OREGON HOUSING and COMMUNITY SERVICES

HOME, National Housing Trust Fund, HOME-ARP Compliance Manual

Updated June 2026

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Summary of Changes

- **Section 1: Part 1.01** – Introduces the 2025 HOME Final Rule and provides link
- **Section 2: Part 2.03** – Oregon Centralized Application (ORCA)
- **Section 2: Part 2.09** – Added Contract Preservation (PuSH-CP) Notices to Administrative Notebook
- **Section 2: Part 2.11** – Updated and incorporated the requirement to use the Property Incident and Planned Activity Notification (formerly known as a Casualty Loss)
- **Section 4: Part 4.04** – Included guidance to include: Surety bonds, security deposit insurance, or instruments similar to surety bonds and security deposit insurance **may not be used in lieu of or in addition to a security deposit** in HOME-assisted units.
- **Section 4: Part 4.07** – New HUD appropriation bill, Consolidated Appropriations Act of 2026, has eliminated the Section 8-specific student financial assistance rule announced February 03, 2026.
- **Section 5: Part 5.01** – Updated link for Management Agent Change Notifications
- **Section 6: Part 6.02** – **HOME only** - The 2025 HOME Final Rule 92.250 (a)(1) and (2) removed the requirement to include tenant based rental assistance in the gross tenant rent calculations.
- **Section 6: Part 6.03** – A unit will be considered Low-HOME if the Gross Rent charged for the unit meets the LIHTC Rent Restriction (24 CFR 92.252 (a)(2)(iii)
- **Section 6: Part 6.04** – HOME Only: HOME rent limits do not apply if a household participates in a program where they contribute no more than 30% of adjusted monthly income. Any Low or High-HOME unit that receives federal, state or local rental assistance is not restricted to the HOME rent limits.
- **Section 6: Part 6.07** – Utility allowance approved method update
- **Section 7: Part 7.05** – For HOME/LIHTC properties, where the unit is qualified as both a HOME unit and a LIHTC unit, the 2025 HOME Final Rule provided updated guidance in establishing rent for over-income households (greater than 80% AMI) as defined by the HOME Program.
- **Section 8: Part 8.06** – New-HOME and HTF: Assets do not need to be verified for initial move-ins if they are under the threshold; applies to IDIS years as well.
- **Section 9: Part 9.03** – Updated guidance to allow for copies of income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for the income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) or a certified copy by completing IRS Form 4506 "Request for Copy of Tax Form.".
- **Section 10: Part 10.02** – Updated guidance, HOME-only on use of Asset Self Certification form
- **Section 10: Part 10.06** – Surety bonds, security deposit insurance, or instruments similar to surety bonds and security deposit insurance may not be used in lieu of or in addition to a security deposit in HOME-assisted units.
- **Section 11: Part 11.02** – Owner/Agent will have a minimum of 45 days for physical inspection findings, to correct any reported non- compliance findings and respond to OHCS.
- **Glossary:** Gross Rent and Period of Affordability

Introduction

Oregon Housing and Community Services: Affordable Rental Housing

Oregon Housing and Community Services (OHCS) through Portfolio Management monitor the continuing compliance and asset management of properties that have received federal funds for the HOME Investment Partnerships Program (HOME), National Housing Trust Fund (HTF) Program, and HOME American Rescue Plan (HOME-ARP) in accordance with Housing and Urban Development (HUD) regulations contained in 24 CFR Part 92 (HOME), 24 CFR Part 93 (HTF) and Notice CPD-21-10 (HOME-ARP).

Property Owners are required to retain the housing units as affordable for low-, very low-, and extremely low-income persons throughout the affordability period. These manual covers procedures that apply to all rental properties which have received funds under HOME, HTF, and HOME-ARP Program(s). Any violation in the requirements of Program regulations could result in acceleration in the repayment of funds received under the HOME and HTF Program(s).

Successful operation of a HOME, HTF and HOME-ARP funded property is management intensive; the Owner is responsible for ensuring that each program is properly administered. Thorough understanding of all program requirements and compliance monitoring procedures require training of owners, property managers, and site staff and should occur before a property is occupied. 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/ HTF/ HOME-ARP Program(s).

When available, training opportunities will be posted on OHCS' website.

OHCS HOME, National Housing Trust Fund (HTF), and HOME-ARP Compliance Manual

This HOME / HTF / HOME-ARP Compliance Manual (Manual) is designed to assist owners and their agents to plan and maintain compliance with HOME, HTF, and HOME-ARP regulatory requirements associated with the utilization of funds in multifamily rental properties. It was created for use in conjunction with the 2013 HOME Program Final Rule, the HTF HUD Interim Program Rule, Notice CPD 21-10, including OHCS 2021 HOME-ARP Allocation Plan, and OHCS' Regulatory Agreement for each property. The updated 2026 Manual includes updated regulations described in the 2025 HOME Program Final Rule, published January 06, 2025, in the Federal Register (90 FR 746).

The Manual outlines OHCS' monitoring policies and procedures for HOME and HTF projects and should be used in conjunction with, and as a supplement to 24 CFR Part 92 (HOME), including the National Affordable Housing Act of 1990, and as a supplement to 24 CFR Part 93 (HTF). Additionally, it introduces HOME-ARP, with future updates to be added when appropriate.

This manual is intended only as a supplement to the existing laws, rules and regulations and is not a comprehensive guide to the HOME, HTF, and HOME-ARP requirements and is intended to provide the following:

- A guide to understanding the HOME and HTF 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 HOME, HTF, and HOME-ARP Program(s) at their properties.

- Compliance monitoring procedures are performed by Portfolio Compliance (PC) for HOME, HTF, and HOME-ARP Program(s). It is the role of PC to assist owners and management agents to stay in and maintain compliance with program regulations and requirements of HOME, HTF and HOME-ARP.
- This manual describes compliance monitoring procedures for both the HOME Program and the HTF Program. It is the role of both PC and Asset Management (AM) to assist Owners and Agents (O/A) to stay in compliance with HUD regulations. It is the O/As' responsibility to maintain compliance with HOME and HTF program requirements and regulation.

Owners should review and become familiar with the OHCS Regulatory Agreement for each program for the property. Additionally, they should thoroughly review and become familiar with the HOME / HTF / HOME-ARP regulations and compliance resources available and appropriate to the property.

If OHCS or HUD determines that any provision of this manual is in conflict with 24 CFR Part 92 (HOME), or 24 CFR Part 93 (HTF), the federal regulation will govern. This Compliance Manual may be superseded without notice by changes in income determinations under Part 5 of the Section 8 Program and technical revisions in the HOME Program and HTF Program.

This manual has not been reviewed by HUD and should not be cited or relied upon for interpretation of federal regulations

It is the responsibility of OHCS' Portfolio Compliance and Asset Management to monitor the continuing compliance of HOME, HTF, and HOME-ARP funded projects in accordance with the HUD regulations and to ensure that property owners retain the housing units as affordable throughout the affordability period and the OHCS Compliance Period, if applicable.

Unless otherwise stated, compliance requirements as described in this manual are specific to both the HOME Program and the HTF Program. The HOME–ARP Program will be identified and described when applicable.

The HOME / HTF / HOME-ARP Compliance Manual is located on our website on the HOME Compliance webpage.

EQUAL HOUSING OPPORTUNITY

Section 1: Program Overview

Properties that have been developed using HOME / HTF / HOME-ARP funds are subject to specific rules designed to ensure that they remain affordable to low-, very low-, and extremely low-income households throughout the required affordability periods, and if applicable, specific populations as identified per the regulation and regulatory documents.

The following provides a brief overview of HOME, HTF, and HOME-ARP Program regulations directly affecting property compliance.

Part 1.01 – HOME Investment Partnerships Program (HOME)

The HOME Investment Partnerships Program (HOME) was created under Title II (the Home Investment Partnerships Act) of the Cranston-Gonzalez National Affordable Housing Act of 1990. Implementing Regulations for the HOME Program are codified at 24 CFR part 92.

Oregon Housing and Community Services (OHCS) serves as one of the **Participating Jurisdictions (PJ)** in the State of Oregon responsible for administering the HOME Program. OHCS and local government entities approved as PJs receive direct allocations of HOME program funds from the Department of Housing and Urban Development (HUD)

HOME Program Description

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).

The 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).

2013 HOME Final Rule

Housing and Urban Development (HUD) published a Final Rule in the Federal Register on July 24, 2013, to amend the HOME Program regulations. These amendments represent the most significant changes to the HOME program in 17 years. Most of the Final Rule provisions apply to properties that received HOME funds on or after August 23, 2013.

Key Final Rule dates include:

- 2013 HOME Final Rule was published 7/24/13
- Majority of changes are effective as of 8/23/13
- Some changes have delayed implementation dates

HUD has published the new HOME Final Rule Applicability Charts on the HUD website. These charts summarize the changes made to the Final Rule and clarify how those requirements apply to existing and/or new HOME projects affected by the 2013 HOME Final Rule by assigning them into one of three categories.

The three categories are as follows:

- Category 1: Requirements to clarify or codify existing requirements – Applicable to all HOME projects – regardless of when funds were committed.
- Category 2: New project requirements – Applicable to new projects only (funds committed on or after 8/23/2013).
- Category 3: New program requirements applicable to all projects.

The HOME Final Rule Applicability Chart is available on the HUD Exchange website at: 2013 HOME Final Rule Requirements Applicability Charts

2025 HOME Final Rule

The 2025 HOME Final Rule changed the HOME statute and existing HOME program regulations through an extensive and comprehensive review which recognized opportunities to improve and better align regulatory provisions with other programs.

HUD published the Final Rule in the Federal Register on January 06, 2025; these amendments represent the most significant changes to the HOME program regulations since the 2013 Final Rule and incorporated changes made by the Housing Opportunity Through Modernization Act (HOTMA) and National Standards of Physical Inspection in Real Estate (NSPIRE) Final Rules. Most of the Final Rule provisions are retroactive and apply to both new and past properties that received HOME funds on or before April 20, 2025.

Key Final Rule and Extension dates include:

- 2025 HOME Final Rule was published 01/06/2025
- Extension announcements through the Federal Register included:
- 02/03/2025, 02/17/2025 for delayed provisions,
- 10/22/2025 extending the two (2) delayed provisions to 04/30/2026
    - Delayed indefinitely.
- Majority of changes are effective as of April 20, 2026

2025 HOME Final Rule- Key Changes:

- Income Determinations and Verification Methods: These align with HOTMA and are in our 2024 HOME Manual (24 CFR 5.609)
- Asset Verification Methods: Self-Certification allowance for assets under the Asset Threshold.
- (24 CFR 92.203 (e)(1) and 24 CFR 5.618(b)(1) (HOME only)
- PHA Utility Allowance Method: The PHA utility allowance is now allowed in HOME units post 2013.
- (24 CFR 92.252 (b)
- Rent Compliance: Rental Assistance No Longer Added to Gross Tenant Rent- All Federal, State and local rental assistance/subsidies are no longer counted as part of the gross tenant rent.
- (24 CFR 92.252 (a)(1) and (2)
- Rent Compliance: Low-HOME units layered with LIHTC; a unit will be considered Low-HOME if the Gross Rent charged for the unit meets the LIHTC Rent Restriction (24 CFR 92.252 (a)(2)(iii)
  New HOME Commitments: Not eligible at move-in; annual recertifications only at 60% AMI
  Existing HOME properties: Not eligible at move-in; subject to regulatory document review and only at annual recertification with household income at 60% AMI or greater
- Over-Income Home Households in LIHTC Unit- Amended language to be clearer for the reader. When a HOME unit goes over the 80% income limit, the rent will be changed to the LIHTC max rent according to the LIHTC minimum set-aside, typically 60%. There will be no need for a calculation of a 30% adjusted income by management to determine tenant's rent.

- Reminder of New and Updated Income and Asset Exclusions- Three (3) new income exclusions and 17 modified exclusions that also became asset exclusions.
- More information: 2024 Federal Register Federal Register: Federally Mandated Exclusions From Income: Updated Listing and the 24 CFR 5.609 (b)

Part 1.02 – National Housing Trust Fund

The National Housing Trust Fund Program (HTF) is a new affordable housing production program that provides grants to states to produce and preserve affordable housing for extremely low- and very low- income households.

Oregon Housing and Community Services (OHCS) serves as a **Grantee** in the State of Oregon responsible for administering the HTF Program.

The HTF Program was established under Title I of the Housing and Economic Recovery Act of 2008, Section 1131. HUD published the proposed HTF Formula Rule (FR-5246-P-01) on December 4, 2009, and the HTF Proposed Program Rule (FR-5246- P-02) on October 29, 2010.

On January 30, 2015, HUD published an Interim Program Rule (FR-5246-I-03). The interim rule is in effect and provides guidelines for States to implement the HTF program.

National Housing Trust Fund Program Description

The National Housing Trust Fund (HTF) is a permanent **federal** affordable housing production program that complements existing federal, state, and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low-income and very low- income households, including homeless families. Approved uses of HTF funds include production or preservation of affordable housing through the acquisition, new construction, reconstruction, and/or rehabilitation of non-luxury housing with suitable amenities as described in 24 CFR Part 93. All HTF- assisted rental housing must meet a 30-year affordability period.

Part 1.03 – HOME American Rescue Plan

The HOME American Rescue Plan Program (HOME-ARP) Program provides funds to assist individuals or households who are homeless, at risk of homelessness, and other vulnerable populations. These grant funds are administered through HUD's HOME Investment Partnerships Program (HOME).

HOME-ARP Program Description

HOME-ARP funds must be used to assist and primarily benefit individuals or families from distinct Qualifying Populations (QP), targeting homelessness, at risk of homelessness, and other vulnerable populations. The funds are intended to provide housing, rental assistance, supportive services, and non-congregate shelter.

Oregon Housing and Community Services through the HOME-ARP Allocation Plan identified the following to be recognized and supported by Qualifying Populations (QP). HOME-ARP funds must be used to primarily benefit individuals or families from the qualifying populations:

- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking, as defined by the Secretary;
- In other populations where providing supportive services or assistance under section 212(a) of the Act

would prevent the family's homelessness or would serve those with the greatest risk of housing instability;

- Veterans and families that include a veteran family member that meet one of the preceding criteria.

Unless otherwise stated, compliance requirements as described in this manual are specific to both the HOME Program and the HTF Program with additional guidance on HOME-ARP when applicable.

Section 2: Compliance Overview

The following provides a brief overview of key compliance components for HOME, HTF, and HOME-ARP Program regulations that directly affect property compliance. Additional guidance is identified to assist in locating applicable rules, regulations, and resources. It is not a complete listing of compliance regulations and additional review of specific requirements and regulations is encouraged.

Part 2.01 – Basic Concepts and Affordability Requirements

Affordability can best be described when the amount that a household is spending on rent and utilities (tenant rent burden) does not exceed 30% of their monthly income. Both HOME and HTF have rent limits established by Housing and Urban Development (HUD) that are relative to the income limits established for each HOME- / HTF-assisted property.

Area Median Income (AMI) as defined by HUD, is specific to a location (county or multiple statistical area (MSA)) and is used to establish both income and rent affordability limits.

HUD issues income limits for low-income, very low-income, and extremely low-income households on an annual basis. OHCS posts the limits for each program on our Rent and Income Limits webpage.

Definition: Income – HOME Program

24 CFR 92.2

- HUD defines the term "low-income" (LI) for households to be at or below 80% AMI and "very low-
- income" (VLI) for households to be at or below 50% AMI.
- Federal HOME regulations allow for **two types** of HOME-assisted units:
- **High HOME** units are HOME-assisted units reserved for households at or below 80% AMI.
- **Low HOME** units are HOME-assisted units reserved for households at or below 50% AMI.

Note: OHCS uses the 60% AMI Limit as the High HOME Income restriction at move-in. A household is considered over-income for a High HOME-assisted unit when the household's income exceeds 80% AMI at recertification.

Note: OHCS HOME-assisted properties may include HOME-like units that follow federal regulations.

Definition: Income – National Housing Trust Fund (HTF) Program

24 CFR 93.250

- The National Housing Trust Fund (HTF) program uses different income and rent limits than the HOME program.
- HUD uses the term "extremely low-income" (ELI) for households at or below 30% AMI. Regulations require all HTF-assisted units to serve households with incomes at or below 30% AMI.

HOME-ARP

HOME-ARP by itself does not provide income/rent requirements to provide housing, shelter, and supportive services to "Qualifying Populations" (QP).

All awards for HOME, HTF, and HOME-ARP funded properties must be secured throughout the affordability

period by a written, legally binding, recorded declaration of affordability commitment.

Part 2.02 – The HOME "Program Rule" and the "Project Rule"

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

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

In addition, OHCS will tell Owners how many units must be designated as Low HOME Rent units. The Owner/Agent must maintain the original number of High HOME rent units and Low HOME rent units throughout the affordability period.

Note: The Program Rule and Project Rule apply only to HOME funded properties. Properties funded with National Housing Trust Fund (HTF) are not subject to the program rules or project rule.

Part 2.03 – Qualified Project Period: Period of Affordability

The HOME / HTF / HOME-ARP Declaration of Restrictive Covenants (Regulatory Agreement) are recorded as a lien/encumbrance and create a deed restriction against the property. The Regulatory Agreements for the HOME and HTF Program outline the restricted rent and income limits for households residing in a HOME- / HTF-assisted unit and specify the required term of affordability that must be maintained. The Owner/Recipient must record the restrictive covenants within 30 days after receipt. OHCS will not allow HOME or HTF recipients to "buy out" of the affordability requirements.

Period of Affordability: HOME

The minimum HOME program term of affordability can be found in the property's regulatory documents and is based on the amount of HOME funds allocated per unit. HOME recipients opting for a longer affordability period in the Oregon Centralized Application (ORCA) (formerly NOFA) will have a deed restriction which will reflect the extended period. It is important to be familiar with the regulatory agreements (Declaration, Grant, and Loan) 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.

Period of Affordability: National Housing Trust Fund Only

OHCS generally requires a 60-year affordability period for multifamily rental housing projects. However, due to the extremely low-income (ELI) requirement for HTF (tenants must be at or below 30 percent of AMI), OHCS Housing Stability Council approved the minimum federal requirement of **a 30-year affordability period for HTF projects**. The affordability requirements will be imposed by deed restrictions and use restrictions (same as HOME).

Similar to HOME, 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. The affordability period begins once the property has completed all requirements.

Period of Affordability: HOME-ARP

OHCS established a **20-year affordability period for HOME-ARP projects**. The affordability requirements will be imposed by deed restrictions and use restrictions (same as HOME).

Part 2.04 – Integrated Disbursement and Information System

24 CFR 92.502(d); 24 CFR 93.402(b) and (d)

- The Integrated Disbursement and Information System (IDIS) provide HUD with current information regarding Community Planning and Development activities (CPD) underway across the nation. It may be used to determine project completion.
- Definition of Project Completion can be found at 24 CFR 92.251 (HOME) and 24 CFR 93.301 (HTF).
- The IDIS date establishes when full recertifications must be conducted, every 6th year, using source documentation.

Part 2.05 – HOME and National Housing Trust Fund Unit Designations

24 CFR 92.252(j) / 24 CFR 93.302(g)

- Owners may choose to establish either a "Fixed" or "Floating" unit designation for the HOME- / HTF-assisted units at their property. Assisted units must be designated as fixed or floating at the time of project commitment in the written agreement, and the actual HOME- / HTF-assisted units identified no later than the time of project completion.
- The Declaration of Covenants, Conditions and Restrictions and HOME Grant Agreement / National Housing Trust Fund Grant Agreement should contain and describe the unit designation and the actual number of assisted units at the property.
- **Fixed Units**. Designated units are identified by unit number and never change. Units in properties where all units are assisted are automatically considered fixed. Fixed units will remain the same throughout the affordability period. Any non-assisted units at a property with fixed program units will remain non-assisted and can be rented without regard to HOME / HTF rent and income restrictions.
- **Floating Units.** Designated units may change during the affordability period as long as the total number of assisted units meets the requirements set out in the application and recorded declaration. If a property's Declaration does not specify comparable floating units, then the units that were initially HOME- / HTF- assisted upon project completion will be used to determine comparable floating units. Each substituted unit must be comparable in terms of size, features, and number of bedrooms to the originally designated program assisted unit.

Once the designation for "Fixed" or "Floating" units is made, the assisted units must remain as designated throughout the affordability period.

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

For more information, please refer to Section 7: Maintaining the Unit Mix.

Note: A unit may NOT be both HOME-assisted and HTF-assisted.

Note: A property may have both HOME and HTF-assisted units.

Part 2.06 – Income and Rent Determinations (Requirements)

Income Limits

The maximum amount of annual gross income that a household may earn to qualify for a HOME- / HTF-assisted unit is called the Income Limit. HUD establishes both HOME and HTF income limits for different localities and adjusts them for a household size, from one to eight persons. These limits establish the specific maximum annual dollar amount that a low-income, very low-income, and extremely low-income household can earn in order to qualify to reside in a HOME- / HTF-assisted unit. Please refer to your HOME / HTF Grant or Loan Agreement to confirm how many units must be reserved for housing tenants at the defined income limit. The property must maintain these income percentages throughout the affordability period. **Please refer to Section 6: Income Limits for program specific requirements.**

Maximum Rent Limits

HUD requires that the rents being charged for HOME- / HTF-assisted units are affordable to low, very low and extremely low-income households. HUD provides HOME and HTF rent limits to define what is affordable. OHCS posts these limits each year on our website.

Subsidy Requirements

Both HOME and HTF Programs prohibit properties from collecting more than the maximum HOME and HTF rents *unless* the subsidy is project-based subsidy or project-based vouchers. **Please refer to Section 6, Part 6.04 Subsidy Programs.**

Part 2.07 – Utility Allowances

The Participating Jurisdiction (PJ) (HOME) and Grantee (HTF) must establish monthly allowances for utilities and services and annually review and approve rents proposed by both HOME-and HTF-assisted project owners. If the tenant is paying the utilities, the PJ and Grantee must ensure that the rents do not exceed the maximum rent minus the monthly utility allowance. **Please refer to Section 6, Part 6.07 Utility Allowances.**

Part 2.08 – Student Eligibility Requirements (HOME only)

The 2013 HOME Final Rule updated the definition of housing to exclude dormitories and all types of student housing, not just student dormitories. The HOME program has adopted the Section 8 Program restrictions on student participation found at 24 CFR 5.612. 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.

