



Risk Share Program Compliance Manual

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Introduction

The Risk Sharing 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 Risk Sharing funds are for acquisition, construction, and rehabilitation of rental housing. All rental housing units acquired, built, or rehabilitated with Risk Share funding must meet affordability and income-targeting requirements specified in the of Section 542 C of the Housing and Community Development Act of 1992 and regulations promulgated by the US Department of Housing and Urban Development (HUD) as set forth at 24 CFR Part 266 (the “Risk Sharing Program”).

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

The Asset Management Section of Oregon Housing and Community Services (OHCS) monitors the continuing compliance of units that have received Risk Sharing funds in accordance with HUD regulations contained in 24 CFR Part 266. Property owners are required to retain the housing units as affordable for low and very low-income persons throughout the affordability period. This manual covers procedures that apply to all rental properties which have received funds under the Risk Sharing Program. Any violation of the requirements of the Risk Sharing Program could result in a notice of default or further extensive legal remedies.

Successful operation of a Risk Sharing property is management intensive; the owner is responsible for ensuring that the property is properly administered. Thorough understanding of Risk Sharing requirements and compliance monitoring procedures requires training of owners and managers. This training should occur before a property is occupied and should be provided to the on-site property management staff. At a minimum, such training should cover key compliance terms, determination of rents, tenant eligibility, file documentation, procedures for maintaining the required set-aside, 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 Risk Sharing Program. When available, training opportunities will be posted on OHCS’ website.

OHCS’ obligation to monitor for compliance with the requirements of the Risk Sharing Program does not make OHCS liable for an owner’s non-compliance.

The OHCS Risk Sharing Program Compliance Manual

This manual is located on the OHCS website at and can be downloaded from the Risk Share Program Compliance page at: http://www.oregon.gov/ohcs/pages/hpm_risk_share_compliance_manual.aspx.

- ❖ This manual is a guide to understanding the Risk Sharing Program requirements for implementation and ongoing compliance. It was developed, pursuant to Federal Regulations, for use by owners, management agents, on-site management personnel and others involved with management procedures for maintaining compliance with the Risk Sharing Program at their properties.
- ❖ This manual describes OHCS-Asset Management Section’s compliance monitoring procedures for the Risk Sharing Program. It is the role of the Asset Management Section to assist owners and managing agents to stay in compliance with HUD regulations. It is the owners’ and managing agents’ responsibility to maintain compliance with Risk Sharing program requirements/regulations.
- ❖ This manual may be superseded without notice by changes in income determinations under Part 5 of the Section 8 Program and technical revisions in the OHCS or HUD Risk Share policies, manuals or memorandums.

- ❖ This manual has not been reviewed by the Department of Housing and Urban Development and should not be cited or relied upon for interpretation of federal regulations.

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

Compliance Overview

Qualified Project Period – Period of Affordability

The Risk Sharing restrictive covenants (Loan and Regulatory Agreements) are recorded as a lien against the property. These documents outline the restricted rent and income limits for households residing in a Risk Sharing unit and specify the required term of affordability or Qualified Project Period that must be maintained. The Borrower must record the restrictive covenants within 30 days after receipt. OHCS will not allow recipients to pre-pay the loan or ‘buy-out’ of the affordability requirements.

The typical Risk Sharing program term of affordability is 30 years after the bond sale. The date is specified in each property’s restrictive covenants. Be sure to check the Loan and Regulatory Agreements for the exact date for your property.

If the property has additional funding sources, the compliance period for those additional funding sources may extend beyond the Risk Sharing program established requirements for the property. Some OHCS funding sources have longer compliance periods up to 60 years.

OHCS – Asset Management Responsibilities

Once the bond proceeds have been loaned to the Borrower (Owner), HUD requires the State, as the Housing Finance Agency (HFA), to monitor program compliance on an ongoing basis. However, Risk Sharing program compliance is the responsibility of the property owner and OHCS will not assume liability for consequences which result from the Owner’s noncompliance.

OHCS’ Asset Management 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 Qualified Project Period.
- Provide a Risk Sharing Compliance Manual and related materials;
- Offer continuing education on compliance to the owner, management agent, and on-site personnel, primarily through the Compliance Manual with updates and periodic compliance training workshops;
- Complete desk audit that includes review of the annual Owner’s Certification of Continuing Compliance (CCPC) and copy of the IRS 8703 that the owner has filed with the IRS each year;
- Review each Risk Sharing property annually. The review will consist of an on-site inspection of at least 20% of the Risk Sharing tenant certifications, supporting documentation, and Risk Sharing tenant records. The review will include a physical inspection of at least 20% of the Risk Sharing units and all of the property grounds and common space. Asset Management reserves the right to inspect a higher percentage of units and files when deemed necessary or practical;
- Notify the Borrower when the property is found to be out of compliance with HUD or OHCS requirements, including reports and any other requested/required information not received by OHCS when due;
- Report and respond to HUD follow-up on REAC inspections;
- 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 six-year period and until six years after the term of affordability expires.
- The following schedule outlines time frames for certain monitoring events:

Event

Timeline

Inspection Scheduling

OHCS will contact Owner/Agent a minimum of 14 days in advance to schedule review/inspection.

Inspection results/findings report

Owner/Agent will receive findings report within 30 days following the inspection from OHCS.

Physical Inspection EH & S

Owner/Agent will receive list of findings that require 24 hour or 72 hour immediate action the day of the inspection. Owner/Agent is required to complete items in 24 or 72 hours as specified and report back to CO immediately upon completion.

Correction Period

Owner/Agent will have a minimum of 30 days to correct any reported non-compliance findings and respond to OHCS.

Closing

Once all items in review have been completely addressed and corrections made, OHCS will close the review and submit report to HUD.

Preparing for OHCS Review/Inspection

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

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

Returning information in a timely manner is important. Don't wait until the last minute to submit the requested documentation. The materials are requested prior to a review/inspection so that the compliance officer can prepare for the review. The materials also ensure that the property will be accurately monitored. Staff completes as much at headquarters as possible so that the time onsite is specifically for reviewing files, affirmative marketing, supportive services, physical inspections and other program requirements.

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

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

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

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

Post Inspection:

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

Electronic File Audit Procedures

OHCS has started conducting the file audit portion of some reviews electronically. This is completed using Google Drive (Docs) for file upload into a shared folder with OHCS. The Compliance Officer will notify the Owner/Agent if the review will include an electronic file audit and will provide instructions for its completion. The tenant files that have been chosen for the review will need to be scanned into an electronic file format and must be uploaded into Google Drive within 24 hours. Instructions for creating and using a Google account for this purpose are located on our website at: http://www.oregon.gov/ohcs/pages/pcs_program_compliance_section.aspx.

