed by the LIHTC and HOME programs will result in a higher rent for a unit than the market will actually bear. For example, a two-bedroom unit might have a maximum tax credit rent of \$600, a maximum HOME rent of \$625, and a maximum achievable market rent of \$500. Regardless of the program rent limits, in this situation the property cannot charge more than the market will pay. This lower market rent complies with the LIHTC and HOME rent restrictions. It is perilous to assume that the property will achieve its use-restricted rent limits, particularly in an area where rents are low in relation to area median incomes. Owners and managers should establish rents that reflect the market for the community.

❖ Reduction in Rents

If HOME rent limits or Fair Market Rents decline, rents at HOME/LIHTC properties may have to be lowered. The HOME Program does not require that Owners reduce rents for HOME-assisted units below the level in effect at the time of project commitment. However, LIHTC rules do not provide similar protections. Therefore, if a unit is counted toward both sets of requirements and the rent limit decreases, a rent decrease may be necessary to ensure continued compliance with LIHTC rules.

❖ Initial Tenant Income-Eligibility

Both LIHTC and HOME require Owners/Agents to determine a tenant household's income-eligibility prior to leasing a unit, and both programs require Owners/Agents to use source documentation to do so.

- **Definition of Income** - LIHTC requires the use of the Section 8 (Part 5) Program definition of income; OHCS requires the same use of the Section 8 (Part 5) for the HOME Program as well.

- **Asset Income** – Although LIHTC permits tenants to certify asset amounts and asset income that is less than \$5,000, the HOME Program requires ALL asset income to be verified with source documentation. Therefore, all asset income must be verified for any unit that will count as a HOME unit and any unit that will count as both a tax credit and a HOME unit.

❖ **Recertifying Tenant Income**

Both the HOME and LIHTC programs require assisted units to remain occupied by income-eligible persons throughout the affordability (compliance) period. For both programs, property Owners/Agents must certify tenants' incomes to ensure they continue to be income-eligible in accordance with applicable income limits. Both programs use limits that are updated and issued by HUD annually, although each program may impose different income targeting requirements. For a unit to continue to count as both a HOME and LIHTC unit, the tenant's income must continue to qualify under each program.

- **Source Documentation** – The HOME Program permits some flexibility in methods of recertifying income. For properties with both LIHTC and HOME, for properties with 100 percent LIHTC units, income re-certifications (source documentation) are required at move-in and for the first year annual recertification-completed at time of first anniversary of the move-in date. Self-certifications must be completed annually beginning after the first year annual re-certification for LIHTC and annually beginning after move-in during interim years for HOME. Further, property Owners/Agents of HOME/LIHTC properties that are not 100 % LIHTC must verify tenant income using source documentation annually (no self-certs). The HOME program requires full Tenant Income Certifications to be completed using verification procedures (source documentation) at move-in and every 6th year from IDIS date regardless of any other funding sources in the property. See explanation earlier in this manual.
- **Over-Income Tenants** - Generally, a tenant household is considered “over-income” when its income increases over the applicable HOME limit. Until the household's income reaches this threshold, the tenant must pay no more than the lesser of the HOME rent limit or the Tax Credit rent limit. Once the tenant household's income increases above the HOME limit, the household is over-income. The steps the Owner/Agent must take to restore compliance to the property are outlined in the Flow Charts in this manual.

❖ **Affordability (Compliance) Period**

HOME affordability periods are specified in the written agreement between the property Owner and OHCS. LIHTC compliance periods are specified in the property's allocation agreement and regulatory agreements with OHCS and are specific to each property. The property must comply with HOME rules for the duration of the established HOME affordability period for the property and must also comply with LIHTC rules for the duration of the established LIHTC compliance period.

❖ **Property Inspections**

Both programs require OHCS to inspect the property on a periodic basis. HOME/LIHTC units must comply with HOME/LIHTC applicable property standards throughout the affordability period. OHCS will pre-notify Owners/Agents of the upcoming property inspection.

❖ **Section 8**

Both the HOME and LIHTC Programs permit the maximum rent to exceed program requirements on units with **project-based Section 8 rental assistance**. For the HOME Program, this exception applies only for Low-HOME Units. For tenant-based rental assistance, the HOME rent limits still apply – no exceptions.

❖ **Student Rules**

Both the HOME and LIHTC Programs have student rules and the rules are different for each program. Be sure to understand the differences in the student rules. Each program has a separate Annual Certification of Student Status and both Certifications must be completed annually for each.