Owner/Agents are required to **verify student status at move in and annually** of all occupants that reside in a HOME assisted unit. **Please Refer to Section 4, Part 4.07 for more information on student eligibility.**

Part 2.09 – Administrative Notebook

Each property is required to maintain on-site and have available for review an Administrative Notebook. The Notebook **must** contain the following:

- Copies of all Regulatory Agreements (Reservation, Declaration, Loan or Grant Agreement and all others

that apply) applicable to all program and funding types
- Applicable current, yearly income limits
- Applicable yearly minimum and maximum rent limits (HUD established)
- Minimum and Maximum Rent Limits in Effect at Initial Grant or Loan Agreement
- Current and proposed rental and utility rates for the following year; including OHCS rent approval
- Latest utility allowance documentation
- Resident Services Plan with supporting documentation
- Current Affirmative Fair Housing Marketing Plan and records demonstrating reviews of the plan on a periodic basis; including copies of advertising – ads, flyers etc.; certificates of staff training
- Copy of VAWA Policy, Notice and Emergency Transfer Plan Documents
- Ongoing Lead-Based Paint Maintenance Plan (HOME requirement)
- Copy of e-signature Policy (if applicable)
- Copy of the Prospective Tenants and Applicants Notice, and other applicable Publicly Supported Housing
- Contract Preservation (PuSH-CP) Notices (PuSH Process)

OHCS recommends that the following be placed/maintained in the Administrative Notebook:

- Current Management Plan
- Previous years income limits; i.e. 2023, 2024, 2025
- Previous years minimum and maximum rent limits; i.e. 2023, 2024, 2025

Part 2.10– Program Administration and Record Keeping

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

Inspections:

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

Monitoring Report(s)

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

Individual Tenant File Requirements

- Please refer to Section 11 in this manual for a list of requirements.

Part 2.11 – Suitable for Occupancy

In addition to being rent-restricted and occupied by qualified households, all program units and buildings must be maintained in decent, safe, sanitary, and in good repair. The Owners are required to ensure that all buildings and units in the project meet this standard and are in compliance with state and local code requirements and ordinances. If any health, safety, or building code inspections result in a notice of violation,

this must be disclosed. Original reports/notices of violations must be maintained as part of the owner's recordkeeping and copies must be submitted to OHCS along with the Annual Owner CCPC.

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

Property Incident and Planned Activity Notification (formerly known as a Casualty Loss)

Owners and/or Agents are required to notify OHCS immediately upon discovering that a property has experienced a property incident and/or suffered an incident affecting the physical condition(s) of the property. A property incident is defined as an unintended event that disrupts the normal operations of a portfolio property.

- A property incident may involve "damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual." They can include events such as fires, floods, damage caused by vandalism, car accidents, tornadoes, and hurricanes.

Owners and/or Agents are also required to notify OHCS of any planned activity that would change the character, design, or function of any building, site element, or system as described in the original construction documents.

- A planned activity may include large scale window or roof replacements, exterior trim replacement, vehicle parking modifications, and modifications with sidewalks, stairs, or ramps.

OHCS requires notification for HOME- / HTF-assisted units that have suffered physical damage which render the HOME- / HTF-assisted units, common areas, or buildings associated with the property to be determined unsuitable for occupancy and/or safe usage be reported. Failure to report may be determined as noncompliance with the NSPIRE or State and local standards.

The Property Incident and Planned Activity Notification is located on OHCS website.

Part 2.12 – Record Retention

CFR 92.508(c); 24 CFR 93.407

- All records pertaining to each fiscal year of HOME funds and HTF 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."
- Lead-Based Paint information and records must be kept for at least three years.
- All records must be available upon request for Compliance staff review. If the property has Low Income Housing Tax Credits, refer to the LIHTC Compliance Manual for further record retention requirements.

Part 2.13 – OHCS Portfolio Compliance and Asset Management

Once HOME funds and HTF funds from OHCS are allocated to a property, HUD requires OHCS, as the

Participating Jurisdiction (PJ) (HOME) and Grantee (HTF) to monitor program compliance on an ongoing basis. However, 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' Compliance and Asset Management 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 and HTF 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 a desk audit that includes review of the annual OHCS HOME / HTF Monitoring Report(s) that is required to be submitted with the annual Owner certification (CCPC) each year;
- Review each HOME / HTF property based on OHCS' risk analysis monitoring procedure.
- 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.
- Review and analyze of required annual Financial Reports.

Part 2.14 – The Compliance Analyst's Responsibilities

Portfolio Management (PM) is responsible for monitoring Portfolio properties. The assigned Compliance Analyst (CA) 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 / HTF Grant Agreement(s), HOME / HTF 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;
- Property's Fair Housing Violations; and
- Compliance with VAWA Requirements
- Administrative Notebook (MRQ review and during site visit)

The Compliance Analysts will also:

- Provide technical assistance to the sponsors, Owners, and Agents when needed or requested to assist

in that the O/A understands compliance with program requirements;
- Review 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 after giving the Owner reasonable time to correct the issues of noncompliance (depending on severity of noncompliance);
- 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 to establish each property's risk analysis and rating.

Part 2.15 – Procorem

Procorem is the secure file sharing system used by OHCS. There is a WorkCenter set up in Procorem for each property with Owner/Agent contacts being established as collaborators in each property WorkCenter.

Procorem is used for sending the annual reporting CCPC forms to our partners and for our partners to return their financial data, completed annual reporting forms and supporting documentation to OHCS; including the submission of all Tenant Events for all properties funded with LIHTC, American Recovery and Reinvestment Act (ARRA) (TCAP and Section 1602 Exchange), OHCS HOME, National HTF, LIFT-Rental, Risk Share, or any combination thereof.

If you are unsure if you have a Procorem account with access to your property WorkCenter, or have had staff changes in the last year, please contact OHCS at OHCS.CCPC@hcs.oregon.gov.

Part 2.16 – Statewide and 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 are completed for the property and accepted by the participating agencies. OHCS may attend the physical inspection along with the partner agencies and/or NSPIRE 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 National Housing Trust Fund Program (HTF)
- 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

Part 2.17 – Housing Opportunity Through Modernization Act of 2016 (HOTMA)

This manual has been updated to include HOTMA provisions, including requirements from the HOTMA final rule and HUD Notice H 2023-10 / PIH 2023-27 "Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016."

- Section 102 of HOTMA redefines income and asset calculations and verification requirements and is applicable to certifications effective on or after 1/1/24. Notice updated 2/05/2024.
- On December 8, 2023, HUD published the Housing Opportunity Through Modernization Act (HOTMA): Implementation of Sections 102, 103 and 104; Extension of Compliance Date Notice in the Federal Register to extend the compliance date of the HOTMA Final Rule to January 1, 2025, for all Community Planning and Development (CPD) programs that use HUD's 24 CFR Part 5 income regulations.
- On January 31, 2024, HUD published in the Federal Register a notice that listed federally mandated exclusions from consideration of income. On January 06, 2025, HUDs 2025 HOME Final Rule resulted in updates to the HOME compliance. These updates have been incorporated in this Manual.

Part 2.18 – NSPIRE

Properties with HOME- / HTF- assisted units must meet the National Standards for the Physical Inspection of Real Estate (**NSPIRE**) standards established by HUD. The NSPIRE final rule includes conforming changes and establishes specific deficiencies that must be corrected in HOME- and HTF-assisted properties.

On June 22, 2023, HUD published the NSPIRE Inspection Standards Federal Register Notice, establishing a compliance date of October 1, 2023. On September 18, 2023, HUD published a notice in the Federal Register to extend the compliance date to October 1, 2024.

OHCS updated ongoing property standards and inspection policies and procedures to ensure compliance with the October 1, 2024, compliance date. **For information on OHCS inspection process, see Section 11.**

Part 2.19 – Electronic Signatures

Owners, management agents, and tenants associated with affordable multifamily housing programs, including the LIHTC, administered by Oregon Housing & Community Services (OHCS) are now permitted to utilize electronic signatures to endorse compliance-related documentation monitored by Portfolio Management. For guidance, please refer to OHCS's Electronic Signature Policy

Section 3: Responsibilities

The entities involved in project compliance include Oregon Housing and Community Service (OHCS), the Owner and Management Agent (O/A), including onsite management personnel. The various responsibilities for these entities are described below.

Part 3.01 – Responsibilities of OHCS

OHCS allocates and administers HOME, HTF, and HOME-ARP housing programs for the State of Oregon. Once OHCS allocates funds to a property, HUD requires OHCS, as the Participating Jurisdiction (PJ) (HOME), and Grantee (HTF) to monitor program compliance on an ongoing basis. It is the responsibility of the property Owner to ensure that compliance with all program requirements and regulations is met throughout the affordability period. OHCS will not assume liability for consequences which result from the Owner's noncompliance. The responsibilities of the Portfolio Management (PM) Section include the following:

Review of Annual Owner Certifications and Annual Financial Information

OHCS will review the Annual Owner Certification of Continued Compliance (CCPC) for each property. **Please refer to Section 5: Part 5.03**

Review of Annual Financial Information

In addition, for each HOME or HTF project, OHCS annually reviews the financial condition of the project to determine "the continued financial viability of the housing" in accordance with the Financial Oversight requirements of the HOME and HTF regulations. OHCS must take action, as feasible, to correct any problems identified through a financial review. OHCS Asset Management (AM) staff will contact each affected property annually to request the necessary information. **Please refer to Section 5: Management Overview and Reporting Requirements for additional information**

Conduct Program Monitoring, including File Reviews and Physical Unit Inspections

All properties will be subject to a review of property management operations, including tenant file reviews and physical inspections within 12 months of occupancy, and at least once every three years. OHCS retains the right to perform a file review and/or physical inspection of any building and/or unit at any time during the Affordability Period, with or without notice to the owner.

Decisions to monitor/inspect more frequently may be based on tenant complaints or OHCS' assessment that a project is high risk. **Please refer to Section 11: Compliance Monitoring for additional information.**

Regulatory Reviews, Regulatory Audits and Regulatory Inspections are conducted to provide a review of property management operations, tenant file audits and physical unit inspections. The regulatory physical unit inspections will be conducted per the NSPIRE inspection protocol.

Remedying Noncompliance

When noncompliance is discovered, OHCS will work with the owner and/or management agent to remedy the issue during a correction period.

Approve HOME and HTF Rents

OHCS must approve the property's rent structure at lease-up and must approve all rent schedules (whether or not there is an increase) for all HOME- and HTF-assisted projects prior to implementation throughout the affordability period.

A property is restricted to only one annual rent increase. Please see Section 6: Part 6.04 for additional information on approval of rents for HOME-/HTF-assisted units.

This rule applies to both the HOME and HTF programs.

Suspension and Debarment

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

Training

OHCS will conduct or arrange compliance trainings and will disseminate information regarding the dates and locations of such training to its partners when available.

Part 3.02 – Responsibilities of the Owner

Each Owner has chosen to participate in the HOME, HTF, and HOME-ARP Program to take advantage of available funds. In exchange for accepting HOME / HTF / HOME-ARP funds, certain requirements must be met by the Owner that will benefit qualified low-income tenants.

The requirements include Owners placing qualified tenants in the required number of Low HOME rent and High HOME rent units as described, and the minimum number of HTF rent units as described in the HOME / HTF Grant Agreement and Restrictive Covenant charging appropriate rental rates for each qualified unit and maintaining documentation and verification of qualified low-income tenants.

The Owner must certify each year that all program requirements have been met. Any violation of program requirements could result in the owner being required to repay federal or state funds and may jeopardize future applications for OHCS funding.

In accordance with the HOME Program and HTF Program regulations, the Owner of a property receiving a HOME / HTF allocation is required, by acceptance of the allocation, and not limited to, the following responsibilities:

1. Manage the property in accordance with the HOME and HTF 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.
2. Certify annually 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 (CCPC)).
3. The O/A must verify and certify tenant income eligibility at move-in and recertify at least annually

thereafter. Every sixth year of the affordability period, income and income from assets must be verified again. **Note:** Properties with HOME funds must also certify student eligibility at move-in at least annually thereafter throughout the affordability period.

4. Leasing units to eligible households in a non-discriminatory manner.
    a. OHCS does not provide a model lease agreement.
    b. The O/A must execute lease agreements with tenants that incorporate specific provisions that establish tenant responsibilities and avoid certain prohibited fair housing, and other provisions.
    c. Each lease must be in writing and include the legal name(s) of the parties to the agreement and all other occupants, a description of the unit to be rented, the term of the lease, the rental amount, the use of the premises, and the rights and obligations of the parties.
    d. The lease shall also inform the tenant that fraudulent statements are grounds for eviction and that the tenant could become subject to penalties available under federal law.
    e. The lease must be for a period of not less than one year unless a shorter period is mutually agreed upon between owner and tenant.
5. Please refer to Section 4, and Section 10, Part 10.05 for more information on leasing requirement
6. Please refer to Section 4: Project Requirements for more information on fair housing and tenant selection plans.
7. Implement rent structure approved by OHCS at lease-up, obtain OHCS approval for annual rent schedules, and request approval from OHCS for any future rent increases prior to implementation. The approval from OHCS for yearly rent schedules and rent increases is required of HOME- / HTF-assisted properties throughout the affordability period. Please refer to the Rent Policy (Updated in April 2025) available on OHCS website.
8. Charging no more than the maximum allowable rents (including utility allowances and non- optional fees). Please refer to **Section 6** for more information on rent limits and maximum allowable rent.
9. The owner is responsible for ensuring that the property is maintained in a decent, safe, and sanitary condition in accordance with appropriate standards. Failure to do so is an act of noncompliance. **Please refer to Section 11: Part 11.08 – On-Site Physical Inspections for more information.**
10. 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.
11. Retain records/property files documenting eligibility for the HOME final allocation for at least five years after the last year of the compliance period.
12. Assume liability for any instances of noncompliance and the correction of such deficiencies
13. Submit, within 30 days of receipt, a copy of any formal housing discrimination complaint filed against the Owner or Agent.

If the O/A fails to perform any of the provisions of the applicable regulatory agreements and does not correct such failure within the time frame that Compliance and Asset Management may authorize, OHCS may provide written notice of default to the Owner and terminate the agreement. Should the Agreement be terminated, the Recipient (Owner) is liable to repay all of the HOME funds and HTF funds disbursed to the property.

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

- In selecting a managing agent and/or consultant, **the owner MUST verify with the Oregon Real Estate Agency that the management agent selected holds either a current/active Principal Broker's license**

or Property Manager license, in addition to ensuring that the agent and consultant and all on-site personnel are knowledgeable of the provisions and requirements of the tax credit program and are experienced with managing a tax credit property.

The Owner must ensure that onsite Agent representatives know, understand, and comply with all applicable federal and state rules, regulations, and policies governing the development, including all elections made in the application, award agreement, and lien/restrictive covenant.

As a best practice, OHCS encourages the Owner to make certain that the Agent and compliance personnel are familiar with the most current edition of the OHCS Compliance Manual, the required compliance forms, information on OHCS' compliance manual webpage, and the online reporting requirements through Procorem, the OHCS Online Management System.

If the owner determines that a unit, building, or an entire property is out of compliance with program requirements, OHCS should be notified immediately.

The owner must formulate a plan to bring the property back into compliance and advise OHCS in writing such a plan. The owner must keep documentation outlining:

- the nature of the noncompliance issue,
- the date the noncompliance issue was discovered,
- the date that noncompliance issue was corrected, and
- a description and proof of the actions taken to correct the noncompliance.

If there is a change in management agent/companies, the Owner is responsible for providing all information and previous tenant files to the new management company. If there is a change in ownership, the existing/previous owner is responsible for providing all award documentation and previous tenant files to the new owner or be subject to Suspension and Debarment consequences.

Please refer to Section 5: Management and Reporting Requirements for additional information.

Part 3.03 – Responsibilities of the Management Agent

The management agent selected is responsible to ensure that all Oregon Real Estate Licensing requirements are continuously met and holds a current and active Principal Broker's license or Property Manager license.

The managing agent and on-site personnel are responsible to the owner for implementing the Risk Sharing Program requirements as well as all other OHCS funding requirements. All personnel responsible for maintaining program compliance must have a thorough understanding of and follow all federal, state, local, fair housing and landlord/tenant laws, rules and regulations. Management agents are responsible for obtaining all necessary information pertaining to the property and the funding sources involved in order to maintain compliance.

Further, the managing agent must provide information requested by OHCS 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 signature authority documented with OHCS. Managing agent personnel should ensure that tenant occupancy information remains confidential and is accessible to authorized representatives of OHCS, HUD, IRS and Fair Housing.

Section 4: Project Requirements

The entities involved in project compliance include Oregon Housing and Community Services (OHCS), the Owner and Management Agent, including onsite management personnel. This Section outlines Program requirements.

Part 4.01 – Written Agreements and Regulatory Agreements

24 CFR 92.252; 92.504 / 24 CFR 93.404(b) and (c)

- OHCS and the property Owner are required to execute a legally binding written agreement holding the owner accountable for HOME, National Housing Trust Fund (HTF), and HOME-ARP Program regulations during the affordability period and additional OHCS Compliance Period, if applicable.

Regulatory Agreement

For properties receiving HOME, HTF, and HOME-ARP funds, the written agreement (Regulatory Agreement) typically takes the form of a land use restriction. This document, recorded with the local Register of Deeds of each county, is a deed restriction that binds all subsequent owners of the property.

The HOME and HTF Regulatory Agreement contains important information including the number of HOME-assisted and HTF-assisted units, the unit mix requirements and whether the units are fixed or floating. The following chart describes examples of contents included in Agreements.

Written agreement compliance Items:

- Participating Jurisdiction identity
- Affordability period
- Number of low- and high-HOME units
- Number of accessible units
- Rent details
- Reporting requirements
- Additional set-asides for project, if any
- Project description
- Number of HOME/ HTF-assisted units
- Fixed or floating designations
- Target population (e.g., mixed-use, special needs, etc.), if any
- Guidelines for marketing and managing accessible units, if applicable
- Definition of income

Part 4.02 – Project Completion

24 CFR 92; 92.251 / 24 CFR 93.402

The HOME and HTF Affordability Period begins when a HOME / HTF project is completed. HOME and HTF projects are “completed” when certain conditions are met, including the following:

- Construction completion
- Title transfer

- Compliance with property standards
- HOME/HTF funds disbursed and drawn, and
- Required completion information has been entered into HUD's Integrated Disbursement Information System (IDIS) system.

The date OHCS enters the required information into IDIS becomes the "completion date" which starts the beginning of the HOME and HTF Affordability Period for the property.

HOME only: The 2013 HOME rule at 92.252 imposes two deadlines within which the units must be occupied by low-income households:

- Within six (6) months from the date of project completion, if a rental unit remains unoccupied, the PJ must provide HUD information about current marketing efforts and, if appropriate, submit a marketing plan.
- Within 18 months from the date of project completion, if efforts to market the unit are unsuccessful and the unit is not occupied by an eligible tenant, HUD will require repayment of all HOME funds invested in any unit that has not been rented to an eligible tenant. A unit that has not served a low- or very low-income household has not met the purposes of the HOME program. Therefore, the costs associated with the unit are ineligible.
- It is recommended that tenant information will be inputted as soon as it becomes available and at least before the annual tenant report.

Part 4.03 – Affordability and Compliance Periods

24 CFR 92.504 / 24 CFR 93.302(d)

The HOME and HTF restrictive covenants (set forth in the Regulatory Agreement) are recorded as an encumbrance against the property. Regulatory Agreements outline the restricted rent and income limits for households residing in a HOME- / HTF-assisted unit and specify the required term of affordability that must be maintained.

HOME Affordability Period (statutory federal period)

All HOME projects have a statutory federal affordability period during which time noncompliance may result in HUD's requirement to recapture and the owner's obligation to repay the HOME funds. The federal HOME Affordability Period is 5, 10, 15, or 20 years and is based on the construction type and/or HOME dollars invested, as indicated in the chart below.

Table 1: HOME Affordability Period

Rental Housing Activity	**Minimum period of affordability in years**
Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under $25,000	5
$25,000 to $50,000	10
Over $50,000 or rehabilitation involving refinancing	15
New construction or acquisition of newly constructed rental housing	20

For properties funded after August 2013 (HOME only), the affordability period begins once the property has completed all requirements.

Additional OHCS (State of Oregon) Compliance Period (if applicable):

Many HOME projects have an additional OHCS (State of Oregon) Compliance Period that begins with project completion and continues after the federal HOME Affordability Period has ended. For properties funded with OHCS HOME funds, it is common for the affordability period to range from 30 to 60 years.

National Housing Trust Fund Affordability Period (statutory federal period)

All National Housing Trust Fund (HTF)-assisted units must meet the affordability requirements for a period of not less than 30 years, which begins at project completion. The affordability restrictions may be terminated upon foreclosure or transfer in lieu of foreclosure; in those situations, the grantee is obligated to repay all HTF funds invested in the project.

If a project is terminated, the HTF recipient is obligated to repay all HTF funds invested in the project. The termination of the affordability restrictions on a project in foreclosure does not terminate the grantee's repayment obligation.

Similar to HOME, 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.

Part 4.04 – Tenant Selection Requirements

24 CFR 92.253(d) / 93.303(d)

Tenant Selection Plan – Overview

Owners and Agents must comply with requirements to help ensure that all households have fair and equal access to HOME- / HTF-assisted housing. 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.

HUD regulations require the owner to have a written Tenant Selection Plan (TSP) that clearly specifies how households will be selected from the waiting list by describing eligibility requirements and the screening policies implemented by management. The TSP must comply with affirmative marketing requirements established by the Participating Jurisdiction (PJ) and Grantee.

Tenant Selection Plan – Required Elements

The TSP must contain all of the required elements listed below and OHCS must pre-approve the TSP prior to implementation of any marketing or tenant selection as part of the Management Agent Packet (MAP) approval process. The written policy must clearly state the procedures and criteria the owner will consistently apply in drawing applicants from the waiting list, screening for suitability for tenancy, and implementing income targeting requirements. Existing tenants of units who will remain in the unit after HOME / HTF assistance is made available are subject to other eligibility requirements of HOME- / HTF- assisted tenants, but not to the selection policies and procedures outlined in the TSP. The TSP must be made available to all applicants and tenants and will be reviewed by OHCS during compliance monitoring.

Tenant selection procedures must be consistent with the purpose of providing housing for low-income and very low-income families.

Owners are required to adopt and follow tenant selection policies, procedures, and criteria that:

- Limit the housing to income-eligible families (low-income, very low-income, and extremely low-income);
- Are reasonably related to the applicant's ability to perform the obligations of the lease;
- Clearly identify the criteria and articulate all requirements of occupancy and any locally established preferences or priorities;
- Do not exclude applicants and vouchers under Section 8 Tenant-based Assistance; Housing Choice Voucher program or HOME Tenant-based Rental Assistance;
- Provide for the selection of tenants from a written waiting list in the chronological order of their applications, including when properly assigning Section 504 accessible units to fill vacancies at the property;
- With the exception of accessible or special needs units, and approved preferences, all units should be leased on a first-come first-served basis with tenants selected in chronological order from the waiting list;
- Provide immediate written notification to any rejected applicant of the specific grounds for rejection and maintain records of the rejection;
- Provide for reasonable accommodations for persons with disabilities to ensure they have equal access;
- Include a plan to re-designate HOME assistance when a household residing in a HOME-assisted unit has annual income that has increased and goes over 80% AMI; and
- Include a plan to re-designate HTF assistance when a household residing in an HTF-assisted unit has annual income that has increased and goes over 30% AMI.