Statewide Streamlining

Streamlining Compliance began from housing industry conversations about the high cost of regulatory compliance requirements and unit inspection burden on the residents. Compliance and inspection requirements are however, essential to ensure that affordable housing serves the targeted populations so that federal funding and private investment continue to flow to Oregon and our affordable housing units are well maintained and remain assets for our communities. Streamlining is achieved by housing industry agencies in Oregon combining monitoring and reporting efforts to diminish the overall impact on the residents at each property and to aid in the reduction of duplicated monitoring practices across agencies.

OHCS collaborates with industry partners who are part of a Memorandum of Understanding (MOU) to complete property inspections and file audits at properties that have funding from each agency. One inspection/review and one review report is completed for the property. OHCS will attend the physical inspection along with the partner

agencies and will be responsible for completing the file review, writing the review report and following the inspection through to completion, including notifying HUD of results.

Additional Inspections Required by HUD

Additional physical inspections will be conducted as required by HUD. This inspection is completed using the Real Estate Assessment Center (REAC) computer protocol and the UPCS inspection standards. REAC must inspect Risk Sharing properties at least once every three years depending on the last review score.

If a property receives a REAC score of 60 or below, OHCS is mandated to perform extensive follow-up with property Owner and Management. This includes further 100% inspections required of the Borrower and remediation plans submitted for HUD.

Any Exigent Health and Safety (EH&S) item findings reported in a REAC inspection must be certified by the Borrower as remediated. A copy of the Certification document (included with the REAC report) must be submitted to the HUD office with a copy sent to the OHCS Compliance Officer.

In addition to HUD REAC, OHCS conducts physical inspections that consist of an inspection of the full property including common areas, building exteriors, grounds and at least 20% of all units annually. More than the minimum of 20% per year may be inspected due to risk-based analysis or other non-compliance as determined.

The Borrower/Owner Responsibilities

In accordance with Risk Sharing program regulations, the owner of a Risk Sharing property is required to:

1. Implement rent structure approved by OHCS at lease-up and request approval from OHCS for further rent increases prior to implementation. The approval from OHCS for any further rent increases is required of Risk Sharing properties throughout the affordability period.
2. Manage the property in accordance with Risk Sharing Regulations and all additional requirements agreed to during the allocation process for the duration of the compliance/affordability period. This includes continued compliance with regard to income and rent levels detailed in the initial application.
3. Certify that the property is being managed in accordance with all applicable federal, state and local fair housing laws.
4. Retain records/property files documenting eligibility for the Risk Sharing loan proceeds for at least six years after the end of the affordability period.
5. Retain records documenting the designation of Risk Sharing units and non-Risk Sharing units (properties that are not 100% Risk Sharing) using a method that clearly shows the status of all units at any point in time.
6. Assume liability for any instances of non-compliance and the correction of such deficiencies.
7. Submit, within 30 days of receipt, a copy of any formal housing discrimination complaint filed against the owner or agent.

Each Borrower has chosen to participate in the Risk Sharing Program to take advantage of lower interest rates, easier underwriting requirements and the ability to access larger amounts of money for rehabilitation of existing housing. In exchange for accepting bond proceed loan funds, certain requirements must be met by the owner that will benefit qualified low-income tenants. The requirements include owners placing qualified tenants in at least the minimum number of Risk Sharing units as detailed in the restrictive covenants, charging appropriate rental rates for each qualified unit and maintaining documentation and verification of qualified low-income tenants.

The Borrower must further meet all requirements agreed to in the Loan Agreement and Regulatory Agreement regarding any additional restrictions on rent levels and income restrictions. The Borrower must certify annually on the Risk Sharing Program Owner's Annual Certification of Continuing Program Compliance (CCPC) that all Program requirements have been met and include a copy of the filed IRS 8703. If the Borrower fails to perform any of the provisions of the agreements, and does not correct such failure within the time frame that Asset Management may authorize, OHCS may provide written notice of default to the Borrower.

Although a Borrower may have a managing agent acting on his or her behalf, the Borrower is responsible for ensuring compliance with all program regulations and rules. In selecting a managing agent, the Borrower should ensure the agent and all on-site personnel are knowledgeable of the provisions and requirements of the Risk Sharing program and any other funding sources used along with adequate experience in managing Risk Sharing properties. OHCS must approve all management agent changes prior to the change taking place.

Proper Administration and Record Keeping

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

Inspections:

- Records *that demonstrate* each Risk Sharing unit meets applicable property standards – annual UPCS inspection report or other inspection standards approved by the Department;
- Copy of last REAC inspection report with certification;
- Management/Owner inspections;
- Maintenance records.

Individual Tenant File Requirements:

- ♦ See page 12 in this manual for list of requirements

Administrative Notebook:

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

Contents must include:

- ♦ All funding type Regulatory Agreements (Reservation, Declaration, Loan or Grant Agreement and all others that apply)
- ♦ Applicable yearly income limits
- ♦ Applicable yearly minimum and maximum rent limits (HUD established)
- ♦ Deed restriction documents associated with the property
- ♦ Minimum and Maximum Rent Limits in Effect at Initial Grant or Loan Agreement
- ♦ Total number of units
- ♦ Total number and/or percentage of units restricted and the type of restrictions
- ♦ Proposed rental and utility rates for the following year
- ♦ Latest utility allowance documentation
- ♦ Waiting List(s) with dates of application for all families accepted/rejected
- ♦ Current Management Plan
- ♦ Resident Services plan with documentation that supports the plan
- ♦ Current Affirmative Fair Housing Marketing Plan and records demonstrating review of the plan on a periodic basis
- ♦ Documentation of the actions taken to affirmatively further fair housing in accordance with the Affirmative Fair Housing Marketing Plan

Utility Allowances and Documentation:

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

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

The 90 day implementation period begins for:

- PHA-When the PHA makes the revision available
- Utility Company – with receipt date of the new information
- HUD Model – the date entered as the form date on the HUD form 52667
- Energy Consumption Model – 60 days after the end of the last month of the 12-month period used to compute the estimate

Each year when the allowances are reviewed, the Owner or Agent must retain any supporting documentation or data collected that is used to calculate the utility allowance. This information should be kept on file in order to provide proof of compliance during the entire credit period and made available to the IRS or OHCS on request. Owners or Agents must submit the utility allowance documentation paperwork to OHCS each year with the CCPC, at inspection, and when requested. The information must be made available to all tenants at the beginning of the 90-day period before the new utility allowance can be used to calculate rent. Proof of resident notification should be kept on file for OHCS review.