The tenant selection procedures should describe the HOME / HTF requirements that affect tenants and tenant selection in terms that are clear and easy to understand. Specifically, the procedures related to HOME / HTF Compliance should describe the following:

- How vacant units will be filled;
- HOME- / HTF-assisted unit occupancy requirements;
- Nondiscrimination policies and the affirmative marketing procedures, including accessibility requirements;
- Comply with the Violence Against Women Act (VAWA) requirements prescribed in 24 CFR 92.359
- 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

There are no federal or state requirements regarding criminal or credit background checks, landlord references, or a minimum income necessary for occupancy. Implementation of these types of selection criteria is up to O/A discretion, as long as the screening criteria is applied equally, and consistently to all applicants and do not violate any Fair Housing or related regulations. Screening criteria must also comply with requirements of any other funding sources.

Note: Surety bonds, security deposit insurance, or instruments similar to surety bonds and security deposit insurance **may not be used in lieu of or in addition to a security deposit** in HOME-assisted units.

Tenant Selection Plan – Criminal Background Checks

Owners implementing criminal background checks must ensure that they do not violate Fair Housing. Tenant selection plans and screening criteria must be established in compliance with HUD's "**Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate Related Transaction"** notice issued on April 4, 2016.

Per that Notice, arrest records are not sufficient basis for denying an application. Conviction records may be used for tenant screening, but "a blanket prohibition on any person with any conviction record- no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then" is not permissible. Tenant selection policies must "accurately distinguish between criminal conduct that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not" and must "take into account the nature and severity of an individual's conviction."

The Office of General Counsel at HUD is currently updating guidance regarding citizenship requirements. Owner/Agents are encouraged to consult with a Fair Housing attorney for these matters.

Tenant Selection Plan – Citizenship

Additionally, there are no regulations governing citizenship requirements for units assisted by the programs covered in this manual. Since the Fair Housing Act does not prohibit discrimination based solely on citizenship status, owners may ask applicants to provide documentation of citizenship or immigration status as part of the screening process. If the owner chooses to implement such a policy, the screening criteria must be established in writing and applied in a uniform, nondiscriminatory fashion with caution to avoid any discriminatory impact based on Fair Housing protected classes- particularly race, color, or national origin. **It is recommended that legal consultation be considered**. Owners should be aware that other housing programs (such as Section 8, or other HUD programs) may have stricter citizenship requirements that must be followed if the project has additional funding sources.

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.

When creating a property's Tenant Selection Plan, the owner must be careful to follow all applicable eligibility regulations, nondiscrimination requirements including Fair Housing, the Violence Against Women Reauthorization Act (VAWA), the Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Rule, HUD guidance on criminal background checks, and applicable local occupancy standards.

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.

Tenant Selection Plan – Preferences

The Tenant Selection Plan must state whether or not there are any preferences in the admission of tenants, citing supporting documentation to ensure nondiscrimination in the selection of tenants.

Special populations: 24 CFR 92.253(d)(3)(i) and (ii)) provide that any limitation or preference for HOME-assisted housing must not violate nondiscrimination requirements listed in 24 CFR 92.350, and clarify that a limitation or preference does not violate nondiscrimination requirements if:

1. The housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., HUD's Section 202 supportive housing for the elderly, Section 811 housing for persons with disabilities, etc.) or,
2. HUD also permits preferences to be given to disabled families who need services offered at a project if certain conditions are met. Specifically, HUD permits preferences for occupancy of HOME-assisted units for disabled individuals who need services offered at a project if:
    a. The disability significantly interferes with their ability to obtain and maintain housing;
    b. They are not able to obtain and maintain housing without appropriate supportive services; and
    c. The services cannot be provided in a non-segregated setting.

An owner of HTF-assisted rental housing may limit eligibility or give preference to a particular segment of the population if permitted in its written agreement with the grantee (and only if described in the grantee's consolidated plan) and preference is established in accordance 24 CFR 93.303(d).

Note: OHCS pre-approval of preferences is required and approved preferences must be included in the Tenant Selection Plan. If such a preference is approved, the owner may advertise the project as offering services for a particular type of disability/preference, but the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

Part 4.05 – Waiting Lists

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.

The waiting list should provide an auditable record for the selection of tenants in the chronological order on a first-come, first-served basis of their applications, with the exception of when properly assigning Section 504 accessible or special needs units to fill vacancies at the property. It should be noted that final determination of program and property eligibility is made when processing the application from the waiting list.

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

The waiting list should provide an auditable record for the selection of tenants in the chronological order on a first-come, first-served basis of their application, with the exception of when properly assigning Section 504 accessible or special needs units (when applicable) to fill vacancies at the property.

Waiting lists may be maintained in paper form, with the data being manually recorded in such a manner as that is easily readable by an independent party. A waiting list may also be maintained in an electronic format; however, the O/A must have methods in place to track data input and changes made to the list.

Manual Waiting Lists

A manually maintained waiting list must be maintained as a permanent record. Items to consider when establishing and creating the waiting list should include the following:

a) The list must not be rewritten.
b) The list must be maintained in a manner that cannot easily be altered.
c) The list must be kept in a manner that can be audited.

The manual waiting list must provide a record of the date and time of the application received, and the date and time of selection from the waiting list.

Electronic Waiting Lists

Electronic waiting lists must have a mechanism for recording and maintaining the date and time of each applicant's placement on the waiting list and a way to document any changes made to the list.

The following are examples of methods that owners may use to track inputs to the electronic waiting list and changes to it.

a) Use a data backup function to record the time and date of entry of new applications and changes to existing records in the electronic waiting list.
b) Print a record of the waiting list's appearance as applicant's placement on the selection from the list.
c) Whenever status changes occur, such as changes in household composition and unit size the change should be recorded with an explanation, and the recorded list should be printed.

It is important to use electronic safeguards, such as assigning waiting list password access only to individuals responsible for maintaining the system.

Rejected Applicants

- When Owners/Agents deny an applicant because they are ineligible to reside in HOME- / HTF- 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 Analyst during the onsite monitoring visit or other review if requested
- When rejecting an applicant, both the VAWA Notice of Occupancy Rights (HUD Form 5380) and Certification (HUD Form 5382) must be provided at the same time to the applicant.

Part 4.06 – Lead-Based Paint

24 CFR part 35 / 24 CFR 92.251(f)(1)(iii) / 24 CFR 93.351

Housing built before 1978 may contain lead-based paint. Lead from 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. All tenants renting pre-1978 units must receive a federally approved pamphlet on lead poisoning prevention entitled "Protect Your Family from Lead in Your Home".

Exempt Housing

The following properties are exempt from disclosure requirements:

- 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 have 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 and National Housing Trust Fund (HTF) Program requires owners to take actions to reduce lead- based paint hazards in HOME-/HTF-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 regulations require that all occupants receive and acknowledge notice of the possible presence of lead paint.

Ongoing Lead-Based Paint Maintenance Plans

OHCS requires every pre-1978 federally assisted property to have their lead-based maintenance plan on file and documentation available for review to ensure that they are following it. For additional information and guidance, please refer to HUD Guidelines for Lead-based 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 provided to residents prior to many repairs that may disturb lead-based paint in homes built prior to 1978.

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 and HTF funds; **not only to HOME-/HTF-assisted units.** During the compliance review, the Compliance Analyst will monitor to ensure that the Owner has conducted all necessary activities and maintained appropriate documentation in their files.

Part 4.07 – Student Eligibility Requirements (HOME Only)

24 CFR 92.2 (2013); 24CFR 5.612

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

Any **adult 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 <u>both</u> part-time and full-time students.**

Exceptions:

- Student is over the age of 23
- Student is a veteran of the United States Military
- Student is married
- Student is a parent with one or more dependent children
- Student is a person with a disability that was receiving Section 8 assistance prior to 11/30/2005
- Student can prove independence from his or her parents based on the following:
- Of legal contract age under state law; AND
- Has established a separate residence from parents (not counting a dormitory or student housing) for at least one year, or meets the US Department of Education definition of independent which includes an individual who was an orphan or ward of the state through age eighteen (18), is living with a legal dependent, or is a graduate or professional student; AND
- Is not claimed on parents' tax returns; AND
- Parents must certify whether or not they provide financial assistance (this does not affect student eligibility but could affect income eligibility).

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

- If the parents are divorced or separated, get a declaration from both parents.
- If the parents refuse to provide declaration of income and/or statement of whether or not they provide financial assistance, then the household is not eligible.

Households that do not meet this requirement are not eligible to move into a HOME-assisted unit and are prohibited from receiving any type of HOME assistance, including receiving HOME tenant-based rental

assistance, or otherwise participating in the HOME program independent of their low-income or very low-income families.

If a household that is already occupying a HOME-assisted unit later becomes student ineligible, then that household is treated as an over-income household as described in Section 7 of this manual.

Owners/Agents are now required to **verify student status at move in and annually** of occupants that reside in a HOME-assisted unit. At initial certification and annual recertification, each adult household member must complete a Student Status Self-Certification for HOME to certify student status. If the household invokes the student rule and claims to meet an exception, management must obtain proof that the household qualifies and documents the file.

If the household residing in a HOME-assisted unit has qualified students and the household receives student financial assistance, the income may need to be included to the gross annual income. There is no longer a separate process for Section 8 households for this with the adoption of updated guidance from HUD.

Note: New HUD appropriation bill, Consolidated Appropriations Act of 2026, has eliminated the Section 8-specific student financial assistance rule announced February 03, 2026. HUD has removed the language for the Section 8-specific rule but no revisions to the 5.1 Income Inclusions and Exclusions have been received as of April 2026.

Please refer to Section 9 of this manual for additional guidance on student financial assistance.

Part 4.08 – Affirmative Fair Housing Marketing Plan

24 CFR 92.253(d); 92.350; 92.351 / 24 CFR 303(d); 93.350; 93.350(b); 24 CFR part 5, Subpart A

- 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. A project that has **five** or more HOME- / HTF-assisted units is subject to affirmative marketing requirements found at 24 CFR 92.351 (HOME) and 24 CFR 93.350 (HTF) and must adopt and follow an OHCS-approved Affirmative Fair Housing Marketing Plan (AFHMP). The AFHMP must be reviewed at a minimum every five years and must be made readily available for review by OHCS staff.
- The plan must define the affirmative marketing procedures and actions that will provide information and otherwise attract eligible persons in the program service area to the available housing or assistance without regard to race, color, national origin, sex, religion, familial status, or disability.

Required elements of the AFHMP include:

- Identification of those persons across the protected classes that are expected to be “least likely to
- apply”;
- Description of how the owner generally will inform potential participants about fair housing and the project’s affirmative marketing policy;
- Specific procedures or activities that will be used to inform and solicit applications "who are not likely to apply" without special outreach; and
- Delineation of the records that will be kept documenting the affirmative efforts.
- OHCS requires the use of HUD 935.2A
- **Please refer to the OHCS AFHMP Guide.**

Fair housing posters must be posted in conspicuous places (i.e., anywhere management meets with the public) within the property for public viewing. Non-discriminatory advertisements, statements and notices should be used. Discriminatory words, phrases, photographs, symbols, or forms that convey that rental units are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status, or national origin must not be used. All advertisements and office or property signs must reflect the Equal Housing Opportunity slogan or logo

AFHMP Review Process

The plan must be reviewed by OHCS staff. When submitting for review, the AFHMP HUD 935.2A must be fully completed, including copies of census data printouts from the US Census Bureau website showing the percentages of demographic groups identified, and copies of all proposed marketing materials. Upon review, and if determined complete, the CA will provide a letter of acknowledgement of receipt and completion.

All of the census data printouts from the US Census Bureau website showing the percentages of demographic groups identified must be maintained in the Administrative Notebook and available for review.

Part 4.09 – Leases

24 CFR 92.253; 24 CFR 93.303

- All HOME- / HTF-assisted tenants must have a written lease between the tenant and the owner of the rental housing that is for a period of not less than one year, unless by mutual agreement between the tenant and the owner a shorter period is specified. **Please refer to Section 10 of this manual.**

Part 4.10 – Fair Housing and Equal Opportunity

24 CFR part 8; 28 CFR parts 35 and 36; and 24 CFR 100.205 as applicable

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.
- 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, religion, or national origin,*** (protected classes).
- Amended in 1974 to include ***sex*** (gender) as a protected class.
- The Fair Housing Amendments Act of 1998 (Amendments Act - FHAA) added two additional protected classes.
- Expanded coverage of Title VIII to prohibit discriminatory housing practices based on disability and familial status (protected classes).
- **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). 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”.

Owners/Agents must comply with all fair housing laws, which prohibit discrimination in housing and must demonstrate that all applicants and tenants are treated fairly and equitably by:

- Establishing and following standard tenant selection procedures
- Using leases that protect tenants' rights
- Using established procedures to resolve conflicts with tenants
- Maintaining wait lists that meet HUD standards
- Post and maintain the required Equal Housing Opportunity poster in a prominent location so it is readily apparent to all persons seeking housing

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 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 (CPD) (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.
    - **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.
- Sexual orientation and gender identity may not be taken into consideration by an FHA lender in determining the adequacy of a mortgagor's income.

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.

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.

Sexual Harassment

Sexual harassment in housing includes demands for sex or sexual acts in order to buy, rent, or continue renting a home. In October 2017, the Justice Department's Civil Rights Division announced the Sexual Harassment in Housing Initiative (SHHI).

Sexual Harassment is the following:

- Unwanted sexual advances, comments and touching
- Offering to reduce, overlook or excuse late or unpaid rent in exchange for sex
- Offering to reduce, overlook or excuse deposits in exchange for sex
- Evicting or threatening to evict tenants who object or refuse sexual advances
- Demanding or pressuring tenants or potential tenants to engage in sexual acts in order to obtain or keep their housing
- Refusing needed maintenance services to those who refuse harassment
- Enter the homes of tenants without their consent
- Creating a hostile environment

Sexual Harassment behavior can be any of the following:

- Verbally (Sexually explicit questions, jokes, or anecdotes)
- Communication (oral, written, electronic, etc.)
- Visually (images, videos)
- Written (email, notes)
- Non-verbally (looking up and down a person's body; derogatory gestures)
- Physically (repeatedly standing too close to or brushing up against a person; grabbing and/or touching

Disparate Impact

A facially neutral practice, procedure or policy that does not appear to be discriminatory on its face; rather is in one that is discriminatory in its application or effect.

Examples of practices that potentially may cause an issue, include:

- Use of credit scores
- Co-Signers
- Income 4x rent requirement
- Crime provisions in lease agreements or house rules that do not take into account the impact on victims

Elderly Exemptions

The Fair Housing Act provides a specific exemption for housing providers who designate housing for the elderly or near-elderly. Housing may be reserved for the elderly who meet the guidance under the "Housings for Older Persons" program (HOPA). The key to this exemption is not the desire to exclude children, but the intent to provide housing for seniors. Those who intend to operate senior housing should get adequate information about meeting the qualifications.

"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

2016 HUD Notice - Application of Fair Housing Act Standards to the Use of Criminal Records

In April of 2016, HUD provided guidance on "***Application of Fair Housing Act Standards to the Use of Criminal Records***" that addresses screening for criminal history. Specifically, the guidance addresses how the discriminatory effect and disparate treatment methods of proof apply in Fair Housing Act cases in which a housing provider justifies an adverse housing action, such as refusing to rent or renew a lease, based on an individual's criminal history.

Owners/Agents are encouraged to review and to adopt policies to ensure fair housing practices are in place. The referenced guidance can be found at the following link: Office of the General Counsel

State of Oregon Protected Classes

The State of Oregon has additional fair housing laws that are substantially equivalent to the Federal Fair Housing Act. Additionally, some of these laws may impose more stringent design and construction standards for new multifamily housing. The following are state specific 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 and Cities in Oregon Protected Classes

In addition to Federal and State protected classes, some counties and cities in Oregon have designated additional protected classes.

The Americans with Disabilities Act

In most cases, the Americans with Disabilities Act (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.

More information can be found at the following:

- Oregon's fair housing laws can be found in the Oregon Revised Statues (ORS), Chapter 659A.
- For more information regarding fair housing in Oregon, view the Fair Housing Council of Oregon's website.
- Learn more about the Americans with Disabilities Act.
- For information on how HUD processes housing discrimination complaints, see Fair Housing- It's Your Right.
- Office of Fair Housing and Equal Opportunity UFAS Accessibility Checklist.

Part 4.11 – Section 504 / Accessibility

24 CFR part 8; 28 CFR parts 35 and 36; and 24 CFR 100.205 as applicable

- The housing must meet the accessibility requirements of 24 CFR part 8; 28 CFR parts 35 and 36; and 24 CFR
- 100.205 as applicable; and other improvements that are not required by the regulations or statutes that permit use by a person with disability.
- Persons with disabilities have their rights protected under three main laws: ADA, FHAA, and Section 504.
- Section 504 prohibits discrimination based on disability in any program, service, or activity, and requires certain levels of accessibility. Section 504 applies to a smaller number of units than the Fair Housing Act since it does not apply to private owners, but its requirements are stricter.
- For example, housing providers must not only allow reasonable modifications, as required by the Fair Housing Act, but also pay for them.
- The statute prohibits providers from offering housing that is unnecessarily different or separate, requiring that housing for disabled individuals be as integrated as appropriate. In order to ensure accessibility, Section 504 also mandates:
- 5% of a new building or substantial rehabilitation be accessible to those with mobility impairments, and an additional 2% be accessible to persons with hearing or vision impairments.
- Further, the law required not only accessibility, but also targeting, through affirmative outreach to the public.
- For more information, on Disability Rights in HUD Programs visit Section 504 Questions and Answers.

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, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

Regardless of whether a person resides 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.

The Americans with Disabilities Act

In most cases, the Americans with Disabilities Act (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.

Part 4.12–Violence Against Women Act (VAWA)

24 CFR 92.359); 24 CFR 93.303

- 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.
- **The 2022 Reauthorization of VAWA** provides that the Secretary of HUD and the US Attorney General shall implement VAWA enforcement in a manner consistent with Fair Housing enforcement.
- The property is subject to VAWA compliance if it has tax credits, HTF, or HOME funding (if the HOME funds were committed on or after December 16, 2016). OHCS requires all HOME and HTF funded properties to develop and adhere to written policies and procedures in providing protections under VAWA.

VAWA Protections

The property's written **policies** must contain **procedures** describing the implementation of statutory provisions addressing "reasonable time" and "notice of rights" when providing protections under VAWA. 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.

1. Prohibited Denial/Termination
   No applicant for or tenant of OHCS housing may be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.
2. Lease Terms
   The owner/manager shall ensure that an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:
   - A serious or repeated violation of a lease by the victim or threatened victim of such incident; or
   - Good cause for terminating the assistance, tenancy, or occupancy rights to housing of the victim of such incident.
3. Termination on the Basis of Criminal Activity and Bifurcation of Lease
   No person may deny assistance, tenancy, or occupancy rights to an applicant or tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.
   Notwithstanding the foregoing, the owner and/or manager may bifurcate a lease for the housing in

order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing. The owner and or manager must provide any remaining tenants with an opportunity to establish eligibility and a reasonable time to find new housing or to establish eligibility.

4. Confidentially of Tenant Information Related to Domestic Violence, Dating Violence, Sexual Assault, or Stalking
   The owner shall ensure that any information submitted to the staff, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is:
   - Requested or consented to by the individual in writing;
   - Required for use in an eviction proceeding against any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking; or
   - Otherwise required by applicable law.
5. Required Notices
   Housing protections in VAWA 2013 includes the requirement that each appropriate agency develops a notice of rights for applicants and 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.
6. Emergency Transfer
   - VAWA requires each appropriate agency to adopt a model emergency transfer plan that allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling unit.
   - OHCS as the PJ (HOME) and the Grantee (HTF) requires the use of HUD 5381 Emergency Transfer Plan and the HUD 5383 Emergency Transfer Request be provided to Tenants requesting an emergency transfer.
   - Owner(s)/Agent(s) are required to incorporate VAWA provisions into their lease document or use a VAWA Addendum for this purpose.
   - Please refer to OHCS Required VAWA forms described below in this Section.

OHCS Required VAWA Forms

Oregon Housing and Community Services (OHCS) requires the use of the following VAWA forms for all HOME and HTF funded properties. The VAWA forms and the HUD website were revised in January 2025. All forms are available as a template requiring property specific details to be included and are available in English. The HUD VAWA website no longer offers available forms in 14 different languages. To obtain translated forms, you can request them via email here: ogbv@hud.gov

The O/A is responsible for updating the HUD provided VAWA template to be specific to the property.

- HUD 5380: Notice of Occupancy Rights Under VAWA. Must be provided at the following times, along with a copy of the HUD 5382:
- At the time of initial admission; and
- At the time of denial of tenancy; and

- When termination / eviction notices are sent.
- HUD 5381: Model Emergency Transfer Plan. The owner must create a model plan specific to each project. The plan must be made available for review by tenants and by OHCS.
- **HUD 5382: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.** This form is to be used by tenants as a self-certification form. A copy must be attached when the HUD 5380 is given to tenants.
- **Note:** This is NOT a required form; tenant/applicant can choose method of certification.
- HUD 5383: Emergency Transfer Request.

This form is used by tenants to request a transfer under VAWA.

The VAWA Final Rule does not require the applicant/household to sign an acknowledgement of receipt of the Notice of Occupancy Rights (HUD Form 5380) and certification form (i.e., HUD Form 5382), however, it is strongly recommended that the O/A obtain an acknowledgement or maintain a note of receipt describing dates and times the required Forms are provided.

The VAWA Lease Addendum, Form HUD-91067 is required to be attached to the lease. This form is intended to be completed by each individual adult that is party to the lease and is available on the OHCS website.

VAWA Reauthorization of 2022 – Additional Provisions

The following are additional provisions included within the 2022 reauthorization of VAWA.

- Nonretaliation - An owner agent may not discriminate against any person because they have opposed any act or practice made unlawful by VAWA or testified, assisted, or participated in any VAWA-related matter.
- Noncoercion - An owner agent may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises VAWA protections, assists another person in exercising their VAWA protections, or participates in a VAWA investigation or enforcement activity.
- Elder Abuse
- Protection to Report Crimes from Home

Owner agents, residents, guests, and applicants have the right to seek law enforcement or emergency assistance on their behalf or on the behalf of another person seeking assistance and shall not be penalized based on such requests for assistance or their status as a victim of criminal activity. Prohibited penalties include actual or threatened:

- Assessment of monetary or criminal penalties, fines, or fees
- Eviction
- Refusal to rent or renew tenancy
- Refusal to issue occupancy permit or landlord permit
- Closure of the property or designation of the property as a nuisance or similarly negative designation

Part 4.13 – Collection of Demographic Data

OHCS requires the collection and reporting of the following information for all program tenants:

- Race
- Age (Date of Birth)

- Ethnicity
- Income
- Sex
- Disability Status
- Family Composition

To meet demographic data collection requirements, owners must annually report demographic data for all household members (each member not just the head of household) living in their properties. OHCS provides a recommended "Assessment of Household Demographics Form" that owners may utilize to gather this information. This form can be found on OHCS website, Recommended Forms.

OHCS recommends this information only be obtained after a move-in has been approved so that it cannot be construed that the information was used as part of tenant selection / screening.

Note: The Owner/Agent is required to make the form available to the household, however, the household is NOT required to provide the data.

In order to reduce administrative burden, it is OHCS' intent to capture all demographic information through the online reporting system as part of the Annual Owner Certification tenant event submission. Therefore, the owner must obtain demographic data for each household member and report this information when submitting tenant events online through "Procorem".

Part 4.14 – Uniform Relocation Act of 1970

24 CFR 92.253

- The Uniform Relocation Act (URA) is a federal law that establishes minimum protections afforded to persons displaced from their home due to a real property acquisition for a federally funded project.
- The PJ (HOME) and Grantee (HTF) must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, non-profit organizations, and farms) as a result of a project assisted with HOME / HTF funds. To the extent feasible, displaced residential tenants must be provided with a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.
- HUD provides guidance on tenant relocation and can be found at Handbook 1378.

Part 4.15 – Conflict of Interest: Applicability

24 CFR 92.356(f)(1); 93.353

- No person who is an employee, agent, consultant, officer, or elected or appointed officer of the HOME / HTF funds recipient, who has exercised or currently exercise any functions or responsibilities with respect to activities associated with HOME / HTF funds may obtain financial interest or benefit from a HOME- / HTF-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 / HTF 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- / HTF-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- / HTF-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 / HTF program and the effective and efficient administration of the program or property.

Part 4.16 – Property Condition Standards

The O/A must ensure units are maintained decent, safe, and sanitary, and in good repair throughout the affordability period and in compliance with OHCS identified property standards, which include all inspectable items and inspectable areas specified by HUD based on the HUD physical inspection procedures (NSPIRE). In addition, the property standards to be maintained will address health and safety, lead based-paint, frequency of inspection, corrective or remedial actions, and inspection procedures during the affordability period as specified in the regulation

Part 4.17 – 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 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.

Section 5: Management Overview and Requirements

This Section provides an overview of Management Agent and management required documents and policies.

Part 5.01 – Management Agent Plan and Qualifications

The Owner/Agent (O/A) of HOME and HTF properties are required to obtain approval of property management agent which requires the submission of a Management Agent Packet (MAP) to OHCS. The Packet must be reviewed and approved by the Compliance Specialist in Portfolio Support prior to lease-up activities, property completion and any subsequent change in management throughout the affordability period. From time to time, OHCS will issue notices to explain, augment, or interpret these requirements. The MAP collects information regarding the O/A relationship, site staffing and their specific responsibilities, marketing efforts and resident service programs. In addition, it identifies management's Fair Housing procedures and policies, the process for screening of applicants, mediation protocol, and compliance procedures. The O/A must amend the Management Plan to include any changes in program requirements or management policies when applicable.

Changes in Management Agent

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

More information regarding Management Agent Changes, requirements, and the approval process) can be found on the OHCS Management Agent Approval webpage.

Part 5.02 – Management Agreement

The Management Agreement between the Owner and the Agent stipulates the contractual requirements for property management 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 complete Management Agent Packet (MAP).

The Owner is responsible for keeping OHCS Compliance and Asset Management informed of any event that might affect the property's compliance with program regulations as described in 24 CFR, Part 92 (HOME) / 24 CFR, Part 93 (HTF) and for certifying annually the property's continued compliance (CCPC). 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 the email address, mailing address, telephone number and fax number must be submitted in a timely manner. All Owner and Agent changes must be pre-approved by OHCS.

Management Agent and On-site Personnel

The Agent and on-site personnel are responsible to the Owner for implementing the HOME / HTF 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 Compliance and Asset Management sections 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.

Part 5.03 – Annual Certification of Continuing Program Compliance (CCPC)

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

The Owner of a property with HOME- / HTF-assisted units must certify compliance with the following provisions:

- The owner is in compliance with all HOME (24CFR Part 92) / HTF (24 CFR Part 93) Program requirements and the OHCS HOME / HTF / HOME-ARP Compliance Manual.
- The Owner has received an annual low-income Tenant Income Certification (TIC) from each low, very low, and extremely low-income tenant and required documentation to support each certification;
- That each unit is rent restricted as defined in HOME / HTF 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;
- Lead-Based Paint disclosure requirements;
- That each building in the property is suitable for occupancy;
- A building code violation was not issued by a state or local government;
- Units have been marketed according to the current and approved Affirmative Fair Housing Marketing Plan (AFHMP) for this property and meet requirements under 24 CFR 92.351;
- There have been NO violations of Fair Housing Regulations filed against the property;
- Annual Certification of Student Status has been obtained from ALL tenant households (HOME only)
- Violence Against Women Act (VAWA) requirements and all related implementing regulations providing protections for residents and applicants who are victims of domestic violence, dating violence, sexual assault and/or stalking;
- The Owner has not refused to rent a HOME- / HTF-assisted 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. It is not unusual to have multiple layers of funding on the same property, each with unique requirements. 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 / HTF Monitoring Report is considered to be noncompliance**.** The Certification and Monitoring Report is to be signed by the Owner or a Managing Agent with legal signature authority and submitted to OHCS annually. All CCPCs are due annually by the last day of February. A late fee may be imposed for any annual certification not received by OHCS by the due date issued each year.

Further, the Owner (Recipient) is also responsible to correct any noncompliance findings within the required time frame. Failure to correct within the time specified may result in termination of the HOME

/ HTF Grant or Loan Agreement. If the Agreement terminates, the Recipient is liable to repay all of the HOME / HTF funds disbursed to the property and may be subject to additional remedies as provided for in the Program documents.

Monitoring Fees

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

OHCS may charge owners of HTF funded properties reasonable annual fees for monitoring compliance during the affordability period.

Part 5.04 – 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 or change over time.

Generally, 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 and deliver the services outline in the 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 until a

substantial change is explicitly approved by OHCS Asset Management. Owners must review the plans at least every 5 years to determine they remain relevant for the current resident population at the property. Owners may utilize resident surveys for determining that the current 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 Compliance Analyst for questions.

Resident Services Reporting and Monitoring

OHCS approves and monitors the resident services plans and the O/A'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 or organization 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 of promotional activities: 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;
- Whether or not the approved plan is being followed or changed; and
- Description of methods and tools used to evaluate the services plan.

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

Part 5.05 – Financial Oversight

OHCS must annually examine, at a minimum, the financial condition of HOME- and HTF-assisted rental housing to determine the continued financial viability of the housing and take actions to correct problems.

Both HOME and HTF recipients must provide annual financial information to OHCS for each project assisted with HOME / HTF funds within 90-days of that project's fiscal year end.

Part 5.06 – 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 on the Transfer of Ownership webpage.

Part 5.07 – Annual Training

Fair Housing

Owners/Agents should be aware of the Federal, State and Local Fair Housing Laws and ordinances enacted in their areas that may have established “protected classes”. Owners/Agents must comply with all fair housing laws, which prohibit discrimination in housing and must demonstrate that all applicants and tenants are treated fairly and equitably. Please refer to Section 4, Part 4.10, Fair Housing and Equal Opportunity.

To ensure continued awareness, OHCS recommends all Owners/Agents and site staff attend annual training in Federal and/or State Fair Housing courses. For more information regarding fair housing training opportunities in Oregon, you may view the Fair Housing Council of Oregon’s website.

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Section 6: Income Limits, Rent Limits, and Utility Allowance

To remain in compliance, program assisted units must be income and rent restricted. This section provides guidance on how to properly apply income limits, rent limits, and utility allowances

The U.S. Department of Housing and Urban Development (HUD) publishes income and rent limits for each county in Oregon on an annual basis. All program assisted units must be income and rent restricted, based on the income, and rent limits published annually by HUD. Upon receipt and release of this information, OHCS will post the new income and rent limits on its website. In the event rent limits decrease for an area, or utility allowances increase, an owner may be required to reduce the rent charged but will not be required to lower rents below those in effect at the time of project commitment.

This information is provided by OHCS only for the owner's convenience as a courtesy. However, it is the responsibility of the owner, not OHCS, to verify its accuracy.

The HOME and HTF income targeting requirements specify who can live in HOME- / HTF-assisted units (based on income) and how much rent the tenants can pay. The applicable income and rent limits for a property depend upon the low-income set-asides the owner has chosen and are included in the regulatory documents

Part 6.01 – Income Limits

Maximum Income Limits

The maximum amount of annual gross income that a household may earn to qualify for a HOME-assisted or HTF-assisted unit is called the **Income Limit**. HUD establishes both HOME and HTF 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, very low-income, and extremely low-income household can earn in order to qualify to reside in a HOME- or HTF-assisted unit.

HUD issues income limits for low-income households, very low-income households, and extremely low- income households on an annual basis.

OHCS posts the limits on our website on the Income and Rent Limits webpage.

HOME – Please refer to your HOME Grant or Loan Agreement to confirm how many units must be reserved for housing tenants at or below the very low-income level - **50%** of area median income **and** for housing tenants at or below the low-income level – **80%** of area median income. The property must maintain these AMI percentages throughout the term of affordability.

National Housing Trust Fund – Please refer to your National Housing Trust Funds (HTF) Grant or Loan agreement to confirm how many units must be reserved for housing tenants at the extremely low- income level – **30%** of area median income. The property must maintain these AMI percentages throughout the term of affordability.

Income Limits: HOME

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 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 **80%** percent of the area median income (AMI). These limits apply to tenants that live in High HOME rent units.
- **Initial Occupancy**: To meet initial occupancy requirements, when the property first leases up, OHCS requires all **low-income** households of HOME-assisted units to be occupied by households whose incomes are at or below **60% percent of the area median income (AMI)**. This requirement applies to new construction, acquisition, or rehabilitation of rental housing.
- **Very low-income household**: The household's annual gross income is no greater than **50%** percent of the area median income (AMI). These limits apply to tenants that live in Low HOME rent units.

National Housing Trust Fund Income Limits

HUD requires that every HTF-assisted rental unit be occupied by a household that has extremely low- income.

- **Extremely Low-income household**: The household's annual gross income is no greater than **30%** of the area median income (AMI).

Note: You can go to the HUD Exchange site here and create a CPD Income Eligibility Calculator account.

Part 6.02 – Rent Limits

The applicable rent limits for a property are dependent on the low-income set-asides the owner has chosen and are included in the regulatory documents. The limits may differ across programs even in the same county for the same year.

The O/A must ensure that the correct set of rent limits is being utilized based on the applicable funding sources. OHCS releases separate sets of rent limits for different programs as required by HUD. For example, each year OHCS releases separate charts illustrating rent limits for the HOME, HTF and Tax Credit program.

Rent Limit Terminology

HOME-The rent limit is the maximum rent amount published annually by HUD per bedroom size. The published rent limit includes tenant-paid rent, plus utility allowance.

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

The **2025 HOME Final Rule** changed how **gross rent** for a HOME-assisted unit is calculated. There has been no change to the National Housing Trust Fund (HTF) regulations affecting gross rent calculations.

HOME: The gross rent for a unit is the sum of **tenant's portion of rent + utility allowance.** The gross rent may never exceed the maximum gross rent limit.

HTF: The gross rent for a unit is the sum of **tenant's portion of rent + utility allowance + tenant-based rental assistance.** The gross rent may never exceed the maximum gross rent limit.

When applicable, non-optional fees approved by OHCS need to be included when determining gross rent for

both HOME- and HTF-assisted units.

Note: HOME Only- Project-based and tenant based rental assistance is not included when determining gross rent for the unit. The 2025 HOME Final Rule 92.250 (a)(1) and (2) removed the requirement to include rental assistance in the gross tenant rent calculations.

The **maximum gross rent** is the most the owner is permitted to charge for rent. The maximum allowable rent can never exceed the HUD published rent limits.

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

Each project has a gross rent floor, defined as the lowest rent limit that the owner will ever be required to implement for a particular property. The gross rent floor is the rent limit in effect at the time funds are awarded. If the current applicable limits drop below the gross rent floor, the owner is not required to accept the lower rents.

Part 6.03 – Maximum Rent Limits

HUD requires that the rents being charged for HOME- / HTF-assisted units are affordable to low, very low and extremely low-income households. HUD provides HOME and HTF rent limits to define what is affordable on an annual basis.

Rent Limit: HOME

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 (80% AMI) rent limit and the Low HOME (50%) rent limit. The HOME rent limits include tenant paid 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% percent of the units in properties with five or more HOME-assisted units are occupied by very low-income households. 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 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 High HOME rent calculation, the FMR is then considered the High HOME rent.

Low-HOME units layered with LIHTC; a unit will be considered Low-HOME if the Gross Rent charged for the unit meets the LIHTC Rent Restriction (24 CFR 92.252 (a)(2)(iii)

- New HOME Commitments: Not eligible at move-in; annual recertifications only at 60% AMI or greater.
- Existing HOME properties: Not eligible at move-in; subject to regulatory document review and only at annual recertification with household income at 60% AMI or greater.

HTF Rent Limits

The HTF rent limits are the maximum rents that can be charged to an extremely low (30%) income-eligible tenant household who is residing in an HTF-assisted unit. The HTF rent limits include tenant paid utilities. Therefore, the Owner/Agent must deduct tenant paid utilities from the published HTF rents to determine the maximum rents that can be charged for an HTF-assisted unit.

For households who are Extremely Low-Income, their rent plus an allowance for tenant-paid utilities must not exceed the greater of 30% percent of the AMI for the area, as determined by HUD with adjustments for the number of bedrooms in the unit.

Note: HTF does not provide an exception to rent limits when an HTF- assisted unit is occupied by a household that has **tenant-based rental assistance**, since this subsidy is portable with the tenant.

Part 6.04 – Subsidy Programs – Effect on HOME and National Housing Trust Fund Rents

Tenant Based Subsidy (HTF only)

When a household receives **tenant-based rental assistance** provided by a Section 8 program or other funding source, the maximum allowable rent for the HTF-assisted unit cannot exceed the applicable HUD-published HTF 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 HTF rent limit for the unit type.

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

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

Note: There is **no exception** to rent limits when an HTF assisted-unit is occupied by a tenant that has a tenant-based rental subsidy, since this subsidy is portable with the tenant.

Project - Based Subsidy

The HTF Program prohibits properties from collecting more than the maximum HTF rents, except in the following circumstances:

The property is underwritten with a property-based subsidy program in place; the owner may charge the

project-based rental assistance program rents when:

- The unit is designed as an HTF-assisted unit (30% AMI or below), AND
- The Unit receives project-based rental assistance; AND
- Units are initially occupied by an extremely low-income household making no more than 30% of AMI (HTF); AND
- Households pay no more than 30% of their adjusted income for rent (which could exceed the maximum HTF rent.)

HOME Only: HOME rent limits do not apply if a household participates in a program where they contribute no more than 30% of adjusted monthly income. Any Low or High-HOME unit that receives federal, state or local rental assistance, project-based and/or tenant-based subsidy, is **NOT** restricted to the HOME rent limits. This is subject to the PHA and/or Contract Administrator approval.

Property-Based Vouchers

24 C.F.R. 92.252 (a) 24 CFR 93.302(a) and (b)

- Rent collected in a HOME- / HTF-funded unit with a Property-based voucher (PBV) in a designated low-HOME unit occupied by a very low-income household or an HTF unit occupied by an extremely low-income household may be up to the maximum PBV rent (even if above Fair Market Rent (FMR), HOME, or HTF maximum). This does NOT apply to designated High HOME-assisted units

HTF Programs prohibits properties from collecting more than the maximum HTF rents unless the subsidy is project-based subsidy or project-based vouchers.

Part 6.05 – Rent Limits for Special Unit Types (HOME Only)

24 C.F.R. 92.252(3)(i); 24 C.F.R. 92.252(3)(ii)

- Single room occupancy (SRO) 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).
- SRO Units with no food preparation nor sanitary facilities, or only one of the two: (3)(ii)
    - If an SRO unit has neither food preparation nor sanitary facilities, or only one, the rent may not exceed 75% of the Fair Market Rent (FMR) for a zero-bedroom (efficiency) unit.
    - For example, the FMR for a 0-bedroom unit in a given county is $300. The rent limit for an SRO unit (with neither food preparation or sanitary facilities or only one) in that county would be $225 ($300 x 75% = $225).
    - Low HOME rent limits are not applied to these SRO projects, but for all projects with five (5) or more HOME-assisted units the “Project Rule” still applies for income limits (i.e., at least 20% of the units must be occupied by households at or below 50% AMI)
- SRO Units with both food preparation and sanitary facilities (3)(i)
    - If an SRO unit has both food preparation and sanitary facilities, then the rent limit depends on whether the unit is Low HOME (50% AMI unit) or High HOME (60% unit), as described below.
    - 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, the rent is the zero-bedroom fair market rent as established by HUD under 24 CFR 888. The property must still meet the designated Low or High-HOME requirements.

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

Part 6.06 – Adjusting Rents due to Tenant Income Increases (HOME ONLY)

When household income changes, the O/A may raise rents to the applicable rent limit but are not obligated to do so until the AMI level of the household exceeds 80%. Once the household income exceeds 80% AMI, the household must be charged 30% of its adjusted income for rent. For floating units, households that exceed 80% of AMI are not required to pay rent that exceeds the market rate for comparable non-assisted units in the neighborhood. HOME units that are designated as fixed, the household must be charged 30% of its adjusted income for rent, with no cap.

Rent can only be increased when allowed by the lease, and at a minimum, the owner must provide at least ninety (90) days' written notice before implementing any increase in rent.

Please refer to Section 7: Maintaining the Unit Mix (Recertifications)

Reminder: Please refer to the property's most current OHCS rent approved rents rates and ORS 90 Oregon Landlord Tenant Law when implementing a rent increase to an existing tenant.

Part 6.07 – Utility Allowances

24 CFR §92.252(3)(b); 24 CFR 93.302(c)

- HOME and HTF statutes and regulations establish and publish rent limits for assisted rental units. These are maximum gross limits that include a utility allowance (UA) for tenant-paid utilities.
- When a tenant pays for utilities, owners are required to establish maximum monthly allowances for utilities and services (excluding telephone) and to update the UA annually. Both HOME and HTF require the Owner/Agent to deduct the utility allowance from the current maximum rent limit, in order to determine the gross amount that an Owner/Agent may charge a tenant for rent (tenant paid rent).
- If all utilities are paid by the owner and included in gross rent, the utility allowance is zero.

Approved Methods

HOME: For HOME-assisted units, the 2025 HOME Final Rule states that owners can use a utility allowance established by the applicable local public housing authority (PHA) as one of their utility allowance method options. This new rule is retroactive and. Owners ARE permitted to use the PHA's UA for HOME-assisted units if HOME funds were committed on or after August 23, 2013. Other allowed UA methods include the HUD Utility Consumption Model (HUSM) or another method approved by HUD. The PHA UA allowance became effective April 20, 2025.

- **HUD Utility Schedule Model (HUSM).** This model can be found on HUD's website. Utility rates using the HUD utility model must be no older than the rates in place 60 days prior to the beginning of the 90-day period before utility allowances can be used in determining the gross rent.
- **PHA's utility allowance**. Most PHA allowances are published by the Housing Authority for each County on at least an annual basis. If multiple local PHA's serve one area, owners must choose the PHA that serves the property location. Each PHA is required to review and update utility allowance information on an annual basis and publish new calculations if there has been a ten percent or more (either higher

or lower) change since the utility schedule was last revised. Owner agents are advised to check every 60 days to see if the PHA has updated its UA charts.

Housing Trust Fund: For HTF-assisted units, owners may use the UA for the Section 8 Housing Choice Voucher (HCV) program from the local public housing agency (PHA) that administers HCVs in the area in which the property is located.

The initial UA approval will occur prior to loan closing. Once the method and allowances have been approved by OHCS, the owner must update the allowances annually using an approved method and current rate information.

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 O/A 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 affordability 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, during the compliance 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 have been made.

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

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 most accurately. However, OHCS must be notified in advance (at the beginning of the 90-day period) of the change per the notification requirements listed above and must approve the provider of the energy consumption model (ECM) calculation if applicable.

Over-Charged Rents

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

Utility Allowance Noncompliance

When reviewing and implementing the UA for a property, mistakes may result in noncompliance. The following are examples.

- 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 change 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.

Tenant-Paid Utilities in Properties with HOME / HTF and Low-Income Housing Tax Credit (LIHTC)

When a tenant pays for utilities HOME, HTF and LIHTC require the Owner/Agent (O/A) to deduct a utility allowance from the current rent limit, in order to determine the maximum amount that an O/A 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 and HTF rents for a unit that has multiple programs, the O/A must subtract the tenant-paid utilities from the HOME/HTF rent limit using the authorized utility allowance. Then, the O/A 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 for that unit must be used.

Part 6.08 – Rent Adjustments

OHCS must approve the property's rent structure at lease-up and must pre-approve all rent increases throughout the affordability period.

Owners must annually provide OHCS with information on rents and occupancy of HOME- / HTF-assisted units to demonstrate compliance with this section.

Annual Rent Increase Notifications (RIN) and Rent Rate Approval increase requests must be submitted to OHCS Portfolio Management (PM) and must follow the guidelines as outlined in the Rent Increase Policy. Further, only one request to adjust/increase rent per year will be considered.

All rent increase notifications / requests must be submitted to OHCS no later than 90 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 Senior Asset Management Analyst 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. If OHCS determines that a project is not compliant with the rent increase policy and/or State of Oregon tenant protection laws, OHCS may, at its sole discretion, require the owner to refund the excess collected rent by the project to the tenants and/or local housing authority where determined appropriate. Further, retro-active rent increase approvals are no longer provided.

Rent increases might occur when:

- HUD-published rent limits **increase**;
- The tenant pays for 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.

OHCS notifies owners and managers by email and posts the new rent limits on its website when they are released. 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 and HTF 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's portion of the rent exceeding the 30% calculated rent based on the tenant's income as established by the public housing authority.

Section 7: Maintaining the Unit Mix

Throughout this Manual the terms High HOME Rent unit and High HOME unit and Low HOME Rent unit and Low HOME unit are used interchangeably.

The property must maintain the correct number of High and Low HOME-assisted rent units as described in the HOME Grant Agreement; the correct number of Housing Trust Fund (HTF) units identified in the HTF Grant Agreement. If the property has different unit sizes, the Grant Agreement will state the number of units per unit size and if the units are designated as fixed or floating units.

Maintaining the required number of assisted units for HOME funded properties, the HOME-assisted units, (High HOME rent units and Low HOME rent units), for HTF funded properties, the required number of HTF-assisted units, and per unit size when appropriate, is called complying with the unit mix requirements.