Notification requirements:

- Obtain UA from PHA – if the Owner obtained a utility allowance from the PHA the Owner must make the utility allowance calculation notification available to all tenants at the beginning of the 90-day period.
- Obtain UA from utility company, using the HUD Model, or energy consumption model – the Owner must submit copies of the utility calculations with supporting documentation to OHCS and make the calculation available to all tenants in the building at the beginning of the 90-day period. OHCS may require additional documentation from the Owner during the 90-day period.

Changing methods:

Owners are not prohibited from changing methods used for calculating a utility allowance in order to most accurately calculate the utility allowance. OHCS must be notified of the change per the notification requirements listed above and must approve the provider of the energy consumption model calculation if applicable.

Utility Allowance Noncompliance:

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

Over-Charged Rents

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

Record Retention

Records must be kept for six years after the end of the qualified project period.

Management & Reporting Requirements

Management Agent Plan & Qualifications

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

Resident Services Plans

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

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

General low-income population support and services may include improving residents' ability to maintain their lease obligations, enhance quality of life through programs for employment, educations, 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 service coordinator. In other cases, the Owner will hire or work with an Agency to help coordinate the Services Plan. The resident services activities review is part of ongoing monitoring compliance of a State funded property. When the Agent and its employees perform the duties of a resident service coordinator, they are advised to work closely with the Owner in all aspects of the resident services requirement. The Owner carries the ultimate responsibility for compliance.

Things to know about Resident Service Plan Requirements:

- Resident Services Plans must remain the same or similar as originally planned for the property.
- Owners must review the plans at least every 5 years to determine they remain relevant for the current resident population at the property. Some Owners utilize resident surveys for the purpose of determining that the services being offered are what the current resident population desires or needs.
- All changes made to the Resident Services Plan must be pre-approved by OHCS; contact the Asset Management Compliance Officer for questions.

Changes of Management Agent

The selection of the management agent is the responsibility of the Borrower; however, the Agent is subject to approval by the Asset Management section of OHCS. Borrowers must submit requests for changes in Management Agent at least 60 days prior to implementation. A completed Management Plan and Qualifications Packet are required and must be submitted to OHCS for the proposed new management company. OHCS does not give blanket approval for any management company. Proposed management must be reviewed and approved on a property-by-property basis, regardless of the number of Risk Sharing properties currently managed by the management company. Copies of the Management Agent Plan and Qualifications Packet are available on the OHCS website at: http://www.ohcs.oregon.gov/OHCS/APMD_DivisionMain.shtml

Management Agreement

When a property has a Risk Sharing Loan from OHCS, the Owner and Agent are required to complete an OHCS Management Agreement. If the proposed Management Agent is approved, OHCS Asset Manager will prepare an OHCS Management Agreement for completion and signature by the Owner and Agent. At that time, the management fee will be determined.

The owner is responsible for keeping the Asset Management section informed of any event that might affect the property's compliance with the Risk Share Program 24 CFR Part 266 and for certifying annually the property's continued compliance. The owner must submit written notification of changes in ownership, management company, portfolio/asset manager or agent, and site manager. Changes to contact information such as email address, mailing address, telephone number and fax number must be submitted in a timely manner as well.

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 further information.

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

For more information view the Transfer of Ownership request for Approval Sale, Partial Sale, Lease, or Merger and Ownership Entity Changes document at:

http://www.ohcs.oregon.gov/OHCS/APS_Transfer_of_Ownership.shtml

Annual Certification of Continuing Program Compliance (CCPC)

Throughout the Qualified Project Period, the Borrower shall prepare and submit to the Department a Certification of Continuing Program Compliance (CCPC), in the form required by OHCS. The CCPC will include the percentage of residential units of the property occupied by low or moderate income persons at all times during the most recent 12-month period.

Annual Reporting - Noncompliance

Failure to submit a completed annual Owner's Certification of Continuing Program Compliance and copy of the filed IRS 8703 is considered to be noncompliance. The Certification and copy of 8703 are to be signed by the Borrower or a managing agent with signature authority and submitted to OHCS annually. A late fee will be imposed for any annual certification not received by OHCS by the due date issued each year. The due date is April 15th each year.

Further, the Borrower is responsible to correct any non-compliance findings within the required time frame. Failure to correct within the time specified by Asset Management may result in notice of default.

Monitoring Fees

OHCS charges Owners of Risk Share properties an annual monitoring fee. This fee is \$45.00 per unit per year. In mid-November, OHCS sends Owners the monitoring fee invoices. Full payment of the fees is due by the first business day of January. The fees paid in January are for the coming year. If the fees are not paid by January 31st, a late fee notice will be sent. If payment is still not made, a new invoice will be sent that includes the late fee of an additional \$5.00 per door.

Management Agent and On-site Personnel

The management agent and on-site personnel are responsible to the Borrower for implementing the Risk Sharing 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.

The management agent must provide information requested by the Asset Management section and submit, on behalf of the Borrower, all required reports and documentation in a timely manner. Annual certification documents may be signed on behalf of the owner by the managing agent with legal signature authority. Proof of legal signature authority may be requested by OHCS.

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

Compliance Monitoring

Monitoring by OHCS is an ongoing process involving continuous communication and evaluation. The process begins with the loan of Risk Sharing funds through the NOFA process (previously the CFC process). Asset Management will monitor Risk Sharing compliance throughout the qualified project period (affordability period) of the property.

The Compliance Officer's responsibilities:

Asset Management Section Compliance Officers perform file reviews and on-site visits as scheduled to ensure the owner and property management agent are operating the property in compliance with applicable rules, regulations, and policies.

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

- Tenant qualifications, income calculations, and appropriate supporting documentation;
- The gross rent (rent plus tenant-paid utility allowance);
- Provisions memorialized in the Risk Sharing Loan Agreement, Risk Sharing Regulatory Agreement and other applicable documentation;
- Property characteristics attested to in the initial application for which ranking points may have been awarded;
- Resident Services;
- Vacancy rate;
- Property's waiting list and applicant placement procedures;
- Property's AFHMP and updates;
- Property's Fair Housing Violations;
- HUD 9834 Addendum B;
- Follow-up on property's latest REAC inspection.