To ensure that the unit mix is maintained, the following limits must be applied appropriately and timely.

- 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 80% AMI). Rents are maintained at the High HOME Rent Limits per bedroom size.
- Housing Trust Fund Units: Are occupied by extremely low-income households (income at or below 30% AMI). Rents are maintained at the HTF (30%) Rent Limits per bedroom size.

Part 7.01 – Unit Mix Overview

HOME Guide 3.5 and 3.6 / 24 CFR 93.302(g)

What are the factors in determining and maintaining 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 at or below 50%
- Went above 50% but stayed below 80%
- Went above 80%
- Stayed at or below 30% (HTF)

At the time of initial commitment of HOME and HTF funds, Owners may choose to establish either a

"**Fixed"** or "**Floating"** designation for the HOME- / HTF-assisted units at their property. This designation is made at the underwriting stage and is made prior to the property file being transferred to Compliance and Asset and Preservation Management for monitoring. Once the designation for "Fixed" or "Floating" units is made, the units must remain as designated throughout the affordability period.

Vacated HOME-/ HTF-assisted units

Generally, when a fixed or floating HOME- / HTF-assisted unit is vacated and the property is in compliance with unit mix requirements (**no over-income tenants** in any of the HOME- / HTF-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. OHCS requires at move-in to a High HOME unit, the income to be at or below 60% AMI.
- 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.
- Rent a HTF Rent unit that is vacated to a new qualified extremely low-income tenant at a rent that does not exceed the HTF rent limit.

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

Part 7.02 – Fixed Units

Properties with **Fixed HOME- and Fixed HTF-assisted units** have specific units (e.g., Units 101, 102 and 103) that are designated as HOME- or HTF-assisted for the duration of the affordability period. The O/A must maintain these specific units (Units 101, 102 and 103) as HOME- or HTF-assisted units throughout the affordability period.

When an owner conducts the annual income recertification and finds that a household is over-income, the unit will continue to qualify until the household vacates, at which time the unit must be rented to a HOME - / HTF-qualified household.

Units in properties where all units are assisted are automatically considered fixed. All non-assisted units at a property with fixed program units will remain non-assisted and be rented without regard to rent and income restrictions.

HOME Only

In a property with fixed HOME-assisted units, the **designation of units** as High HOME Rent units and Low HOME Rent units may need to change. When a HOME funded property has five or more units, twenty percent (20%) of the HOME-assisted units must be designated as Low HOME units.

Maintaining the required number of HOME-assisted units, as well as High HOME Rent units and Low HOME Rent units, for properties with *five or more* HOME-assisted units is called complying with the unit mix requirements. **Please refer to the following applicable steps for over-income tenants.**

Increases in Tenant Income – HOME Only (Fixed)

When an Owner/Agent recertifies a household's income, it may be determined that the tenant's income has increased above the current HOME income limits. A household is considered "**over-income**" in the HOME Program when:

- The household occupies a High or Low HOME Rent unit, and the household income increases over the current HOME low-income limit (80% AMI) for that family size, or
- The household occupies a Low HOME Rent unit, and the household's income increases above the current HOME very low-income limit (50% AMI) but does not increase above the low-income limit; that

is, the household income is above 50% percent and below 80% of area median income (AMI).
- In HOME-assisted units that are also LIHTC units, for purposes of determining the correct rent, a household is considered "over-income" when the household's income increases to 80 percent. Please refer to Part 7.05, HOME and LIHTC Units

When an owner conducts the annual income recertification and finds that a household is over-income, the unit that the household occupies is considered **temporarily out of compliance** with HOME's occupancy and unit mix requirements. Temporary noncompliance due to an increase in an existing household's income is permissible as long as the owner takes specific steps to restore the correct occupancy and unit mix in the property as soon as possible.

- When correcting compliance, it is important to first restore the unit mix before swapping the status/designation of the over-income unit.

When the household's income exceeds the low-income limit (80% AMI), the rent must also be adjusted. The steps taken to restore compliance will depend on whether the over-income household occupies a "fixed" High HOME unit or a Low HOME unit. If the household occupies a Low HOME unit, the steps also depend on whether or not the tenant is low-income.

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

If the over-income household occupies a **High HOME** Rent unit, the property is temporarily out of compliance until the unit is vacated and can be rented to another low-income (80% AMI) household. The owner must raise the rent as soon as the lease permits, in accordance with the terms of the lease. The rent must be adjusted such that the household pays the **lesser** of:

- The rent amount payable under state or local law; or
- 30% (percent) of the tenant's monthly adjusted income
- Rent is not capped at market rents
- If the unit is an LIHTC unit, the rent must be at or below the amount allowed by the tax credit program.

The owner cannot terminate the lease based on the household's increased income.

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

If the household occupies a Low HOME Rent unit and the household income increases over the very low-income limit, but not over the low-income limit, the property is temporarily out of compliance until either:

1. A High HOME unit can be re-designated as a Low HOME unit, or
2. The unit is vacated and can be rented to another very low-income tenant household.

The unit occupied by the over-income household retains its designation as Low HOME until another unit can be re-designated as Low HOME. 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 an Over-Income Household's Income is Above the Low-Income Limit (80%), and they occupy a Fixed Low HOME Rent Unit:

If the household occupies a Low HOME Rent unit and its income increases above the low-income limit, the property is temporarily out of compliance and will continue to be out of compliance until the over-income tenant moves out and another income-eligible tenant household moves in. The owner must adjust the over-income household's rent as soon as the lease permits. The over-income tenant must pay the lesser of:

- The rent amount payable under state or local law; or 30% (thirty percent) of the tenant's monthly adjusted household income
- If the unit is an LIHTC unit, the rent must be at or below the amount allowed by the tax credit program.

Increases in Tenant Income – National Housing Trust Fund (Fixed)

When an Owner/Agent recertifies a household's income, it may be determined that the tenant's income has increased. A household is considered "over-income" in the HTF Program when:

- The household occupies an HTF Rent unit, and the household income increases over the current HTF extremely low-income (30% AMI) limit for that family size.

When an owner conducts the annual income recertification and finds that a household is over-income, the unit will continue to qualify until the household vacates, at which time the unit must be rented to an HTF-qualified household.

Part 7.03 – Floating Units

Properties with **Floating HOME- and HTF-assisted units** do not have specific units that are designated HOME-assisted and HTF-assisted for the duration of the affordability period. OHCS designates specific units as HOME- / HTF-assisted initially, but the Owner does not need to maintain those specific units as HOME- / HTF-assisted. Instead, throughout the affordability period, the Owner maintains the total number of HOME-assisted and HTF-assisted and non-assisted units that were originally designated. The HOME- / HTF-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- / HTF-assisted unit, when the next comparable non-assisted unit becomes available, the non-assisted unit is re-designated as HOME- / HTF-assisted and rented to an income eligible tenant. The unit occupied by the over- income tenant is re-designated as a non-assisted unit.

When re-designating units in order to maintain the required unit mix, Owners/Agents must substitute a comparable unit. Comparable units can include units with same square footage, bedroom size and amenities. Owners 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.

Designated units may change over time as long as the total number of comparable units in the property remains constant. If a property's Grant Agreement does not specify comparable floating units, then the units that were initially HOME or HTF-qualified upon project completion will be used to determine comparable floating units.

HOME Only

Properties with floating HOME-assisted units do not have specific units that are designated for the duration of the effective period. Instead, the total number of HOME-assisted and non-assisted units that are designated at the time of project commitment must stay the same throughout the affordability period. The specific units that carry the HOME-assisted designations may change, or float, among comparable assisted and non-assisted units during this time.

In a property with floating HOME units, the unit mix is maintained by changing the unit designations when the next comparable unit becomes available. For example, if a property has an over-income tenant in a HOME-assisted unit, when the next non-assisted comparable unit becomes available, it is 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.

Maintaining the required number of comparable HOME-assisted units, as well as High HOME Rent units and Low HOME Rent units, for properties with five or more HOME-assisted units, is called complying with the **unit mix requirements.**

When recertifying a tenant's income, an owner may find that the tenant's income has increased. A tenant is considered "over-income" when:

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

Increases in Tenant Income – HOME Only (Floating)

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 takes specific steps to restore the required unit mix in the property. The rents of the over-income tenants can be adjusted.

When re-designating units in a property with floating HOME-assisted units, owners can choose to substitute a unit that is comparable to or larger than the original HOME-assisted unit but generally cannot substitute one that is smaller. A smaller unit can be substituted only when doing so preserves the original unit mix. A larger unit is one that might be considered more preferable because of being a larger size, additional bedrooms, or amenities. The goal is to maintain the same number and type of HOME-assisted units as were originally designated; therefore, if an owner substitutes a larger unit, it can later substitute an available unit that is smaller, when applicable, in order to restore the original unit mix.

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

If an over-income household occupies a floating High HOME unit, the owner must adjust the rent of the over-income household so that it pays 30 percent of its 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 that, unlike the rule for properties with fixed HOME-assisted units, in a property with floating HOME units, a 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 unit. A comparable unit is

one that is equal or greater in terms of size, number of bedrooms, and amenities. The owner may not replace the unit with one that is smaller, unless doing so preserves the original unit mix. The newly designated High HOME unit must be rented to a household whose income does not exceed the low-income limit, at a rent that does not exceed the High HOME Rent limit.

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 may adjust the household's rent without regard to the HOME rent requirements (although requirements from other funding sources may still apply). Rent increases are subject to the terms of the 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:

If household's income is above the low-income limit and it occupies a Low HOME unit, the next vacant, comparable, non-assisted unit must be designated as a Low HOME unit and 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 limit.

Until a comparable Low HOME unit is designated, the unit that is occupied by the over-income household is considered a Low HOME unit that is temporarily out of compliance.

The rent of the over-income household in the original Low HOME unit must be adjusted as soon as the lease permits, and in accordance with the terms of the lease.

- Until a comparable Low HOME unit is substituted, the over-income tenant must pay 30 percent of the household's monthly adjusted income as rent.
- After a comparable Low HOME unit is substituted, the unit with the over-income household is re-designated as a non-assisted unit. The owner may adjust the household's rent without regard to the HOME restrictions. Rent increases are subject to the terms of the lease.
- A household in a floating HOME unit whose income exceeds the low-income limit is not required to pay more than the market rent for a comparable, unassisted unit in the neighborhood.

If there is more than one over-income tenant in the property and both a Low HOME unit and High HOME unit are needed to restore unit mix compliance, the owner should restore compliance with the Low HOME unit first.

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. The Tenant Selection Plan must provide for a consistent and fair method for the re-designation of HOME-assisted units when needed. It is recommended to keep supporting documentation to show the plan has been followed.

Increases in Tenant Income – National Housing Trust Fund Only (Floating)

Properties with floating Housing Trust Fund (HTF)-assisted units do not have specific units that are designated for the duration of the effective period. Instead, the total number of HTF-assisted and non- assisted units that are designated at the time of project commitment must stay the same throughout the effective period.

Example: If the Grant Agreement requires eight (8) units to be HTF-assisted, then the property must take steps throughout the affordability period to maintain the correct number of HTF-assisted units.

The specific units that carry the HTF-assisted designations may change, or float, among comparable assisted

and non-assisted units during this time. In a property with floating units, unit mix is maintained by changing the unit designations when the next comparable unit becomes available. For example, if the recertified income of an HTF-assisted household exceeds the allowable HTF extremely low-income limit (30%), the unit will continue to qualify until a comparable vacant unit (comparable in size, features, and number of bedrooms) is rented to an HTF-qualified household. Once the unit is replaced, the over- income unit is no longer treated as an HTF unit.

- When correcting compliance, it is important to first restore the unit mix before swapping the status/designation of the over-income unit.

When re-designating units in a property with floating HTF-assisted units, owners can choose to substitute a unit that is equal to or "greater" than the original HTF-assisted unit, but generally they cannot substitute one that is "lesser." A lesser unit can be substituted only when doing so preserves the original unit mix. A greater unit is one that might be considered more preferable because of larger size, additional bedrooms, or amenities. The goal is to maintain the same number and type of assisted units as were originally designated; therefore, if an owner makes a substitution that is "greater," it can later substitute an available unit that is "lesser" in order to restore the original unit mix.

If there is more than one over-income tenant in the property occupying an HTF-assisted unit, the owner should restore compliance as outlined in the Tenant Selection Plan for the specific property.

The Tenant Selection Plan must provide for a consistent and fair method for the re-designation of HTF-assisted units when needed. It is recommended to keep supporting documentation to show the plan has been followed.

Part 7.04 – Over-Income - Student Status Noncompliance

When an owner conducts the annual income recertification and finds that a household is determined to be student ineligible, that household is treated as an over-income household and is considered **temporarily out of compliance** with HOME's occupancy requirements.

- If a household that is already occupying a HOME-assisted unit later becomes student ineligible, then that household is treated as an **over-income** household. The steps that the Owner/Agent must take will depend on whether the property has fixed or floating HOME-assisted units. Please refer to Part 7.02 Fixed, or Part 7.03 Floating for further guidance.

Temporary noncompliance due to student ineligibility of an existing household is permissible as long as the owner takes specific steps to increase the household's rent immediately or when the lease allows.

Part 7.05 – Over-Income HOME and LIHTC Units

During the annual recertification, the O/A may determine the household to be over-income. This means that the income of the household increases to be above the 80% percent AMI (HOME) income limit for that year.

For HOME/LIHTC properties, where the unit is qualified as both a HOME unit and a LIHTC unit, the 2025 HOME Final Rule provided updated guidance in establishing rent for over-income households (greater than 80% AMI) as defined by the HOME Program.

The requirement to determine an over-income household's rent based on 30% of the household's adjusted

income, or 10% of the household's gross income whichever is the greater of the two has been clarified and directly allows for the LIHTC 60% AMI rent to be assessed to the HOME/LIHTC unit.

If at recertification the household's income increases above the 80% AMI published limit, the rent may be increased to the current LIHTC 60% MTSP published rent limit for unit type.

Note: This provision does not apply to HOME-assisted units with no LIHTC funding.

For units qualifying for both HOME and LIHTC, please use the Tenant Income Certification Form CM.02

The steps the O/A must take to restore compliance to the property for HOME and LIHTC will vary, depending on whether the property has fixed or floating HOME units, whether or not 100 percent of the units are either HOME-assisted or LIHTC units, and what percentage of units are assisted and non- assisted units.

Note: Please refer to Compliance in HOME Rental Projects: A Guide for Property Owners, Maintaining Unit Mix in **Fixed** HOME Units When a Tenant Goes Over Income (Exhibit 3-7, pg. 70) and Maintaining Unit Mix in **Floating** HOME Units When a Tenant Goes Over Income (Exhibit 3-9, pg. 77) to better understand the difference.

Section 8: Qualifying Households

A household must be certified as income eligible to reside in a HOME- / National Housing Trust Fund (HTF)-assisted unit. Documentation of household income and composition is needed to ensure the correct income limit for the household is being applied. A household's income must be within program guidelines, and the rent amount must be restricted.

Part 8.01 – Qualifying Households Overview

The O/A should advise applicants for program assisted units early in the application process that there are maximum income limits that apply to the units and ALL anticipated earned income of every adult person and ALL unearned income of every household member, including dependent children expecting to occupy the unit, must be verified and included on the Tenant Applications, Applicant/Tenant Questionnaires, Verifications, required forms and the Tenant Income Certification (TIC) **prior to occupancy and prior to the household's first anniversary date for continued eligibility.**

Both Federal HOME (24 CFR 92) and National Housing Trust Fund (HTF) (24 CFR 93) regulations allow various methods of calculating annual income. However, OHCS mandates that all owners use the methodology and income definition found in **24 CFR Part 5.609**, as amended from time to time (often referred to as the "Section 8 methodology"). This methodology is also required by properties funded by the tax credit program.

Note - HOME Only: Each household member aged 18 to 23 (or if under 18 and treated as head, co-head, or spouse) in a HOME-assisted unit to which the student rule applies must complete, sign and date the required HOME Program Annual Student Certification upon move-in and then annually during the HOME Affordability Period. This form and supporting documentation must be maintained in the tenant file along with the tenant income certification throughout tenancy and required retention requirements.

For additional information on determining income eligibility, please refer to the following resources:

- Chapter 5 of HUD Handbook 4350.3 Occupancy Requirements of Subsidized Multifamily Housing Programs. **Note:** The current HUD Handbook has not been updated to include the Streamlining Rules or HOTMA and 2025 HOME Final Rule updates, as listed below; Part 5 has been updated with additional exceptions identified in HOTMA
  - Section 1- Determining Annual Income
  - Section 3- Verification
  - Part 5 (Section 8) Income Inclusions and Exclusions
  - Replaces Exhibit 5-1 and Exhibit 5-2
  - Appendix 3- Acceptable Forms of Verification
- CPD Income Calculator- CPD Income Eligibility Calculator - HUD Exchange
  - Housing Opportunities Through Modernization Act of 2016 (HOTMA); Final Rule 2/14/23, Effective 1/1/24
  - Notice H 2023-10 / Notice PIH 2023-27: Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA); updated 2/05/2024.
  - Updated 2025 HOME Final Rule 1/6/25, -2024-29824.pdf, 2/3/25 - 2025-02088.pdf and 10/22/25 - 2025-19626.pdf. Effective April 20, 2026. Updated Federal Register
  - HUD Annual Inflationary Adjustments and Passbook Rate

Part 8.02 – The Tenant Qualification and Certification Process

When establishing eligibility, proper documentation verifying that the household is determined qualified must be obtained and maintained in the tenant file. All OHCS required forms to ensure proper verification are available on the OHCS website.

Update: OHCS accepts electronic signatures from tenants, Owner/Agents, and third-party income verifiers. Please refer to the Electronic Signature Policy to understand the use of electronic signatures for compliance documents.

All documents included in the tenant file must be fully completed, signed, and dated. OHCS will not accept documents that are incomplete, that have been marked with correction fluids (i.e., whiteout), or where information has been obliterated with pen or marker. Please refer to Part 08 of this Section for information on how to properly correct documents in a tenant file.

Part 8.03 – Tenant Income Certification (TIC)

After all income and asset information has been obtained, verified, and calculated, the O/A must prepare a Tenant Income Certification (TIC) for each household placed in a HOME- / HTF-assisted unit.

Every tenant file must contain a Tenant Income Certification (TIC) form, regardless of whether or not that unit/tenant also has an income certification from another program in the file (e.g., HUD Form 50058/50059 or RD Form 3560-8). OHCS' Tenant Income Certification form used for the HOME program includes information that is not found on these other forms, such as the program income and rent limits, the program set-aside for the unit, the certification effective dates, etc.

OHCS' HOME / HTF TIC is a mandatory form that must be used in all HOME- / HTF-assisted tenant files. OHCS will not accept any other TIC form unless the TIC is submitted to OHCS and specifically approved.

- However, if the property is also funded through the LIHTC program, the OHCS Tax Credit TIC (CM.02) must be used instead.

The TIC must identify the OHCS rent and income set aside for the unit/household. Therefore, the rent and income restrictions should be listed as 30% (HTF), 50%, 60%, or 80% (HOME), not the actual AMI % of the household that supports the income restriction for the unit.

The Tenant Income Certification must be executed, along with the lease, on or just prior to the move-in date; must be signed by the tenant no more than 10 days prior and never after the move-in date. If household members sign the certification prior to the 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 the household remains eligible for the HOME- / HTF-assisted unit. **Please refer to Section 10; Part 10.02 Tenant Qualification.**

Part 8.04 – The Tenant Application

Households are qualified for the program only if proper documentation verifying the household's eligibility is obtained and maintained in the tenant file.

At the time of application, it is critical to obtain complete and accurate tenant information in order to determine eligibility and retain low-income, very low-income, and extremely low-income status to ensure

continued program compliance. It is the O/A'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.

OHCS recommends that the O/A's application should request information regarding all household members, their sources of income, assets, income from assets and student status.

OHCS requires each adult to complete and submit a separate application.

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

- The household's gross annual income must not exceed the HUD Program limits applicable to the household size.
- The household must agree to identify/report the gross amount of all income and assets coming into the household.
- Student Status (HOME only).

The Owner/Agent 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 provided;
- 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 current and anticipated student status of each applicant (for HOME-assisted units);
- A screening process (i.e. previous landlord's rental history, credit information, criminal background, etc.). Owners should ask applicants whether the household's assistance or tenancy in a subsidized housing program has ever been terminated for fraud, nonpayment of rent, or failure to cooperate with recertification procedures;
- 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 and time it was received.

When the O/A denies an applicant because they are ineligible to reside in HOME-/HTF-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 Analyst during the onsite monitoring visit or other review.

Part 8.05 – 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 and HTF Program Income Limits and whose income, if any, is considered when calculating total household annual (gross) income.

Household Composition

When determining household size for purposes of implementing the correct income limits, **do not include** the following when determining household size for the purpose of comparing "annual income" to HOME and HTF Program Income Limits.

- Guests
- Live-in aides
- Children of live-in aides
- Children being pursued for legal custody or adoption who are not currently living with the household
- Foster Children (HOTMA)
- Foster Adults (HOTMA)

When determining household size for purposes of implementing the correct income limits, **the owner must** include the following individuals that may not currently be residing in the unit or considered to be temporarily absent when determining household size for the purpose of comparing "annual income" to HOME and HTF Program Income Limits.

- Children temporarily absent due to placement in a foster home;
- Children in joint custody arrangements who are present in the household 50 percent or more of the time;
- Children who are away at school, but who live with the family during school recesses;
- Unborn children of pregnant women; when a pregnant woman is an applicant, the unborn child is included in the size of the household and may be included for purposes of determining the maximum allowable income. Please note that this is updated, new guidance.
    - The rental application should ask the following question: "Will there be any changes in household composition within the next 12-month period?" If an applicant answers that a child is expected, the manager should explain that in order to count the child as an additional household member and use the corresponding income limit, a self-certification of pregnancy must be provided.
- Children who are in the process of being adopted and are living with the household
- Temporarily absent family members who are still considered family members;

Persons Permanently Confined

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

Military Household Members

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

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

Live-in Aides or Attendants

When determining family size for establishing income eligibility, the owner must include all persons living in the unit except a live-in aide or attendant.

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:

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

While a relative may be considered to be a live-in aide/attendant, they must meet the above requirements, especially the last. The live-in aide qualifies for occupancy only as long as the individual needing supportive services requires the aide’s services and remains a tenant. Owners must obtain verification that the live-in aide is needed to provide the necessary supportive services essential to the care and well-being of the person and should not add the attendant to the lease. The owner may not require applicants or tenants to provide access to confidential medical records or to submit to a physical examination.

The income of a live-in aide is excluded from the household’s annual income. 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 Addendum/Affidavit. OHCS provides this form for owner/agents in our recommended forms sections.

Part 8.06 – Establishing Eligibility

Income Determination

The O/A must determine that a household is income-eligible before signing a lease to rent a HOME- / HTF-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, the O/A must examine income source documents and obtain appropriate third-party verifications to ensure the accuracy of the income information that the tenant reports on the application.