The Compliance Officers will also:

- Provide technical assistance to the sponsors, owners, and management agents when needed or requested to assist Owners/Agents understand compliance with program requirements;
- Review and approve any requested rent increases, the vacancy history of both low-income and market-rate units and the marketing strategies used to fill vacancies;
- Report instances of noncompliance, when appropriate, to HUD or the OHCS Finance Committee after giving the owner reasonable time to correct the issues of noncompliance (depending on severity of non-compliance);

- Maintain/keep the information used to complete the monitoring visit/audit for a period not less than six years following the calendar year in which it was received.

On-Site Physical Inspections UPCS/ Property Standards

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

The owner must keep all property units in decent, safe, and sanitary condition at all times and in compliance with Uniform Physical Condition Standards along with any other local/state/federal building codes. Additionally, housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, owners must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenants must receive a federally approved pamphlet on lead poisoning prevention entitled "*Protect Your Family from Lead in Your Home*". For more information about lead-based paint requirements, you can visit the HUD website at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/enforcement/disclosure and or the FHCO website at: <http://www.fhco.org/lead4.htm>.

The Risk Sharing Site Visit/Review Process

Is based upon the following components:

- Risk Sharing Regulatory Requirements
- The Compliance Manual
- Tenant File Review
- Property Site & Unit Inspections
- Annual Owner's Certification of Continuing Program Compliance and all attachments
- 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 information

Risk Sharing Compliance Forms

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

The following are required forms:

- Tenant Income Certification (TIC)
- Applicant/Tenant Questionnaire
- Under \$5,000 Asset Certification
- Annual Certification of Student Status
- Student Status/Financial Assistance
- Employment Verification
- Unemployed/Zero Income Certification

The following are recommended forms:

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

- Income Verification (for self-employed person)
- Public Assistance Verification
- Periodic Monetary Assistance Verification
- Public Housing Authority Statement
- Child Support/Alimony Statement
- Social Security Benefits Verification
- Lead-Based Paint Disclosure [This form or similar is required for properties built prior to 1978].

All forms listed above and more information is located on the Oregon Housing website at:
http://www.oregon.gov/ohcs/pages/apmd_divisionmain.aspx

Asset Management Tenant File Reviews & Property Inspections

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

- Rental Application
- Applicant/Tenant Questionnaire
- Tenant Income Certification (TIC)
- Third-party verifications and source documentation
- Lease
- Annual Certification of Student Status
- 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 Risk Sharing properties annually throughout the applicable qualified project period for each property.

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

- Notify the owner and managing 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 managing agent of any findings of noncompliance with regard to the review- conduct an exit interview while onsite;
- Provide owner with findings letter that includes time period to correct non-compliance findings and respond to OHCS accordingly with corrective action/s.

Recommended Tips for Submitting Satisfactory Corrective Action/s

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

Don't wait till last minute to start working on the response-corrective action/s. You don't want to be late and it is always okay to turn in your response prior to the due date. As a last resort, ask the Compliance Officer for an extension.

Correction and Consequences of Non-Compliance

Notice to Owner

OHCS will provide prompt written notice to the owner of a Risk Sharing property if OHCS does not receive the annual owner certification and income and occupancy report, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records, or discovers by inspection, review, or in some other manner, that the property is not in compliance with the requirements of the Risk Sharing Program, or with the property's loan documents.

Correction Period & Extension Requests

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

Owner's Response

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

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

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

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

Consequences of Non-Compliance

Failure to correct all non-compliance could result in increased monitoring and reporting requirements, extension of the end of the qualified project period, repayment of the Risk Sharing loan, or other legal remedies and may also affect the owner's eligibility for future financing from OHCS under any or all of its programs. Further, OHCS may require the management agent be replaced.

Excerpt from the Risk Share Regulatory Agreement:

“If the event of default is a breach of the Borrower's covenants set forth in Section 4(e) hereof and such event of default continues for a period of seven (7) days, the Department may require the Borrower to lease to the Department (and the Borrower hereby grants to the Department an option to lease), such units in the Project which units may be specifically designated by the Department as will enable compliance with Section 4(e) hereof when sublet to Low or Moderate Income Persons, which lease by the Borrower to the Department shall be at a total rent of One Dollar (\$1.00) per year, per unit, for the remainder of the Qualified Project Period.”

(Section 4(e) outlines the required set-asides for rent and income limits agreed to for the particular property. Some are 40% and or below 60% AMI – even more are a 100% at or below 60% AMI).

Compliance Training

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

Typical trainings will cover:

- A sampling of the basic Risk Sharing 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 of any change in management or ownership of the property.

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

Regulations & Requirements

Student Rule

The HOUSING AND ECONOMIC RECOVERY ACT OF 2008 (HERA) aligned the LIHTC Section 42 Student Rule with the Tax-Exempt Bond Section 142 Rule. A full-time student is defined as an individual enrolled **full-time** at an educational organization for **any part of five months or more** during the current and/or upcoming calendar year. It is permissible for a unit to be occupied by a full-time student where there are other residents in the household that qualify (are not full-time students). However, when a unit becomes occupied **entirely** by full-time students, the unit becomes disqualified unless at least one of the following exceptions applies:

1. At least one student is receiving assistance under Title IV of the Social Security Act (i.e. AFDC, TANF, etc)
2. At least one student was previously under the care and placement of the state agency responsible for administering foster care.
3. At least one student is participating in a program receiving assistance under the Job Training Partnership Act, Workforce Investment Act, or under other similar federal, state or local laws.
4. At least one student is a single parent with child(ren) and this parent is not a dependent of another individual and the child(ren) is/are not dependent(s) of someone other than the other (or absent) parent.
5. The students are married and file a joint tax return.

Verification of Student Status

If a household contains and certifies that at least one occupant residing in the unit is not a student, has not been a student and will not be a student for any part of 5 months or more during the current and/or upcoming calendar year (months need not be a consecutive), no further action by Owner/Agent would be needed. If a household contains **all** students and at least one member is reporting part-time status, Owner/Agent is required to obtain verification of that resident's part-time enrollment status. Owner/Agent must use the required form - Verification of Student Status for this purpose.

All residents are required to notify management immediately of any changes in their household's student status. Further, all household members must certify their student status annually. OHCS requires the use of the required form Annual Certification of Student Status for this purpose.

Reserve for Replacement Account

The replacement cost reserve account must be established at the time of loan closing for the property. This account is under the control of OHCS and is typically in a depository designated by OHCS. The Borrower deposits a determined amount into this account each month. The deposit amount is set forth in the Property's Loan Agreement Section 6 Paragraph d.

Disbursements from this account will only be made for replacement of Capital Items. Acceptable use of account funds (unless otherwise defined in the Loan Agreement) is:

- Future replacement of Capital Items
- Replacement of parts if:
 - The part increases the original estimated life of the fixture or appliance by at least 5 years; or
 - The part qualifies for replacement as described in the Loan Agreement; or
 - It is more cost effective to repair the fixture or appliance than it is to replace it and it meets the requirements of the Loan Agreement;
- Extraordinary repairs or maintenance;
- Replacement qualifies as a reserve for replacement 'job' or 'project'.

Process to request release of funds

The following list includes the requirements to release funds:

- (a) Owner/Agent must submit request to Compliance Officer in writing;
- (b) The request must include only invoices that are dated from the last 12 months;
- (c) The description of the Capital Item/s, extraordinary repair or maintenance/improvement items;
- (d) The cost of the Capital Item/s, extraordinary repair or maintenance/improvement items;
- (e) Specific unit numbers for each item;
- (f) Justification that the item is either an extraordinary repair or maintenance of a Capital Item.

Contact the Asset Management Compliance Officer for full details regarding the replacement reserves for each property and for any questions regarding the required process or allowable items.

Rent Adjustments

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

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

OHCS no longer provides blanket approval of rents to the maximum allowed. 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
- Comparison to the current maximum rent limits for the property
- Property's vacancy rate history
- Lease; should allow for rent adjustment/increase with notice

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

Rent increases might occur when:

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

Rent decreases might occur when:

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

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

Changes in Household Composition -Adding Household Members

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

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

- The prospective tenant must complete an application and provide verification of income and assets as required of the initial tenant;
- Once accepted as a qualified tenant, the new household member must sign the lease;
- The new household member's income must be added to the next annual certification (or self-certification). Management 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 unless the property has market units (not low-income).

Next Available Unit Rule

If the income of a household in a low-income unit increases above the maximum allowable income limit, the unit will still qualify as a low-income unit as long as the household initially qualified and the unit remains rent-restricted as set forth in the maximum rent limits.

If the household income in a low-income unit increases above 140% of the current maximum allowable income limit, the next available unit of comparable or smaller size in the building must be rented to a household having a qualifying income in order to remain as a qualified set-aside unit.

This rule should have no impact on properties that are 100% low-income since every unit must be rented to income eligible households. In mixed-income properties, market rate units may have to be rented to low-income households in order to remain compliant because the unit housing an over-income household can no longer be counted in the low-income set-aside.

Vacancy Reporting

Owners/Agents of Risk Sharing properties are required to report vacancy numbers to OHCS on a monthly basis. The Vacancy Report Form must be completed and submitted by the first of each month following the reporting month. These reports are reviewed to ensure each property has established strong policies with regard to property vacancies (tenant selection, unit turn-over, marketing efforts) and are actively marketing the properties appropriately for their respective location.

If OHCS finds that a property has a high vacancy rate that is 10% or higher, further information will be required. A Marketing Report will be sent to the Owner/Agent at least quarterly for all properties with the higher rate. If the high vacancy rate is maintained over a period of time with little or no significant reduction in the vacancy, OHCS will require further action including establishing a plan to determine significant barriers that are taking place for the property and methods of addressing and alleviating the identified barriers.

VAWA-Violence Against Women Act

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

Housing protections in VAWA 2013 includes the requirement that each appropriate agency develop a notice of rights under VAWA 2013 for tenants and provide such notice at the time a person applies for housing, when a person is admitted as a tenant of a housing unit, and when a tenant is threatened with eviction or termination of housing benefits.

Each appropriate agency must adopt a model emergency transfer plan for use by public housing agencies, owners or managers of housing, and other housing providers participating in HUD covered programs. Tenants must request an emergency transfer and must reasonably believe that they are threatened with imminent harm from further violence if the tenant remains in the same unit.

VAWA Protections

- Bars eviction and termination due to a tenant’s status as a victim of domestic violence, dating violence, or stalking and requires landlords to maintain survivor-tenant confidentiality.

- Expressly extends housing protections to survivors of sexual assault and adds ‘intimate partner’ to the list of eligible relationships. Protections also now cover ‘affiliated individual’.
- Allows for a lease bifurcation so a tenant or lawful occupant who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking may be evicted without otherwise removing or penalizing a victim who is a tenant or lawful occupant.

Lease Provisions

The Risk Sharing program does not mandate the use of a specific lease agreement. However, Owners must develop and use an appropriate lease agreement for the property considering certain regulations and required provisions.

Termination - Throughout the Qualified Project Period the Borrower shall assure that each lease used by the Borrower in renting any residential unit in the property to low or moderate income persons provides for termination of the lease and consent by such person to immediate eviction for failure to qualify as a low or moderate income person, as a result of any material misrepresentation made by such person with respect to such person’s income and income verification whether or not it was intentional.

Accessible units – If management moves a resident into an accessible unit who does not need the accessible features provided in the unit, a provision of the lease must include language that this resident will be required to move to another unit when one becomes available in order to provide the accessible unit to a resident who does need the features.

Other lease provisions –

- 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 and renewal date or automatic renewal;
- The rent amount;
- The permitted and restricted use of the premises;
- The rights and responsibilities of the parties, including the obligations of the tenant to annually certify income as defined herein;
- A statement (or addendum) regarding certain LIHTC program requirements, such as income and student eligibility;
- The right to release information to OHCS, HUD and/or the IRS for inspection;
- Fees being charged for optional services;
- If resident moves in to an accessible feature unit and does not require the accessible features, they must move to a different unit when available to accommodate a household who does require the features.

Waiting Lists

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

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

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

Dispute Resolution

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

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

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

Financial Reporting

The Borrower will submit financial statements as requested by OHCS. Within 90 days following the end of each fiscal year, furnish OHCS a complete audited financial in a form acceptable to OHCS consistent with GAAP guidelines, based upon an examination of the books, records, and accounts of the property, setting forth the financial condition of the property as of the end of such year, the results of operation of the property for such fiscal year, and such other financial information as OHCS may require.