Applicant/Tenant Questionnaire

A fully completed “Applicant/Tenant Questionnaire” is a required form and essential to an accurate determination of eligibility. OHCS requires that each adult household member complete the Questionnaire at move-in and on recertification files for HOME- / HTF-assisted units for years when a full recertification (IDIS years) is required. 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 well documented.

After the household completes the “Applicant/Tenant Questionnaire”, the Owner/Agent must verify all household income.

Note - New-HOME and HTF: Assets do not need to be verified for initial move-ins if they are under the threshold. HUD publishes inflationary updates annually at Annual Inflationary Adjustments and Passbook Rate. A Self-Certification of Assets is allowed at move-in and annual recertifications, including IDIS years. The application, questionnaire, income and asset self-certification, and lease are to be executed prior to move-in.

A detailed discussion of what is included in annual income, income exclusions and income from assets is provided in Chapter 5 of HUD Handbook 4350.3; Chapter 3 of HUD Handbook 4350.3 provides a detailed discussion of the factors that affect household size and whose income is counted as part of household income. The income of all persons in the household (including nonrelated individuals) must be counted when establishing eligibility in HOME- / HTF assisted units.

Additional updated guidance on HOTMA is provided in HUD Notice H 2023-10 / PIH 2023-7. Please refer to Section 9: Annual Income and Verification Methods for additional information.

Effective for projects which had HOME funds committed on or after 8/23/2013, all income verifications must use at least two months source documentation. This applies to all new determinations and every 6th year (IDIS years) of the affordability period renewals.

Similar to HOME, HTF requires all verifications must use at least two months source documentation. Source documentation is required at move-in and every 6th year (IDIS years) of the affordability period.

All occupants in a HOME- / HTF-assisted unit must be certified and have a valid lease on file. All household members aged 18 and over must sign ALL 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% AMI 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
- If the applicant will occupy a HTF Rent unit, the household's anticipated annual gross income cannot exceed the published HTF income limit – 30% limit for OHCS funded properties.

Part 8.07 – Required Forms

Table 2: Required Forms

Required forms and verification documents	Household form – one formed signed by all adults	Individual form – one form signed by each adult member
Income Certification Questionnaire	N/A	Yes
Tenant Income Certification (TIC)	Yes	N/A
< HUD's Current Inflationary Rate Asset Self-Certification (HOTMA)	Yes	N/A
All other verification documents	N/A	Yes

Required forms and verification documents	Household form – one formed signed by all adults	Individual form – one form signed by each adult member
Student Status Certification (HOME only)	N/A	Yes
Refer to website for complete list	N/A	N/A

OHCS required forms can be located on our website on the HOME Compliance webpage.

Part 8.08 – Correcting Documents

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

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

- Example: Mrs. Smith is due for her annual recertification on December 20th. However, the property manager was distracted by putting up holiday decorations and forgot to send out a recertification notice. Therefore, Mrs. Smith does not come to the office to complete her paperwork until January 2nd. Mrs. Smith should sign all paperwork with the current date (January 2nd) but should make a note at the bottom of each form stating, "information true and correct as of December 20th."

Section 9: Annual Income and Verification Methods

The Owner/Agent (O/A) must determine tenant eligibility by calculating the full amount of a household's annual income before the family is allowed to move into a HOME- / Housing Trust Fund (HTF)-assisted unit. OHCS requires for all HOME- / HTF-assisted units that the household's annual income be determined in accordance with definition 24 CFR 5.609.

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 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.

The goal in qualifying applicants to live in a HOME- / HTF-assisted-unit is to use a reasonable and appropriate method to anticipate and calculate, with supporting verification, when determining the total annual income for the household.

Part 9.01 – Annual Income

Annual Income is the amount of income that a household receives and that is used to determine a household's income eligibility to reside in a HOME- / HTF-assisted unit.

Annual income is defined as follows:

- Annual income includes all amounts, not specifically excluded in 24 CFR part 5.609, paragraph (b), and is the total gross earned income from all sources received by each member of the family who is 18 years of age or older or is the head of household, plus unearned income received by all household members including by or on behalf of each dependent who is under 18 years of age, and includes all income from assets, anticipated to be received for the 12-month period following the date of certification of income.

The O/A must generally use current circumstances to anticipate income. However, if information is available on known changes, and is expected to occur during the year, the owner must use that information to determine the total anticipated income.

Part 9.02 – Income Verification

All sources and amounts of income must be verified. Verification must be received by the O/A prior to the execution of the Tenant Income Certification (TIC) 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. Verifications are required to establish a household's eligibility to reside in HOME- / HTF-assisted housing. If income and income from assets cannot be adequately verified, then eligibility of a household to reside in HOME- / HTF-assisted housing has not been established.

Effective Term of Verifications

Verifications of income are valid for six months from the date of receipt by the O/A. After this time, if the tenant has not moved in or recertified, new verifications must be obtained. Verifications that are more than six months old as of the effective date of the move-in or recertification are invalid.

Note: The verifications for the LIHTC program are valid for 120 days of the effective date, if older than 120 days, the verifications become invalid and new verifications must be obtained – no exceptions.

Part 9.03 – Methods of Verification

The O/A must demonstrate efforts to obtain third-party verification and appropriate source documentation prior to accepting self-certification, except in instances where self-certification is explicitly allowed (i.e., when net assets do not exceed HUDs current inflationary rate.).

Owner/Agents must follow HUD's verification hierarchy (see HUD Notice H 2023-10 / PIH 2023-7) which lists verification documentation from most acceptable to least acceptable

Table 3: HUD Verification Hierarchy

Level	Verification Technique	Ranking Order of Acceptability
5	Upfront Income Verification (UIV) using non- EIV system – e.g., The Work Number, web-based state benefit systems	Highest
4	Written third-party verification from the source provided by the tenant – e.g., paystubs, bank statements, benefit letters, etc.	High
3	Written, Third-Party Verification Form	Medium – use if applicant or tenant is unable to provide Level 4 documentation.
2	Oral, third-party verification	Medium
1	Self-Certification (not third-party)	Low – use as last resort if unable to obtain any third-party or if specifically permitted.

Note: This table was adapted from Table J2: Verification Hierarchy from HUD Notice H 2023-10 / PIH 2023-7.

Note: Level 6 EIV has been removed from this chart as EIV is not applicable to the programs covered in this manual.

A note regarding Enterprise Income Verification (EIV)

OHCS Compliance Analysts are not authorized to view any documentation obtained through Enterprise Income Verification (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.

When submitting tenant files electronically to Procorem, please ensure that all EIV reports have been removed prior to uploading them for review.

Source Documentation

Both HOME and HTF Program(s) require the O/A to obtain at least two months of source documentation for all verifications at move in and during IDIS years. For complete information concerning included income and acceptable forms of income verification, see HUD Handbook 4350.3 CHG4, specifically Chapter 5 and "Appendix 3: Acceptable Forms of Verification," The Technical Guide for Determining Income and

Allowances, and the HOTMA Implementation Guidance HUD Notices.

Acceptable source documents, as outlined in Table J2: Verification Hierarchy from HUD Notice H 2023-10 / PIH 2023-7 include and are described as follows:

1. Upfront Income Verification (Level 5)
   The verification of income through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals.
   If cost of the verification is problematic, adopt a written policy to ensure consistency in how and what forms of verifications are used when not adopting Upfront Income Verifications (Level 5).
2. Third-Party Tenant-Provided Documents (Level 4)
   An original or authentic document generated by a third-party source. Such documentation may be in possession of the tenant (or applicant) and commonly referred to as tenant-provided documents. These documents are considered third-party verification because they originated from a third-party source.
   Examples of tenant-provided documentation that may be used include but is not limited to the following: paycheck stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notes.
   Note: HUD 4350.3, Rev. 1, Change 4, Chapter 5 refers to this type of verification as Upfront Income Verification (UIV).
   When using tenant-provided information, the owner must consider the following:
   - Is the document current? Circumstances may have changed since the document was created.
   - Is the document complete?
   - Is the document an unaltered original copy?

   The following requirements apply to tenant-provided documents:
   a. **Using Paystubs for Employment Verification**: If utilizing paystubs for employment verification, the owner agent must obtain the **four** most recent, consecutive months of paystubs from the tenant/applicant.
   b. **Using Bank Statements**: If utilizing bank statements, the owner agent must obtain the most recent statement to verify the current balance (if net assets exceed HUDs current inflationary rate, and third-party asset verification is required).
3. **Using Tax Returns for Income Verification**: If utilizing tax returns as income verification, the owner agent must obtain copies of income tax returns with corresponding official tax forms and schedules

attached and including third-party receipt of transmission for the income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) or a certified copy by completing IRS Form 4506 "Request for Copy of Tax Form." These are examples of acceptable form(s) of written, third-party verifications.

4. Third-Party Written Verification (Level 3)
   OHCS does require that the O/A use particular forms for third-party verifications. These can be found on our website, in addition, recommended third-party verification forms are available to assist with the verification process. All requests for income verification must:
   a. State the reason for the request;
   b. Include a release statement signed and dated by the applicant (refer to the Forms Section for an example); and
   c. 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.

   Owner/Agent must send and receive verification forms directly to/from the third-party, not through the applicant or tenant. Verification Transmittal
   a. Applicant/tenant must sign and date each verification form.
   b. 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.
   c. If forms are returned with any incomplete information, management must contact the source and complete a clarification form to document incomplete information.
   d. The management Agent should review and check verifications for accuracy and completeness. Verifications should be date stamped as they are received.
   e. 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.
5. Third-Party Oral Verification (Level 2)
   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 the written verification.
   Include the name and title of the contact, the name of the on-site management representative accepting the information, and the date.
   - If the O/A receives third-party verifications that are unclear or incomplete, a documented verbal clarification may be accepted if it includes the name and title of the third-party contact, the name and signature of the onsite management representative accepting the information, and the date the information was obtained.
   - Furthermore, if after requesting third-party verification, the third-party indicates that the information must be obtained from an automated telephone system, the owner may document the information provided from the telephone system. The documentation must state the date the information is received, all of the information provided, and the name, signature, and title of the person receiving the information.
6. Self-Certification (Level 1)
   As a last resort, the owner may accept a tenant's signed affidavit if third-party verification cannot be obtained. The O/A should try to refrain from using self-certifications, except where specifically allowed such as when net assets do not exceed HUDs current inflationary rate.

If a self-certification must be used (except when specifically allowed), the O/A is required to document the tenant file by explaining the reason third-party or tenant-provided verification could not be obtained and showing all efforts that were made to obtain verification. Per Chapter 5 of the HUD Handbook 4350.3, the following documents should be placed in the tenant file:

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

The owner may accept self-certification if there is a fee associated with receiving the third-party verification. If the owner chooses to pay the fee to obtain the third-party verification, this cost cannot be passed on to the tenant or applicant.

7. Income Verified for a Rental Assistance Program
24 CFR 92.203 (A)(1) and (2); 24 CFR 93.151 (c)(1); 24 CFR 93.302(e)(1)(2)

HOME - In lieu of conducting their own income calculation, the Owner/Agent **MAY** accept an income determination that has already been made by a state or federal rental assistance program (tenant-based or project-based).

- 2025 HOME final rule changed the wording from 'must' to 'may' which allows the O/A to accept income determinations for both Federal, State, or local **project-based** AND **tenant - based subsidy programs**.
- This is allowed for initially determining annual income for move-ins.

HTF -The Owner/Agent **MUST** accept an income determination that has already been made by a state or federal rental assistance program (tenant- based or project-based).

- This is allowed for source documents
- the O/A must accept an income determination of the family's income under that program's rules.

This does NOT apply when initially determining annual income for an HTF-assisted unit that is assisted by a Federal tenant-based rental assistance program.

If the HOME- / HTF assisted-unit is assisted by a Federal or State **project-based subsidy program**, the O/A may accept an income determination of the family's income under that program's rules. This does NOT apply when initially determining annual income for a HOME- / HTF-assisted unit that is assisted by a Federal tenant-based rental assistance program.

For subsequent income determinations, The O/A may obtain from the public housing authority (PHA) or other rental assistance administrator a written statement that either

a. Indicates the household size and annual income; or
b. Indicates the current applicable program income limit and affirms that the household's
c. annual income does not exceed that limit.

Exception: For Housing Choice Vouchers or Project Based Vouchers, HUD Form 50058 will be accepted instead of a separate statement from the PHA. Form 50058 counts as income verification but does not replace the TIC.

Once the O/A receives this documentation, no other verification of income is required. However, verifications for other eligibility requirements such as student status must still be obtained, and the household must still complete a Tenant Income Certification Form and Income Questionnaire during applicable years (IDIS).

The O/A must obtain traditional third-party verification if the PHA or other rental assistance administrator does not respond to requests or is unwilling to provide the necessary statement.

8. Verification of Excluded Income

   For income sources where the entire amount qualifies to be excluded from annual income, the O/A is NOT required to: verify the income using third-party verifications, document the tenant file as to why no verifications available for review and include the income on the TIC. An income source that is partially excluded must be third-party verified and included on the TIC.

Zero Income Households

It is possible that a household will have a total annual income of zero dollars ($0). This is possible if the household is receiving rental assistance, food stamps, and other forms of assistance that are not counted as income; commonly referred to as “exempt income”. However, it is often the case that households claiming zero income are in fact receiving some type of recurring gift from friends or family members.

If the entire household is claiming zero income, the household must complete the required form “Income Status Certification”. This form asks the household to identify how various expenses will be paid and often serves as a way of catching recurring gifts and contributions to the household.

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

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.

Part 9.04 – Elements of Annual Income

Table 4: 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	Yes	Yes
Dependents (Under 18)	No	Yes
Full-Time Student (Over 18)	If a full-time student over 18 is a dependent of the household, only a maximum of HUDs current inflationary rate of earned income is included in annual household income.	Yes
Live-in Aide (non-household member)	No	No
Foster Child (Under 18) (non-household member)	No	No
Foster Adult (non-household member)	No	No
Guest (non-household member)	No	No

Adults:

Count the annual income of the head, spouse, or co-head, and other adult member(s) 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 adult, or live-in aide are never dependents. Some income received on behalf of family dependents 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.

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 HUDs current inflationary rate 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 HUDs current inflationary rate count all of the income. If the earned income exceeds HUDs current inflationary rate annually, count

HUDs current inflationary rate and exclude the amount that exceeds HUD's current inflationary rate This amount is subject to annual inflation adjustments.

- The income of full-time students 18 years of age or older who are members of the household but are 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 are 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 HUDs current inflationary rate 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.

Part 9.05 – Common Sources of Annual Income Inclusions – Income Sources

Annual income includes all amounts that are not specifically excluded by regulation. Annual Income is defined

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

The Owner/Agent must generally use current circumstances to anticipate income. However, if information is available on known changes expected to occur during the year, the owner must use that information to determine the total anticipated income.

The following is intended to provide guidance on common and/or complicated sources of income to verify:

Employment Income (Earned Income/Wages)

Earned income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment.

Owner/Agent must calculate the total anticipated employment income for the next 12 months based on current income and any verifiable changes. Employment income must be third-party verified when possible. Per the HOTMA Implementation Guidance's hierarchy of verification, an upfront income verification system such as the Work Number is the preferred source of employment verification, followed by tenant-provided source documents (e.g., paystubs), followed by a written third-party verification form completed by the employer.

If utilizing tenant-provided source documents:

- For tenants with jobs that provide steady employment, the owner must obtain the number of paystubs that cover the two most recent, consecutive months of payments.
- For seasonal workers or day laborers, the owner may need to obtain additional paystubs or an alternate form of verification. Seasonal workers and day laborers are considered to have recurring earned income and these income sources must be annualized and counted in total household income.

When full-time students who are 18 years of age or older are dependents of the household, only a maximum of HUDs current inflationary rate of their total annual earned income is counted in the total household income calculation. Continue to count the full amount of unearned and asset income.

Note: Per HOTMA, the $500 amount will be indexed by HUDs current inflationary rate and will change annually.

When full-time students who are 18 years of age or older are the head-of-household, co-head, or spouse, the full amount of earned, unearned, and asset income is counted in the total household income calculation

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. **For more examples, please refer to Sporadic Income in this Section.**

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 and 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

Income tax returns with corresponding official tax forms and schedules attached and including third- party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

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. Using Tax Returns for Income Verification: If utilizing tax returns as income verification, the owner agent must obtain copies of income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for the income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.) or a certified copy by completing IRS Form 4506 "Request for Copy of Tax Form."
2. 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
- Schedule 1
- **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.

3. Copy of Corporate or Partnership tax return (if applicable)
4. Audited or unaudited financial statement(s) of the business
5. 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 and 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, 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. Obtain a current signature/date when accepting/receiving unsigned copies of federal tax returns.

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/HTF-assisted housing.

Social Security (SS) and Supplemental Security Income (SSI) Benefits

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

Since HUD considers Social Security benefits (including SSI and SSDI) to be fixed income sources, management may follow the Streamlining Rule for verification of income and is only required to obtain third-party documentation at move-in and at every third recertification.

Note: Applicants/Tenants can go to the Social Security Administration website under Online Services to obtain current benefits statements.

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

Benefits received through direct deposit, or a **Direct Express Debit Card** are treated as income. In addition, the balance on a Direct Express Debit Card is also considered as an asset and must be verified consistent with the verification procedures for a savings account (HOME excluded if assets under threshold). A current balance must be provided and included as an asset in addition to the benefit income. This balance can be obtained through an online account service, a paper statement, or an ATM balance. 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 (COLA), include the increase as appropriate in the annual income calculation.

Delayed SS and SSI payments received as a lump sum are not counted as income but are included as a lump sum asset. Delayed SS and SSI payments received as periodic payments are excluded from income.

Unemployment and Welfare Benefits

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

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

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

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

Child or Spousal Support

The amount of child or spousal support included in annual income is "all amounts received," not any amount the household may be legally entitled to but is not receiving. HUD's HOTMA Implementation Guidance specifically states that "child support or alimony must be based on the payments received, not the amounts to which the family is entitled by court or agency orders."

The owner agent must verify the amount of support actually received to annualize income. HUD's HOTMA Implementation Guidance notes that "a copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family" since that order would demonstrate the amount the household is entitled to, not the amount they are receiving.

A review of historical payments received in the prior 12-month period may be used when determining annual income of child or spousal report.

Recurring Gifts / Regular Contributions to Household

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

- Groceries provided directly to the household (not money given to buy groceries)
- Childcare payments paid directly to the childcare provider on behalf of the tenant
- Non-monetary goods such as food, clothing, or toiletries received from a food bank or similar organization
- Gifts for holidays, birthday, or other significant life events or milestones such as weddings, baby showers, or anniversaries
- Recurring gifts/contributions should be third-party verified, when possible, by having the contributor sign a certification stating the amount and frequency of the gift/contribution.

Periodic Payments and Withdrawals

Periodic payments from such sources as annuities, insurance policies, retirement funds, pensions, and disability or death benefits are included in annual income.

Retirement Accounts: The distribution of periodic payments from retirement accounts is included as income and must be verified. Retirement accounts include IRAs, employer plans such as 401(k) or 403(b) plans, and retirement plans for self-employed individuals. Retirement accounts are not considered assets. The owner must verify the amount of distributions. The balance of the account does not matter since retirement accounts are never counted as assets.

Irrevocable Trusts: The distribution of periodic payments from the trust's principal is excluded as income. The distribution of periodic payments from interest earned on the trusts' principal is included as income unless the

distributions are used to pay for the health and medical expenses of a minor. An irrevocable trust is never counted as an asset and asset income (actual income earned by the trust) is excluded.

Revocable Trusts (Where the Trust Grantor is Not Part of the Household and Household Does Not Otherwise Have Control of the Trust): The distribution of periodic payments from the trust's principal is excluded as income. The distribution of periodic payments from interest earned on the trusts' principal is included as income, unless the distributions are used to pay for the health and medical expenses of a minor. This type of revocable trust is not counted as an asset and asset income (actual income earned by the trust) is excluded.

Revocable Trusts (Where the Trust Grantor is Part of the Household or Household Otherwise Has Control of the Trust): The distribution of periodic payments from the trust's principal is excluded as income. The distribution of periodic payments from interest earned on the trusts' principal is excluded as income. This type of revocable trust is counted as an asset and asset income (actual income earned by the trust) is included as income.

Student Financial Assistance

Note: New-HUD appropriation bill, Consolidated Appropriations Act of 2026, has eliminated the section 8-specific student financial assistance rule announced February 03, 2026.

Treatment of student financial assistance now follows one (1) rule regardless of whether a household is receiving Section 8 assistance (HCV, PBV, or PBRA). To properly calculate student financial assistance, the owner agent must verify and calculate (1) actual covered costs, (2) student financial assistance received under the Higher Education Act, and (3) other student financial assistance, as defined below.

1. Actual Covered Costs
   Actual covered costs include tuition, books, supplies, equipment to support students with disabilities, room and board, and other fees required by an institution of higher education. If the student is not the head of the household, co-head, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.
2. Student Financial Assistance Received Under Section 479B of the Higher Education Act ("HEA Assistance")
   HEA assistance includes Federal Pell Grants, Teach Grants, Federal work study programs, Federal Perkins Loans, student financial assistance received under the Bureau of Indian Education, Higher Education Tribal Grants, Tribally Controlled Colleges or Universities Grant Program, or employment training programs under Section 134 of the Workforce Innovation and Opportunity Act (WIOA).
3. Other Student Financial Assistance
   Other student financial assistance includes grants or scholarships received from such sources as the Federal government; a state, territory, Tribe, or local government; a private foundation registered as a 501(c)(3) nonprofit; a business entity such as a corporation, general partnership, LLC, LP, joint venture, business trust, public benefit corporation, or nonprofit; or; an institution of higher education.
   Other student financial assistance does not include financial support provided in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under Section 479 B of the HEA) or gifts from family or friends. Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf.

Determining Student Financial Assistance Income for Households without Section 8 Assistance

The amount of student financial assistance to include as income is calculated as follows:

Step 1: Actual covered costs MINUS amount of HEA Assistance = amount of actual covered costs exceeding HEA assistance ("X")

- If "X" is negative, count the full amount of other student financial assistance as income
- Otherwise, proceed to Step 2

Step 2: Amount of other student financial assistance MINUS "X" = student financial assistance counted in income ("Y")

- If "Y" is negative, student financial assistance income = $0

Part 9.06 – Fixed Income Sources: Streamlining Rule

The "Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs Final Rule" (a.k.a. the Streamlining Rule) provides a simplified manner of verifying fixed income sources effective April 7, 2016. OHCS has adopted these streamlining rules to verify fixed income as described below.

Per the Streamlining Rule, as codified through regulation in 24 CFR Part 5.657 and Part 982.516, fixed income sources are defined as "periodic payments at reasonably predictable levels." Fixed income sources include the following:

- Social Security payments, including Supplemental Security Income (SSI) and Supplemental Disability Insurance (SSDI);
- Federal, state, local, and private pension plans;
- Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; and
- Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

Fixed income sources must initially be verified through third-party verification. The owner is not required to reverify until the household's third recertification and every three recertifications thereafter (referred to as the "**triennial verification**").

For years that do not require third-party verification, the owner utilizes the existing verification form and applies an adjustment factor that comes from either:

1. A public source (e.g., the Social Security Administration's annual COLA announcement), or
2. Tenant-provided third-party generated documentation.

The adjustment factor used must be verified and documented in the file. If no public or third-party verification of the COLA/increase is available, then a traditional verification must be obtained.

Special Rule When 90% or More of Household Income is from Fixed Income Sources

The "Streamlining Administrative Regulations for Multifamily Housing Programs and Implementing Family Income Reviews Under the Fixing America's Surface Transportation (FAST) Act Interim Final Rule" (a.k.a. the FAST Act) further expands the streamlining rule for verifying fixed income sources effective March 12, 2018. OHCS has adopted these additional streamlining rules to verify fixed income.

When 90% or more of a household's gross income comes from fixed income sources, in addition to the streamlining requirements described above, the owner may accept the household's self-certification of income

sources that are not fixed during years that do not require the full "triennial verification."

Example 1: Household where fixed income source is 90% or more of gross income. Example assumes the project is subject to recertification of income.

- **Move-in**: Owner obtains full verification of all income sources.
- **First Recertification**: Owner obtains verification of COLA increases for fixed income sources and applies the adjustment to the previously obtained verification of the fixed income source (from the move-in file). Non-fixed income sources are verified by self-certification of the household, as long as the household certifies an amount that is less than 10% of the total gross household income. If non-fixed income sources are greater than 10% of gross household income, they must be verified through the traditional verification methodology.
- **Second Recertification**: Owner obtains verification of COLA increases for fixed income sources and applies the adjustment to the previously obtained verification of the fixed income source (from the move-in file). Non-fixed income sources are verified by self-certification of the household, as long as the household certifies an amount that is less than 10% of the total gross household income. If non-fixed income sources are greater than 10% of gross household income, they must be verified through the traditional verification methodology.
- **Third Recertification**: Owner obtains full verification of all income sources, similar to what was done at the time of move-in.
- **Fourth Recertification**: Owner obtains verification of COLA increases for fixed income sources and applies the adjustment to the previously obtained verification of the fixed income source (based on the third recertification file). Non-fixed income sources are verified by self-certification of the household, as long as the household certifies an amount that is less than 10% of the total gross household income. If non-fixed income sources are greater than 10% of gross household income, they must be verified through the traditional verification methodology.
- Process continues to cycle as demonstrated above.

Example 2: Household where fixed income source is less than 90% of gross income. Example assumes the project is subject to recertification of income.

- Move-in: Owner obtains full verification of all income sources.
- 1st Recertification: Owner obtains verification of COLA increases for fixed income sources and applies the adjustment to the previously obtained verification of the fixed income source (from the move-in file). Non-fixed income sources are third-party verified.
- 2nd Recertification: Owner obtains verification of COLA increases for fixed income sources and applies the adjustment to the previously obtained verification of the fixed income source (from the move-in file). Non-fixed income sources are third-party verified.
- 3rd Recertification: Owner obtains full verification of all income sources, similar to what was done at the time of move-in.
- 4th Recertification: Owner obtains verification of COLA increases for fixed income sources and applies the adjustment to the previously obtained verification of the fixed income source (based on the third recertification file). Non-fixed income sources are third-party verified.
- Process continues to cycle as demonstrated above

Note: Streamlining of fixed income cannot be utilized during IDIS years that require full recertifications.

Part 9.07 – 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.

- 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. See HUD's Annual Inflationary Adjustment 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.

Nonrecurring Income

Income that is not recurring is not counted as income. Examples of income that are considered nonrecurring and thus excluded include:

- payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment
- direct federal or state payments for economic stimulus or recovery
- tax refunds or tax credits
- gifts for significant life events or milestones (holidays, birthdays, weddings, baby showers, etc.)
- lump sum additions to net family assets, including lottery or contest winnings
- non-monetary, in-kind donations such as food, clothing, or toiletries received from a food bank or similar organization
- nonrecurring payments made to the family or to a third-party on behalf of the family to assist with utilities or eviction prevention
- security deposits to secure housing
- payments for participating in research studies (depending on the duration)
- other general one-time payments

Unsecured Income

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

Sporadic or Seasonal Income

The owner must use reasonable judgment to determine the most reliable method of calculating income in

scenarios where income fluctuates, such as when income is received as an independent contractor, day laborer, or seasonal worker.

- A day laborer is defined as “an individual hired and paid one day at a time without an agreement
- that the individual will be hired or work again in the future.”
- An independent contractor is defined as “an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment tax.”
- A seasonal worker is defined as “an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer); and 2) employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry. Examples include employment linked to holidays, agricultural seasons, lifeguards, ballpark vendors, snowplow drivers, etc.

Such income does not meet HUD’s definition of “nonrecurring” and must be counted as income. If income cannot be determined using current information, the owner may anticipate income based on the income that was earned within the last 12 months prior to the income determination. However, prior year’s income should not be used if information is available that shows the situation has changed.

Any income source not specifically excluded must be included. See the list of income exclusions at 24 CFR 5.609 Part 5 (Section 8) Income and Asset Inclusions and Exclusions.

Note that income limits are based on gross annual income, not adjusted annual income. Allowances commonly used in some federal housing programs, such as childcare allowance, elderly household allowance, dependent allowance, handicapped assistance allowance, medical deductions, etc., are not permitted to be subtracted from the household’s gross income to determine income eligibility for program assisted units. Adjusted income is only calculated to determine the rent to charge households exceeding 80% AMI in HOME-assisted units as described in Section 6: Maintaining the Unit Mix.

Part 9.08 – Calculating Annual Income

24 CFR 92.203(b)(1); 24 CFR 93.302(e) and (f)

- The HOME and HTF regulations require that, for the purpose of determining eligibility for HOME- / HTF-assistance, O/A(s) 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 overtime pay. In the case of overtime, it is important to clarify whether overtime 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, Owner/Agent(s) 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, Owner/Agent(s) 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:

Table 5: Calculation Method and Examples

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 should be considered and compared to the wage/salary calculation. YTD calculations are helpful for seasonal or inconsistent work hours and differential pay amounts. A YTD calculation may not be very accurate unless there are 10 weeks or more employment history to calculate. 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. Owner/agents who practice a YTD calculation must choose one of these methods and follow it consistently.

Minimum Wage Increases and 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.

You can locate Oregon's minimum wage schedule on the BOLI website to check for current and upcoming wage amounts.

COLAs are usually announced on the 2nd or 3rd week in October. Current SSA COLAs can be located here at Cost-Of-Living Adjustments.

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).

Part 9.09 – Asset Inclusions and Exclusions

Net Family Assets Defined

Net family assets are defined as the net cash value of all assets owned by the family (except necessary personal property and specifically excluded assets), after deducting reasonable costs that would be incurred to dispose of real property, savings, stocks, bonds, and other forms of investment.

There are three types of assets:

1. **Real property** is included in net family assets. Real property includes land or a home.
2. **Necessary personal property** is excluded from net family assets. Necessary personal property includes (1) items essential to the family for the maintenance, use, and occupancy of the premises as a home, (2) items necessary for employment, education, or health and wellness, (3) items that assist a household member with a disability or that may be required for a reasonable accommodation for a person with a disability, and (4) personal effected including items that are convenient or useful to a reasonable existence and that support and facilitate daily life within the home.
3. **Non-necessary personal property** includes bank accounts, other financial investments, luxury items, and other items not counted as necessary personal property. Non-necessary personal property is treated as follows:
    a. If combined value is greater than the allowed threshold. See HUD's Annual Inflationary Adjustment include in net family assets
    b. If combined value is less than (<) threshold exclude from net family assets, **but actual income from the assets is still included as income**

Determining what is a necessary item of personal property requires owners and agents to gather enough facts

to qualify whether an asset is necessary or non-necessary personal property.

An asset has “Market” and “Cash” value:

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

When determining the Cash Value of the asset, the cost of reasonable expenses incurred to convert the asset to cash are deducted from the Market Value of the asset. The following are examples of reasonable expenses that may be deducted.

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

If an asset is not effectively owned by an individual, do not include as a household asset. An asset is not considered “effectively owned” by an individual when the asset is held in the individual’s name but the asset and income it earns accrue to the benefit of someone else who is not a member of the family, and that other person is responsible for taxes on income generated by the asset.

Note: Some income sources (including benefits such as Social Security) are being paid onto special pay cards / prepaid debit cards instead of through direct deposit into a checking or savings account. These cards are included as assets and are verified in the same way as a checking or savings account. A current balance must be provided and included as an asset in addition to the benefit income being counted as income. This balance can be obtained through an online account service, a paper statement, or an ATM balance.

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.

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.)

Third party verification of disposed of assets is not required. However, a certification completed and signed by

the owner should be obtained that describes details of the asset disposed.

- 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.

Jointly Owned Assets

If assets are owned by the household and one or more individuals outside of the household, the owner agent must include the total value of the asset in the calculation of net family assets unless (1) the asset is specifically excluded, (2) the household can demonstrate that the asset is inaccessible to them, or (3) the household cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

Examples include:

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.

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?

Assets with Negative Equity

The value of real property or other assets with negative equity is considered $0 for purposes of calculating net family assets.

Excluded Assets

The following are excluded from net family assets. Any asset source not specifically excluded must be included in net family assets.

- The value of necessary items of personal property (see below)
- The value of non-necessary items of personal property with a combined value less than the current threshold. However, actual income earned from such assets is still included as income.
- The value of any account under a retirement plan recognized as such by the IRS, including Individual Retirement Accounts (IRAs), employer retirement plans such as 401(k) or 403(b) plans, and retirement plans for self-employed individuals.
- The value of real property that the household does not have the effective legal authority to sell. Examples include coownership situations where one party cannot unilaterally sell the real property (including situations where one owner is a victim of domestic violence), property tied up in litigation, or inherited property in dispute.
- Amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a household member arising out of law that resulted in a member of the

family being a person with disabilities.

- The value of any Coverdell education savings account under Section 530 of the Internal Revenue Code, the value of any qualified tuition program under Section 529 of the Internal Revenue Code, and the amounts in, contributions to, and distributions from an Achieving a Better Life Experience (ABLE) account under Section 529A of such code.
- The value of any "baby bond" account created, authorized, or funded by the federal, state, or local government (money held in a trust by the government for children until they are adults)
- Interests in Indian trust land
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982
- Family Self-Sufficiency accounts
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family
- The full amount of assets held in an irrevocable trust
- The full amount of assets held in a revocable trust where a member of the household is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the household

Subtraction of Federal Tax Refunds or Refundable Tax Credits Amounts received in the form of a federal tax refund or refundable tax credit are excluded from net family assets.

If a tax refund was received during the previous 12-month period preceding the effective date of certification, then the amount of the refund must be subtracted from the total value of the account into which it was deposited. If the subtraction results in a negative number, the balance of the asset is considered $0. When calculating this amount, the owner agent must use the refund amount actually received, not an anticipated amount.

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.

Such a loan does not require monthly payments to 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.

The following is not an exhaustive list of examples that describe necessary and non-necessary personal property.

Examples of necessary personal property include:

- Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)
- Furniture, carpets, linens, kitchenware
- Common appliances
- Common electronics (e.g., radio, television, DVD player, gaming system)
- Clothing

- Personal effects that are not luxury items (e.g., toys, books)
- Wedding and engagement rings
- Jewelry used in religious/cultural celebrations and ceremonies
- Religious and cultural items
- Medical equipment and supplies
- Health care–related supplies
- Musical instruments used by the family
- Personal computers, phones, tablets, and related equipment
- Professional tools of trade of the family, for example professional books
- Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities
- Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)

Examples of non-necessary personal property include:

- Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs))
- Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)
- Recreational boat/watercraft
- Expensive jewelry without religious or cultural value, or which does not hold family significance
- Collectibles (e.g., coins/stamps)
- Equipment/machinery that is not used to generate income for a business
- Items such as gems/precious metals, antique cars, artwork, etc.

Part 9.10 – Calculating Income from Assets

The asset may provide the household with income that is required to be included when calculating the annual income. There are two distinct types of income and specific rules that determine what to include in a household's annual income:

- The actual income from assets; or
- The imputed income from assets based on the passbook rate established by HUD

Actual Income from Assets

Actual income from assets is always included in a family's annual income regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets unless that income is specifically excluded by 24 CFR 5.609(b).

The income generated by an asset, such as interest, dividend payments and other actual income earned on the asset are generally considered.

Example: Actual Asset Income from an Asset Excluded from Net Family Assets

Eugene Park owns a checking account with $3,500 that earns zero percent interest and a savings account with a balance of $10,000 earning an interest rate of 3%. Mr. Park does not have any other assets. Because those assets are classified as non-necessary personal property, and their combined value of $13,500 does not exceed $50,000, the combined value of all non-necessary personal property is excluded from the calculation of net family assets.

- Total value of assets is $13,500 ($3,500 + $10,000)
- Net family assets = $0.00 (the total value of assets is less than the current threshold so net family assets are considered zero ($0.00)
- Actual asset income from the savings account is $300 ($10,000 balance x 3% interest rate) even though the net family assets are $0.00

Imputed Income from Assets

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

1. The value of net family assets ***exceeds the current threshold;***
2. The specific asset is included in net family assets; and
3. Actual asset income cannot be calculated for the specific asset.

If the actual income from assets can be computed for some assets but not all assets, the O/A must add up the actual income from those assets, where actual income can be calculated, and then calculate the imputed income just for those assets where actual income cannot be calculated.

After the O/A has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over the current threshold.

When the family's net family assets ***do not exceed the current threshold***, imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets. When actual income for an asset — which can equal $0 — can be calculated, imputed income is not calculated for that asset.

Example: Combining Actual and Imputed Asset Income

The Jorgensen family owns a small piece of vacant land with a cash value of $25,000. The family also owns a savings account with a verified balance of $55,000, with an interest rate of zero (0%) percent.

- The family's total net assets are $80,000 ($25,000 + $55,000)
- The owner/agent can calculate the actual income of the savings account as zero ($0.00)
- The owner/agent is unable to calculate the actual income earned for the property because the property neither generates any income, nor could an annual income be computed on interest or dividend earnings
- Therefore, imputed asset income for real property must be calculated (See Steps 1, 2, and3
- Imputed Income for the real property (vacant land) is $25,000 x 0.40% = $100 imputed income
- Total asset income is $100 ($0 + $100)

Imputed income is calculated using the current published HUD Passbook Savings Rate. See HUD's Annual Inflationary Adjustment.

- HUD will calculate the new passbook savings rate each year, around August.

Part 9.11 – Computing the Total Household Income

After all income and asset information has been verified for a household, all included sources of income are added together to calculate the total household income. In order for the household to qualify for a program assisted unit, the total household income must be at or below the income limit in effect at the

time of tenant certification. If the total household income is greater than the income limit, then the household cannot be certified for a program assisted unit.

Income and assets must be calculated in accordance with the Section 8 methodology as described in 24 CFR 5.609 and in further detail in Chapter 5 of HUD Handbook 4350.3 as superseded by Notice H 2023-10/PIH 2023-27 (HOTMA Implementation Guidance) where applicable.

Any income and asset source not specifically excluded from household income must be included.

Section 10: General Occupancy Guidelines

Part 10.01 – Tenant Qualification and Certification Process Overview

Households are qualified for the program only if proper documentation verifying the household's eligibility is obtained and maintained in the tenant file. Forms referenced below can be found on OHCS' compliance webpage.

Necessary Documentation for a Tenant File

At a minimum, the following items must be included in the file and must be organized in chronological order for ease of review:

1. Initial Tenant Application for residency
2. Applicant/Tenant Income Certification Questionnaire completed at time of processing the application, including certification of assets and disposal of assets if applicable. A separate Applicant/Tenant Income Certification Questionnaire must be completed by each adult household member. For HOME- / HTF-assisted units, new Questionnaires must be completed as part of the income recertification process during IDIS years;
3. Tenant Income Certification (TIC) signed by each adult member of the household for every year the household resides at the property. The TIC must have proper signature and effective dates clearly stated;
4. Verifications of all sources of earned and unearned income and of all asset sources noted on the Tenant Income Certification Questionnaires.
5. For HOME-assisted units, a separate "HOME Student Status Certification" completed by each adult member of the household each year, along with any additional student status verifications needed.
6. Any other documentation verifying the household's eligibility (e.g., unborn child self-certification, joint custody of a child documentation, management clarification documents, etc.);
7. Initial and subsequent leases and all lease addenda executed by the tenant and owner;
8. VAWA Lease Addendum;
9. Documentation of receipt of the applicable brochures: Fair Housing and Lead Based Paint
10. If applicable, copies of HUD Form 50058, HUD Form 50059, and RD 3560-8 when the household is receiving rental assistance.
11. Household Demographics
12. Move-In Inspection Form

All documents included in the tenant file must be fully completed, signed, and dated. OHCS will not accept documents that are incomplete, that have been marked with correction fluids (i.e., whiteout), or where information has been obliterated with pen or marker. Please refer to Section 8, Part 8.08 Correcting Documents for information on how to properly correct documents in a tenant file.

Note: A recertification file for HOME- or HTF-assisted units in years that a full recertification is not required may only include the following documentation: a new Tenant Income Certification (TIC) / Self-Certification, and if applicable, other lease addendums/attachments. Verification of income and assets is not necessary at recertification for these programs. It is also unnecessary to complete a Questionnaire at recertification.

Part 10.02 – Tenant Qualification

A household must be determined income and program eligible prior to occupying a HOME- / HTF-assisted unit at move in and annually throughout the property's affordability period.

Initial Certification / Move-In

After all income and asset information has been obtained, verified, and calculated, the O/A must prepare a Tenant Income Certification (TIC) for each household placed in a HOME- / HTF-assisted unit.

Note: Both HOME and HTF allow self-certification of assets if under the threshold for move-ins.

The TIC must be executed, along with the lease, on or just prior to the actual move-in date; not to be no more than 10 days before the move-in date 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 TIC is still accurate and has not changed since signing and make the determination that household remains eligible for the HOME-/ HTF-assisted unit.

Annual Recertifications

Owners/Agents must examine each tenant household's income (and Student Status for HOME) every year during the affordability period to determine if the household continues to be income-eligible to occupy their HOME- /HTF- assisted unit. All households must be re-certified annually at the anniversary of their move-in date. Recertifications are completed with a Self-Certification (required OHCS form) or a full certification with the completion of a HOME / HTF TIC.

Note: OHCS will accept annual TICs with an effective date of the first day of the anniversary month, i.e., the initial move-in date is March 15, 2023, the effective date of the Annual Recertification may be either March 1, 2024, or March 15, 2024. The O/A should implement a policy and be consistent in applying to all assisted units.

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- / HTF-assisted unit must fully recertify every 6th year from the properties IDIS closeout date, regardless of any other funding source certifications taking place for the household. Therefore, the Owner/Agent must complete a TIC and obtain source verifications for all HOME- / HTF-assisted unit households utilizing required verification methods during their move-in anniversary month and in each 6th year; all IDIS required certifications are due no later than December 31st of each 6th year.

Note: HOME and HTF allow self-certification of assets if under the threshold for annual recertifications, including IDIS years.

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 1/20/2013. Chart demonstrates first 12 years.

Table 6: IDIS Closeout Date

Years from IDIS	Year	Years from IDIS	Year
1/1/2013 – 12/31/2013	1st – Initial	1/1/2019 – 12/31/2019	**7th**
1/1/2014 - 12/31/2014	2nd	1/1/2020 - 12/31/2020	**8th**
1/1/2015 – 12/31/2015	3rd	1/1/2021 – 12/31/2021	**9th**
1/1/2016 – 12/31/2016	4th	1/1/2022 – 12/31/2022	**10th**
1/1/2017 – 12/31/2017	5th	1/1/2023 – 12/31/2023	**11th**
1/1/2018 – 12/31/2018	**6th year- Full Certifications**	**1/1/2024 – 12/31/2024**	**12th year- Full Certifications**

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

Tips for Reviewing Self-Certifications

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

Certification Schedule Overview

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 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.

Table 7: Certification Schedule

Certification:	Required Documentation:
Move-In	Full Certification with Verifications and Source Documentation 2025 HOME final rule allows for self-certification of assets if under the threshold. HTF does NOT allow self-certifications of assets.
First Year	Self-Certification (unless the Year is an IDIS Year OR the unit is also a tax credit unit)
Interim Years	Self-Certification (If No Project-Based Rental Assistance)
Every 6th Year from IDIS	Full Certifications with Verifications and Source Documentation

Note: 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. Only a HOME Student Status is required at recertification.

Part 10.03 – Recertification / Determining Continued Eligibility

24 CFR 92.252 / 24 CFR 93.302(e) and (f) tenant income and over-income tenant

- Once the tenant household's anticipated annual gross income is recertified, the O/A must compare it to the most recent HOME / HTF income limits for the type of unit the household occupies (High or Low HOME Rent unit / HTF unit). If the Owner/Agent recertifies a tenant's income and finds that it has increased above the HOME / HTF 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. **Please refer to Section 7: Maintaining Unit Mix Requirements.**

Over-Income - HOME

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 household 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. If the HOME unit is layered with LIHTC, the rent charged will be no higher than the unit's LIHTC set-aside amount. For example, a property has 40%-60% LIHTC set-aside with some HOME units. The 80% HOME income limit for a 4-person household is $68,900. The household goes over the 80% income limit at recertification and has income at $72,000. The LIHTC 60% rent limit is $1,341 and the HOME Fair Market Rent is $1,643. The tenant will be charged the 60% LIHTC rent limit at $1,341. Rents cannot exceed the designated LIHTC set-aside amount.
- 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- / HTF-assisted units and non-HOME-/HTF-assisted units, if a household goes over income, the next available unit(s) must be leased to HOME/HTF eligible households (Low or High as appropriate (HOME)) until compliance with the HOME / HTF Agreement is restored. The over-income household unit can be re-designated to a non-assisted 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 when appropriate.

- First restore the unit mix before swapping the designation of the over-income unit.

For further information regarding over-income households, please refer back to Section 6: Maintaining the HOME Unit Mix earlier in this manual.

RD and Project-Based Section 8 Programs

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

Further, O/As are not required to complete HOME / HTF TICs or Self-Certifications when completing RD and/or Section 8 Annual/Interim Recertifications. However, Self-Certifications at recertification are required during each of the interim years for the HOME and HTF program if project-based certifications are not being completed annually. The TIC with verifications must be completed again at every 6th year from the property's IDIS close-out date.

Remember, the HOME and HTF TICs and 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).