Qualifying Tenants

The Tenant Application

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

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

OHCS strongly recommends that roommates complete separate applications.

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

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

The management agent/staff should handle all disclosed information in a confidential manner. Additionally, the applicant may need to be assured that the provided information is considered sensitive and will be handled accordingly.

The application should include at a minimum:

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

Rejected Applicants

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

Determining Household Size

Based on information provided by the applicant and through careful interviews with management 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 Risk Sharing Program Income Limits and whose income, if any, is not considered when calculating annual (gross) income. Therefore, do not count the following persons when determining household size for the purpose of comparing "annual income" to Risk Sharing Program Income Limits:

- Live-in aides

Establishing Eligibility

Income

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

Source Documentation/Third Party Verification

Attempts to obtain third party verifications must be made first. If management finds such verifications prove impossible to obtain, proof of attempts to obtain must be kept in the file.

Acceptable source documentation includes the following:

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

Unacceptable source documents include:

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

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

After the household completes the Applicant/Tenant Questionnaire, the Owner/Agent must have all income and assets verified. The application, questionnaire, income & asset verifications, and lease are to be executed prior to move-in. All occupants in a Risk Sharing unit must be certified and have a valid lease on file. All household members age 18 and over must sign the documents.

A note regarding EIV (Enterprise Income Verification):

OHCS Compliance Officers are not authorized to view any documentation obtained from 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.

Tenant Income Certification (TIC)

Initial Certification

After all income and asset information has been obtained, verified and calculated, management personnel must prepare a Tenant Income Certification (TIC) for each household placed in a Risk Sharing unit.

The Tenant Income Certification must be executed along with the lease no more than ten days prior to the move-in date 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 Risk Sharing unit.

Annual Recertifications

Owners/Agents must examine each tenant household's income every year during the affordability period to determine if the household continues to be income-eligible to occupy their Risk Sharing unit. All households must be re-certified on or before the first anniversary of their move-in date. The first year re-certification must include third party verifications completed in the same manner as the move-in certification. The original move-in date must be carried over onto all subsequent re-certifications.

Annual recertification of income and asset information is required for all households residing in a Risk Sharing unit. For all Risk Sharing properties the follow recertification schedule applies:

Certification:

Move-In
First Year
Second Year & Beyond

Required Documentation:

Full Certification with 3rd party verifications
Full Certification with 3rd party verifications
Self-Certification with copy of filed IRS Tax Return*

*All household members must have a filed IRS Tax Return in order to use the tax return as household income verification.

Determining Continued Eligibility

Once the tenant household's anticipated annual gross income is recertified, the Owner/Agent must compare it to the most recent income limits for the Risk Share unit the household occupies. If the Owner/Agent recertifies a tenant's income and finds that it has increased above the applicable income limits for the type of unit they occupy, the tenant is "over-income" and the property is temporarily out of compliance. In this case, the next available unit rule applies. Since this is considered temporary non-compliance the household should not be required to move out, move to a different unit or have the status of their unit swapped with another unit.

Moving Households - Transfers

Remember, there is no such thing as a unit transfer in the Risk Sharing program. When a tenant household moves from one Risk Sharing unit to another Risk Sharing unit, it must be treated like a move-out then move-in with full Risk Sharing tenant certification/verification procedures completed, including a new TIC. RD and Section 8 programs allow transfers; the Risk Sharing program does not. Be sure to fully complete a new Risk Sharing Certification (TIC-OHCS.2) when moving tenant households from one unit to another.

Income and Assets

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

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

- Applicants/tenants failing to fully disclose income and asset information.
- Applicants/tenants may fully disclose income and asset information and management fails to follow up on it or does not notice inconsistency from the application to the Applicant/Tenant Questionnaire.
- Failure to fully verify all disclosed income and asset information.
- Incorrect income calculations; not using the year-to-date calculation and comparing with hourly calculation.
- Not reading employment verifications or pay stubs correctly (regarding extra income earned such as tips or over-time).
- Not converting assets to cash to determine income from assets (homes, etc).
- Not using correct forms or methods of verification.

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

Annual income is the amount of income that is used to determine a household's eligibility to reside in a Risk Share unit. Annual income is defined as follows:

1. All amounts, monetary or not, that go to or are received on behalf of the family head, spouse or co-head (even if the family member is temporarily absent), or any other family member; or
2. All amounts anticipated (verifiable) to be received from a source outside the family during the 12 month period following move-in.

Elements of Annual Income

Household Members' Income - Count Income per the following:

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

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

Adults:

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

Dependents:

A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student. The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents or foster children is counted and some is not.

- *Earned* income of minors (family members under 18 years of age) is **NOT** counted.
- Benefits or other *unearned* income of minors **IS** counted.
- The unearned income of a foster child or foster adult including SSI disability payments and income from assets owned by or on behalf of a foster child or foster adult **IS** counted.
- When more than one family shares the 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 **IS** counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family, spouse, or co-head. If the earned income is less than \$480, count all of the income. If the earned income exceeds \$480 annually, count \$480 and exclude the amount that exceeds \$480.
- The income of full-time students 18 years of age or older who are members of the household but away at school **IS** counted the same as the income for other full-time students. The income of minors who are members of the household but away at school **IS** counted as the income for other minors.
- All income of a full-time student 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
- Payments received by the family for the care of foster children or of foster adults are **not** counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.
- Adoption assistance payments in excess of \$480 are **NOT** counted.

Income of Temporarily Absent Family Members

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

Income of Permanently Confined Family Members

An individual permanently confined to a nursing home or hospital may not be named as head of household, spouse, or co-head but may continue as a household member at the family's discretion. The family's decision on whether or not to include the permanently confined family member as a family member determines if that person's income will be counted.

Count as follows:

1. Family chooses to include them – include the individual as a family member on the TIC and include their income (they are not listed as the Head, Spouse or Co-head even when the permanently confined individual is married to the person who is or will become the Head of the household);
2. Family chooses to exclude them – exclude the individual as a family member on the TIC and exclude their income.

Annual Income Inclusions:

Annual income includes all amounts that are not specifically excluded by regulation. Annual income includes and is not limited to the following:

- The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
- The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income.
- An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
- Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income.
- Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
- The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (e.g., Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action). See Income Exclusions for an exception to this paragraph.
- Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, except as provided in paragraph 3 under Income Exclusions.
- Welfare Assistance-
 - Welfare assistance received by the family.
 - If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
 - The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

- Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling; and
- All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided under Income Exclusions.

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. Annual income excludes the following:

- Income over \$480 from employment of children (including foster children) under the age of 18 years;
- 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);
- 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;
- The full amount of student financial assistance paid directly to the student or to the educational institution;
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm);
- Temporary, nonrecurring, or sporadic income (including gifts);
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era);
- Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse);
- Adoption assistance payments in excess of \$480 per adopted child;
- Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts;
- Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
- Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.

Refer to the HUD Handbook 4350.3 for full details regarding income exclusions.

Annualizing Income

For the purpose of determining eligibility to reside in a Risk Sharing unit, Owners/Agents must project a household’s income in the future. To do so, a “snapshot” of the household’s current circumstances is used to project future income. In general, Owner/Agents should assume that today’s circumstances will continue for the next 12 months, unless there is **verifiable** evidence to the contrary.

This method should be used even when it is not clear that the type of income received currently will continue in the coming year. For example, assume a family member has been receiving unemployment benefits of \$100 per week for 16 weeks at the time of income certification. It is unlikely that the family member will continue on

unemployment for another 52 weeks. However, because it is not known whether or when the family member will find employment, the Owner/Agent should use the current circumstances to anticipate annual (gross) income. Income would therefore be calculated as follows: \$100 per week X 52 weeks, or \$5,200.

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

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

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

To annualize full-time employment, multiply:

1. Hourly wages by the number of hours worked per year
Example: \$5.00 per hour x 2080 hours per year = \$10,400 annually
 \$5.00 per hour x 40 hours per week x 52 weeks = \$10,400 annually
2. Weekly wages by 52
Example: \$190 per week x 52 weeks = \$9,880 annually
3. Bi-weekly wages by 26
Example: \$500 biweekly x 26 pay periods = \$13,000 annually
4. Semi-monthly wages by 24
Example: \$400 twice a month x 24 pay periods = \$9,600 annually
5. Monthly wages by 12
Example: \$1,000 paid monthly x 12 months = \$12,000 annually

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.

Asset Inclusions and Exclusions

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

All income from all household members' assets must be included in the annual income. All household assets that are \$5,000 or more must be third party verified. The greater of the actual income from all assets or the imputed income of the total value of the assets must be added to the total household income. See HUD Handbook 4350.3 REV 1Change 4 for more detail on imputed income.

In general terms, an asset is a cash or non-cash item that can be converted to cash. Market value and cash value assets have both a market value and a cash value. The market value of an asset is simply its dollar value on the open market. Cash value is the market value less reasonable expenses required to convert the asset to cash.

Assets include:

- Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in foreign countries are considered assets.
- Revocable trusts. Include the cash value of any revocable trust available to the family. (Do not include irrevocable trusts, e.g., ones that no household or family member can control).
- Equity in rental property or other capital investments. Include the current fair market value less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.).
- **NOTE:** If the person's main business is real estate, then count any income as business income. Do not count it both as an asset and business income.
- Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts. Interest or dividends earned are counted as income from assets even when the earnings are reinvested. The value of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after rent is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received.
- Individual retirement, 401K, and Keogh accounts. These are included when the holder has access to the funds, even though a penalty may be assessed. If the individual is making occasional withdrawals from the account, determine the amount of the asset by using the average balance for the previous six months. (Do not count occasional withdrawals as income).
- Retirement and pension funds.
 1. While the person is employed, Include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs. Follow paragraph 5-7 G.4 of the HUD Handbook 4350.3 on determining the value of assets.
 2. At retirement, termination of employment, or withdrawal, Periodic receipts from pension and retirement funds are counted as income. Lump-sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income, as provided below:
 - a) If benefits will be received in a lump sum, include the lump sum receipt in net family assets.
 - b) If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.
 - c) If the individual initially receives a lump-sum benefit, followed by periodic payments count the lump-sum benefit as an asset and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.
- **NOTE:** This paragraph assumes that the lump-sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump-sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.
- Cash value of life insurance policies available to the individual before death (e.g., the surrender value of a whole life policy or a universal life policy). It would not include a value for term insurance, which has no cash value to the individual before death.
- Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. Personal jewelry is NOT considered an asset.
- Lump-sum receipts or one-time receipts. These include inheritances, capital gains, one-time lottery winnings, victim's restitution, settlements on insurance claims (including health and accident insurance, worker's compensation, and personal or property losses), and any other amounts that are not intended as periodic payments.

- A mortgage or deed of trust held by an applicant:
 - a) Payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset.
 - b) This combined figure needs to be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)
 - c) To count the actual income for this asset, use the interest portion due, based on the amortization schedule, for the 12-month period following the certification.
 - d) To count the imputed income for this asset, determine the asset value as of the effective date of the certification. Since this amount will continually be reduced by the principal portion paid during the previous year, the owner will have to determine this amount at each annual recertification.
- Assets disposed of within two years before effective date of certification/recertification:
 1. If the cash value of the disposed assets exceeds the actual amount the family received by more than \$1,000, include the whole difference between the cash value and the amounts received. Do not include if the difference is less than \$1,000.
 2. Do not consider assets disposed of for less than fair market value as a result of a foreclosure, bankruptcy, or a divorce or separation agreement.
 3. Do consider:
 - a) Assets put into trusts,
 - b) Business assets disposed of for less than fair market value. (Business assets are excluded from net family assets only while they are part of an active business.)

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

Regulatory References (These references are current as of the date of publication. Readers should refer to the latest edition of the Code of Federal Regulations.) 24 CFR part 5.603 defines net family assets as follows: Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and the equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. . . . In determining net family assets, owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Assets do not include:

- Necessary personal property such as clothing, furniture, automobiles, personal jewelry, etc.
- Vehicles specially equipped for the handicapped.
- Interest in Indian Trust Land.
- Value of term life insurance.
- Equity in a cooperative unit in which the family lives.
- Assets that are a part of an active business (“business” does not include rental properties that are held as investments and not a main occupation).

- Assets held in the applicant's/tenant's name but are actually owned by someone else, such as;
 1. Assets and earned income that is accrued or paid to the benefit of someone else; or
 2. A situation wherein another person is responsible for income taxes incurred on income generated by the asset(s); or
 3. An applicant/tenant is responsible for disbursing someone else's money, such as in the case of having Power of Attorney, but the money is not his/hers and no benefit is received.

Calculating Income from Assets

Determining the Value of an Asset:

When computing asset value, use the cash value of the assets. The cash value is the amount an individual would receive if the asset(s) were converted to cash.