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

Part 10.04 – Floating Unit Designations – HOME and HTF

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

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

Part 10.05 – Leases

24 CFR 92.253 / 93.303(b); 93.303(c)

- OHCS does not provide a model lease agreement. However, O/A 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 / HTF Lease Compliance Form on all HOME- / HTF-assisted units.

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- / HTF-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.
    - Both the HOME Program and HTF Program do not allow "no-cause" evictions.
- A provision that to terminate tenancy or refuse to renew the lease of a HOME- / HTF-assisted unit, the Owner must serve written notice upon the tenant specifying the grounds for the action at least thirty (30) days before termination of tenancy;
- The 30-day notice requirement applies regardless of the reason for termination, including failure to pay rent.
    - **HOME only:** 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 moving in. (However, for HOME coupled with LIHTC, the maximum tenant rent may never exceed the LIHTC rent*).*
- A clause that the tenant will receive a 90-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 / HTF rent limits and in the event a tenant's income increases above the low-income or very low-income limits (HOME) and extremely low-income (HTF) for the unit type the tenant occupies;
- 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 with 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, the O/A should establish an impartial way to address complaints about property management staff or the way in which the property is operated. This generally requires the involvement of a neutral third party**.**

Part 10.06 – Fees

Mandatory fees and surcharges are not encouraged in HOME and HTF properties and are subject to written approval by OHCS before they can be imposed. Generally, if imposed, HUD requires the Owner to deduct all mandatory fees from the maximum HOME and HTF 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 the 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.

Surety bonds. Surety bonds, security deposit insurance, or instruments similar to surety bonds and security deposit insurance may not be used in lieu of or in addition to a security deposit in HOME-assisted units.

In addition, owners may charge reasonable fees for services such as transportation or meals, as long as the services are voluntary, and the fees are charged for services provided. Parking fees are permitted only if they are customary for rental housing projects in the neighborhood. Mandatory tenant-paid renter's insurance is not allowed.

Part 10.07 – Transferring Existing Tenants

Transfers from a HOME- / HTF-assisted unit requires the household to be treated like a new move-in. A new certification is required to ensure that the household is not over-income, which places the unit temporarily out of compliance with program requirements. All applications, verifications, and certification procedures must be completed, including the execution of new income and asset verifications to determine eligibility for a HOME- / HTF-assisted unit.

HOME-assisted

When processing a transfer, the correct unit mix of High and Low (if applicable) HOME-assisted units must be maintained, in accordance with the appropriate unit sizes. Additionally, how the units are designated, fixed or floating, will have an effect on the ability to transfer to a new HOME-assisted unit. If a household is determined to be over-income, resulting in the unit being temporarily out of compliance, the household may not be able to transfer until steps are taken to restore compliance. **Please refer to Section 6 Maintaining the Unit Mix for additional guidance.**

- When correcting compliance, it is important to first restore the unit mix before swapping the status/designation of the over-income unit.
- Vacated HOME- / HTF-assisted units may be available if the transferring household is NOT over-income and the TSP includes this provision when discussing the Waiting List.
- HTF-assisted

When processing a transfer, the correct number of assisted units must be maintained, in accordance with the appropriate unit sizes. Additionally, how the units are designated, fixed or floating, will have an effect on the ability to transfer. If a household is determined to be over-income, resulting in the unit being temporarily out of compliance, the household may not be able to transfer until steps are taken to restore compliance. **Please refer to Section 6 Maintaining the Unit Mix for additional guidance.**

When an existing tenant household moves from a non-HOME- / non-HTF-assisted unit into a HOME- / HTF-assisted unit, full HOME / HTF initial (move-in) certification procedures must be completed, including a new HOME / HTF TIC. 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 eligibility for a HOME- / HTF-assisted unit. This process must also be followed when assigning HOME- / HTF-assistance to a

non-assisted unit.

The Tenant Selection Plan must include steps that describe the ability to transfer an existing household to a vacated unit prior to the processing of an application from the waiting list.

Be sure to complete a new HOME TIC when moving tenant households from one HOME- / HTF- assisted unit to another or establishing a unit as HOME- / HTF-assisted.

Part 10.08 – Adding a New Household Member

OHCS recommends that the O/A 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.

Part 10.09 – 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.
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:
    i. Methods for payment.
    ii. Delinquencies and follow up.
    iii. The procedures that are to be followed in evicting a tenant.
    iv. Security deposits.
    v. Transfer Policy (Must be treated as new move-in).

Section 11: Compliance Monitoring

Monitoring by OHCS is an ongoing process involving continuous communication and evaluation. The process begins with the allocation of HOME / HTF funds. Compliance and Asset Management will monitor HOME and HTF Program compliance throughout the affordability period of the property.

OHCS is required by regulation to conduct compliance monitoring and to take appropriate steps when noncompliance is discovered. It is the sole responsibility of the Owner to remain in compliance.

Part 11.01 – OHCS Compliance Monitoring Overview

All properties will be subject to a program review, including tenant file audits and physical unit inspections once every three years throughout the affordability period, beginning the third year after project closeout/beginning of the affordability period. The monitoring schedule and inspection sample size will be determined as follows.

Inspection Frequency

The first property review and inspection must take place within 12 months of project completion, and at least once every once every three (3) years thereafter during the period of affordability. The physical inspection frequency will be based on a property risk analysis and must meet HUD requirements as found in 24 CFR 92.251 and 92.504 (HOME) and 93.404(d) (HTF).

Properties with no asset management or compliance concerns will be inspected and audited at 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.

Minimum Sampling Size

- # Total Property Units: Number of Files/Units that will be Reviewed and Inspected:
- 1-4 Total Units: Review/Inspect **100%** of the HOME- / HTF-assisted units in the property and all inspectable items for each building with HOME- / HTF-assisted units.
- 4 Plus Total Units: Review/Inspect at least **20%** of HOME- / HTF-assisted units in each building of the property and **not less than four (4) total units**. For physical inspections, at least one (1) unit in each building along with all inspectable items for each building with HOME- / HTF-assisted units will be inspected.

Inspectable areas under NSPIRE will be inspected for all buildings. Inspectable areas include unit, inside, and outside. Please refer to the NSPIRE affirmative habitability requirements in Part 11.08.

HOME and National Housing Trust Fund Risk Based Monitoring Schedule

HOME and National Housing Trust Fund (HTF) monitoring is based on OHCS risk analysis of each property. The property and the O/A's current portfolio of properties monitored by OHCS must be in compliance with program requirements and other applicable agency regulations.

Each property is evaluated using a standardized internal process, including the review of 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;
- Submission of required annual reporting including financial reports, certifications of program compliance, and proposed rent schedules;
- Owner and Management cooperation with reporting and communication; and
- Change of Ownership or Agent.

Part 11.02 – OHCS Regulatory Review and Inspection Time Frames

The following schedule outlines the time frames for certain monitoring events:

- Event: Timeline
- Review/ Inspection Scheduling: OHCS will contact Owner/Agent a minimum of 15 days in advance to schedule review/inspections.
- Review/ Inspection Results and Findings Report: Owner/Agent will receive a report within 45 days following the inspection from OHCS.
- Physical Inspection Environmental, Health, and Safety (EHS): Owner/Agent will receive a list of findings that require 24- hour or 72-hour immediate action on the day of the inspection. Owner/Agent is required to complete items in 24 or 72 hours as specified and report back to CA immediately upon completion.
- Correction period: Owner/Agent will have a minimum of 45 days for physical inspection findings, to correct any reported non- compliance findings and respond to OHCS.
- Closing: Once all items in review have been completely addressed and corrections are made, OHCS will close the review and submit report to HUD.

Note: If there are observed deficiencies for any inspectable items, a follow-up onsite inspection must occur, or by other verification as established, within 12 months, or other reasonable timeframes established by the PJ/Grantee. Other Verification includes pictures of the deficiencies corrected along with copies of invoices and work orders. Pictures alone is not sufficient verification.

Part 11.03 – Preparing for OHCS Review/Inspection

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

- Management Review Questionnaire (MRQ)
- Resident Service Report Form
- HOME / HTF Monitoring Report(s)
- Rent Roll with move-in dates and annual income
- Copy of Waiting List
- Current Utility Allowance Documentation
- Vacancy Report
- 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. The materials are requested prior to a review/inspection so that the Compliance Analyst (CA) can prepare in advance to allow time while onsite for specifically reviewing files, affirmative marketing, supportive services, performing 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 a 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 are 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 who are knowledgeable of the property present during the inspection and exit interview so they can respond to questions, suggestions, or comments.

Post Inspection: Include file review items

- Exit Interview: The Compliance Analyst/team will make an effort to provide a brief overview of information to Owner/Agent regarding results of the inspection/review.
- EHS Findings: The Compliance Analyst will provide a list of all physical inspection findings requiring immediate action to remedy.
- Owner/Agent is required to correct items on immediate action items list and report such correction date to the Compliance Analyst (CA) 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 45 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 45.

Part 11.04 – OHCS Tenant File Reviews and Inspections

OHCS reserves the right to review the tenant/unit files and related records either electronically (files submitted to the Procorem WorkCenter) or onsite at the property and to perform the physical inspection as determined necessary by the Compliance Analyst.

All properties will be subject to tenant file audits and physical unit inspections once every three years throughout the affordability period, beginning the third year after project closeout/beginning of the affordability period.

Part 11.05 – Electronic File Audit Procedures

OHCS at the Compliance Analyst's (CA) discretion may conduct the file audit portion of some reviews electronically. This is completed using Procorem for file upload into a shared folder with OHCS. The CA will notify the O/A 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 Procorem within 24 hours upon receipt of the selected files.

Part 11.06 – The HOME / HTF Monitoring Program Review

Process Is based upon the following components:

- HOME / HTF Regulatory Requirements
- The Compliance Manual
- Tenant File Review
- Property Site and Unit Inspections
- Annual Owner's Certification of Continuing Program Compliance and all attachments, including the HOME / HTF Monitoring Report(s)
- 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

Compliance Forms

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

The following are mandatory forms:

- Owner's Certification of Continuing Program Compliance (CCPC)
- Applicant/Tenant Questionnaire
- Annual HOME Certification of Student Status
- HOME / HTF Program Monitoring Report
- Tenant Income Certification (TIC)/ Self-Certification
- Income Status Certification
- Affidavit of Student Financial Assistance
- Student Status/Financial Assistance
- HOME Program Self-Certification
- HOME / HTF Lease Compliance Form(s)
- VAWA Lease Addendum (Form HUD-91067)
- HUD VAWA Forms: 5380, 5381, 5382, 5383, and New 5384.

The following are recommended forms:

In addition to the required forms, the following **recommended forms** are also available. Any format the Owner/Agent chooses that provides, at a minimum, the information requested on these forms is acceptable to 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]
- Assessment of Household Demographics; if unit has Section 8, the HUD form is allowed

All required and recommended forms listed above, and more are located on OHCS HOME Compliance webpage.

Part 11.07 –Tenant File Reviews and 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
- Lease and HOME / HTF Lease Compliance Form
- VAWA Lease Addendum per Adult Household Member (Form HUD-91067)
- 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 CA 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 noncompliance 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 is 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 Analyst for an extension if needed.

Part 11.08 – On-Site Physical Inspections

24 CFR 5.703 (decent, safe, and sanitary); 24 CFR 93.301(e) cites UPCS; 93.404(d) Onsite Inspections

- The Owner/Agent (O/A) must keep all property units in decent, safe, and sanitary condition at all times and in compliance with National Standards for the Physical Inspection of Real Estate **(NSPIRE),** along with any other local/state/federal building codes, including OHCS state standards.
- OHCS is required to perform on-site inspections of all HOME / HTF 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 O/A's property management practices including routine maintenance, capital planning, property standards, unit turn-over, security concerns and marketability.
- Properties must meet the **NSPIRE** standards established by HUD. NSPIRE requires an inspection of the following inspectable areas: ***unit***, ***inside***, and ***outside***.
- These on-site physical inspections will include physical inspections of the unit interiors, building exteriors, property grounds, common spaces, and a reasonable sampling (minimum of 20%) of HOME / HTF units. 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 / HTF program review.
- NSPIRE requires the following minimum Affirmative Habitability Requirements.

Inspectable Area = Unit

1. Hot and cold running water in both bathroom and kitchen, including adequate source of safe drinking water in the bathroom and kitchen
2. Bathroom or sanitary facility that is in proper operating condition and usable in privacy that contains a sink, a bathtub or shower, and flushable toilet
3. At least 1 battery-operated or hard-wired smoke detector
    a. On each level of the unit
    b. Inside each bedroom
    c. Within 21' of any door to a bedroom measured along a path of travel; and

    d. Where a smoke detector installed outside a bedroom is separated from an adjacent area by a door, must also be installed on the living area side of the door
4. Living room and kitchen area with a sink, cooking appliance, refrigerator, food preparation area, and food storage area
5. For units with Housing Choice Vouchers or Project Based Vouchers, at least one bedroom or living/sleeping room for each two persons in the household
6. Must meet carbon monoxide detection standards established through Federal Register notice
7. Two working outlets or one working outlet and a permanent light within all habitable rooms
8. Outlets within 6' of a water source must be GFCI protected
9. Must contain a permanently installed heating source. Units may not contain unvented space heaters that burn gas, oil, or kerosene.
10. Must have a guardrail when there is an elevated working surface drop off of 30' or more measured vertically
11. Permanently mounted light fixture in the kitchen and each bathroom

Inspectable Area = Inside

1. At least one battery-operated or hard-wired smoke detector on each level
2. Must meet carbon monoxide detection standards established through Federal Register notice
3. Outlets within 6' of a water source must be GFCI protected
4. Must have a guardrail when there is an elevated walking surface drop off of 30" or more measured vertically
5. Permanently mounted light fixtures in any kitchens and each bathroom
6. May not contain unvented space heaters that burn gas, oil, or kerosene

Inspectable Area = Outside

1. Outlets within 6' of a water source must be GFCI protected
2. Must have a guardrail when there is an elevated walking surface drop off of 30" or more measured vertically

Immediately following the completion of the physical inspection, the Compliance Analyst(s) (CAs) 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 CA by the due date noted. The CA may ask for documentation to support the correction that 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
- Budgetary Reports

Part 11.09 – Compliance Records

Record Keeping and Retention

- Owners must retain project records that document the compliance of their HOME- / HTF- 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.

Part 11.10 – Program Training

In addition to providing a Program Compliance Manual, OHCS will conduct periodic Compliance Trainings. The purpose of the state-sponsored training is to provide Owners and Agents with the tools to maintain property compliance.

Typical training courses will cover:

- A sampling of the basic HOME / HTF / HOME-ARP 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.

Section 12: Noncompliance

Throughout the affordability period, the Owner (Recipient) is required to maintain compliance and correct all noncompliance findings within the required time frame. Failure to correct within the time specified by Compliance and Asset Management may result in termination of the HOME / HTF Grant or Loan Agreement. If the Agreement terminates, the Recipient is liable to repay all of the HOME / HTF funds disbursed to the property.

Part 12.01 – Types of Noncompliance

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

Part 12.02 – Consequences

Penalties include, but are not limited to, the following:

1. Recapture of award funds;
2. Negative points on future applications;
3. Rejection of future applications (i.e., suspension or debarment);
4. Repayment of rent overages;
5. Mandatory attendance at a Program specific training; and/or
6. An increase in the frequency of OHCS audits/inspections

Part 12.03 – Notification of Noncompliance to Owner

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

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

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

Correction Period and Consequences of Noncompliance

Upon receipt of the inspection/review results, the owner is to take appropriate action to resolve and cure the identified deficiencies.

The Owner shall have a maximum of 45 days from the date of notice to correct and cure the noncompliance. If presented with supporting documentation or reason to determine that there is good case, an extension may be requested and granted.

For physical inspections only, the maximum correction period under NSPIRE standards is 24 hours for life-threatening or severe issues, 45 days for moderate severity issues, or 45 days for low severity issues.

If OHCS does not receive the required certifications and/or compliance reports when due or discovered by audit, inspection, review, or in some other manner that the property is not in compliance with the requirements of the HOME / HTF Program or with the property's loan documents, including the

Declaration, OHCS will notify the Owner as soon as possible.

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 noncompliance 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 noncompliance is a violation that is not corrected or clarified by the end of the correction period.

Consequences of Noncompliance

Failure to correct all noncompliance could result in increased monitoring and reporting requirements, extension of the affordability period, repayment of the HOME / HTF grant or loan, or other legal remedies and may require the Management Agent be replaced. It may also affect the Owner's eligibility for future financing from OHCS under any or all available programs.

Part 12.04 – Notification of Noncompliance to OHCS by Owner

If the O/A determines that a unit, building, or an entire development is not in compliance with program requirements, OHCS should be notified immediately. The O/A must formulate a plan to bring the property back into compliance and advise OHCS in writing such a plan. The O/A must keep documentation outlining: the noncompliance issue, date the noncompliance issue was discovered, date that noncompliance issue was

corrected, and actions taken to correct noncompliance.

Additionally, the owner is responsible for replacing temporarily noncompliant HOME / HTF units as per the guidelines in Section 6.

Section 13: Glossary

Actual Income from Assets: The income generated by an asset, such as interest or a dividend. This is counted as income even if the income is not received by the household, for example if the interest or dividend is automatically reinvested into the asset. When net family assets (cash value of all assets) are up to the current Threshold the actual income from assets is always the income used. When net family assets exceed the current Threshold then the actual income must be compared to the imputed income from assets and the higher amount is used for income determination. HUDs current Thresholds can be found at Annual Inflationary Adjustments and Passbook Rate | HUD USER.

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

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

AMI: Area Median Income

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

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

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

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

Area Median Income: The median income for a specific county as published by HUD. Assets: Items of value, other than necessary and personal items, which are considered in determining the eligibility of a household.

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

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

Bifurcation of Lease: The act of amending a lease to remove some household members while keeping others on the lease. A bifurcation of lease may be required under VAWA to remove a tenant who engages in criminal activity related to domestic violence, dating violence, sexual assault or stalking without removing or otherwise penalizing the victim of such activity.

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

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

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

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

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

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

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

Day Laborer: an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future. Such income does not meet HUD's definition of "nonrecurring" and must be counted as income.

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

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

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

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

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

Earned Income: Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. The earned income of all adult household members is included in the Annual Household Income calculation. The earned income of minors (members under age 18) is not included. Earned

income includes income of day laborers, independent contractors, and seasonal workers.

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

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

Emergency Transfer: Under VAWA protections, an eligible tenant may be entitled to an emergency transfer to safe dwelling unit. All properties must create a VAWA compliant Model Emergency Transfer Plan using HUD From 5381.

Employment Income: Wages, salaries, tips, bonuses, overtime pay, or other compensation for personal services from a job. Fair Market Value: An amount which represents the true value at which property could be sold on the open market.

Fixed Income Source: Fixed income sources are defined by HUD as "periodic payments at reasonably predictable levels." Fixed income sources can be verified using the Streamlining Rule. Fixed income sources include the following:

Social Security payments, including Supplemental Security Income (SSI) and Supplemental Disability Insurance (SSDI);

Federal, state, local, and private pension plans;

Annuities or other retirement benefit programs, insurance policies, disability or death benefits, or other similar types of periodic receipts; and

Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

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

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

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

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

Good-cause Eviction: Rental Housing households cannot be evicted or have their tenancy terminated without

"good-cause," generally considered material violation of the lease. The actions that constitute good-cause for eviction or termination of tenancy must be given to the tenant in writing at the time of occupancy, preferably in the lease, as well as in the property's Tenant Selection Criteria.

Gross Income: See Annual Household Income.

Gross Rent: The gross rent for a unit is the sum of tenant portion rent + utility allowance + non-optional charges (+ tenant-based rental assistance if HTF). 2025 HOME Final Rule no longer counts tenant-based rental assistance towards gross rent.

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

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

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

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

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

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

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

Income Limits: Maximum incomes as published by HUD for awards giving the maximum income limits per unit for Low-Income (30%, 50%, 60%, or 80% of median income) units.

Independent Contractor: An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment tax. Individuals considered "gig workers," such as babysitters, landscapers, rideshare or app-based delivery drivers, and house cleaners, typically fall into the category of independent contractors. Such income does not meet HUD's definition of "nonrecurring" and must be counted as income.

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

Live-in Care Attendant / Live-in Aide: A person who resides with one or more elderly, near-elderly, or disabled persons. To qualify as a live-in care attendant, the individual (a) must be determined to be essential to the care and well-being of the tenant, (b) must not be financially obligated to support the tenant, and (c) must certify that they would not be living in the unit except to provide the necessary supportive services.

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

Low-Income Unit: Any unit in a building if: such unit is rent-restricted, the individuals occupying such unit meet

the income limitation applicable under federal and state requirements, and the unit is suitable for occupancy.

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

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

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

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

Maximum Allowable Rent Calculation: Maximum Allowable Rent = HOME rent limit – utility allowance –

any non-optional fees Maximum Chargeable Rent): See Maximum Allowable Rent.

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

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

Net Rent: See Maximum Allowable Rent

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

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

Over-income Household/Unit: For HOME purposes, a household is considered over-income if it exceeds 80% of AMI or for a Low HOME unit, if the household exceeds 50% of AMI. See Section 6 for more information on properly handling over-income units.

Passbook Rate: The HUD approved rate for imputing assets. The current passbook rate is updated annually by HUD.

Period of Affordability: New term for "Affordability Period". HUD made a Technical Revision to change the older term to be "Period of Affordability" in the 24 CFR part 91 and 92 with the 2025 HOME Final Rule.

PHA: Public Housing Authority.

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

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

Seasonal Worker: An individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer); and 2) employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry. Examples include employment linked to holidays, agricultural seasons, lifeguards, ballpark vendors, snowplow drivers, etc. Such income does not meet HUD's definition of "nonrecurring" and must be counted as income.

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

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

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

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

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

Streamlining Rule: HUD's Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs Final Rule. Among other provisions, the rule provides a simplified manner of verifying fixed income sources effective April 7, 2016.

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

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

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

Triennial Verification: Under the Streamlining Rule, fixed income sources must initially be verified through third-party verification, but the owner is not required to reverify until the household's third recertification and every three recertifications thereafter (referred to as the "triennial verification"). Triennial verification only applies if the owner can obtain an annual cost of living adjustment to apply to the previously verified benefit amount.

Unearned Income: Any income that is not considered earned income. Includes income from assets, pensions or annuities, and benefit sources such as Social Security or welfare assistance. The unearned income of all household members (regardless of age) is included in the calculation of Annual Household Income.

Utility Allowance: The calculated average amount of utilities for a particular unit, as set by a utility allowance schedule published by HUD, Rural Development, the PHA, a HUD Utility Schedule Model, a letter from the utility company which states the rates, or an Energy Consumption Model as calculated by an approved engineer or licensed professional used to determine the maximum rent charged to the tenant.

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

VAWA: The Violence Against Women Reauthorization Act of 2022, which provides protections against housing discrimination for victims of domestic violence, dating violence, sexual assault, or stalking.

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

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