Expenses which may be deducted from the value include:

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

Determining Income from Assets:

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

Count in household income:

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

Example: An applicant has \$6,400 in assets. Actual income from assets has been verified at \$168. Imputed income from assets is calculated at \$128 ($\$6,400 \times .02 = \128). Use the greater amount, or in this case \$168, and add to the household's total annual income.

Assets Owned Jointly

Assets owned by more than one person should be prorated according to the percentage of ownership. If no percentage is specified or provided by state or local law, prorate the assets evenly among all owners.

Sale or Disposition of Assets

At the time of application or annual certification, all adult members of the household must declare any assets sold for less than fair market value in the past two years before the effective date of the Certification. If there is more than \$1,000 difference between the amounts received for the asset and the fair market value, then include in asset value the entire difference. 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, or 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.

Tenant Income and Asset Verification

All regular sources of income must be verified. Any assets totaling \$5,000.00 or more must also be verified. Verification must be received by the management agent prior to the execution of the Tenant Income Certification and the actual move-in date. Verifications must contain complete and detailed information, and include, at a

minimum, direct written information from all sources of income and income from assets. Faxed verifications will be accepted as long as the verifiable source receives and re-submits the fax.

Effective Term of Verifications:

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

Methods of Verification:

Written Verification:

At a minimum, an attempt to obtain written third-party verification is required. Any request for income verification must:

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

Verification Transmittal:

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

Verbal Verification:

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

Differences in Reported Income:

The management 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:

When there is information in the tenant file that needs further clarification, the management agent should include written statements 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.

Acceptable Forms of Income Verification

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

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

Employment Income

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

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

Minimum Wage Increases

Because income calculations are based upon what is expected to be received during the next 12 months, if the minimum wage increases during the next 12 months, include the increase as appropriate.

Self-Employment Income

(Any salary being paid from as well as any net income from the business itself)

1. Self-Employment Income Verification form;
2. The prior year's Federal form 1040 with Schedule C, E, or F along with a statement from the applicant/tenant forecasting the anticipated income for the 12 months following certification;
3. Financial statement(s) of the business along with an affidavit from the applicant forecasting the anticipated income for the 12 months following certification;
4. Any loan application listing income derived from business during the preceding 12 months;
5. For rental property, copies of recent checks, lease and receipts for expenses, or IRS Schedule E.

Social Security, Supplemental Security Income (SSI), Disability Income & Pensions:

1. An award or benefit notification letter prepared by the authorizing agency- applicant/tenants can go to the Social Security Administration website at <http://www.ssa.gov/> under Online Services to obtain current benefits statements.
2. A Social Security verification form completed by the agency providing the benefits;
3. Copies of **current or recent** check stubs with date, amount and check number recorded by the owner, award letters or computer printout from court or public agency and most recent quarterly pension account statement;

Because income calculations are based upon what is expected to be received during the next 12 months, if the Social Security Administration or other plan provider has published a cost of living adjustment, include the increase as appropriate;

Unemployment Compensation

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

1. A verification form completed by the unemployment compensation agency;
2. Records from the unemployment agency stating payment dates and amounts;
3. Benefit notification letter from authorizing agency;
4. Copies of checks or records from agency provided by applicant stating payment amounts and dates;

Alimony or Child Support

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

Recurring Contributions and Gifts

(Sporadic contributions and gifts are not counted as income)

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

Unemployed Applicants/Tenants

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

Acceptable Forms of Asset Verification

The owner must verify asset income received/earned by household members occupying a Risk Sharing unit that totals \$5,000.00 or more per household. If assets total \$5,000.00 or more, use the OHCS form - Asset Verification. If Assets total under \$5,000.00 it is acceptable to use the OHCS form - Under \$5,000 Asset Certification.

All household assets totaling \$5,000.00 or more must be verified:

Current Family Assets-from all sources

1. Verification forms, letters or documents received from financial institutions, stock brokers, real estate agents, employers indicating the current value of the assets and penalties or reasonable costs to be incurred in order to convert non-liquid assets into cash;
2. Passbooks, checking, or savings account statements, certificates of deposit, property appraisals, stock or bond documents, or other financial statements completed by financial institution;
3. Copies of real estate tax statements, if tax authority uses approximate market value;
4. Quotes from attorneys, stockbrokers, bankers, and real estate agents that verify penalties and reasonable costs incurred to convert asset to cash;
5. Copies of real estate closing documents that indicate distribution of sales proceeds and settlement costs;

6. Notarized statement or signed affidavit stating cash value of assets or verifying cash held at applicant's home or in a safe deposit box.

Tips:

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

Finding and Keeping Tenants

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

Owners/Agents of Risk Sharing properties must treat applicants and tenants fairly and equitably by:

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

Tenant Selection Procedures

The Owner/Agent is responsible for establishing tenant selection procedures. These procedures describe the methods and procedures for taking applications and screening tenants at the property. Tenant selection procedures must:

- Be consistent with the purpose of providing housing for low-income and very low-income families;
- Be reasonably related to Risk Sharing Program eligibility and the tenant's ability to perform the obligations of the lease;
- Provide for the selection of tenants based on a written waiting list in the chronological order of application, to the extent practicable; and
- State that the owner or manager will give prompt written notice to any rejected applicant, with an explanation of the grounds for rejection.

Elements of the Tenant Selection Procedures

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

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

- The tenant selection procedures should describe the Risk Sharing requirements that affect tenants and tenant selection in terms that are clear and easy to understand. Specifically, the procedures should describe:
 - How vacant units will be filled;
 - Unit occupancy requirements;
 - Nondiscrimination policies and the affirmative marketing procedures, including accessibility requirements;
 - Marketing strategy for accessible units;
 - Tenant selection records that must be maintained.

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
- ◆ Restrict the number of occupants in a unit according to policy standards

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

Exemptions:

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

“62 and Over”

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

“55 and Over”

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

Other Exemptions:

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

Tenant Handbook

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

Suggested Components:

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

Lead-Based Paint

Exempt Housing

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

Basic Requirements

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

Notification Requirements

Owners must distribute a HUD or Environmental Protection Agency (EPA) approved pamphlet to prospective buyers and renters of pre-1978 homes, and tenants of homes where renovations will take place. A widely used EPA pamphlet entitled “Protect Your Family from Lead in Your Home” is available for download in both English and Spanish on the OHCS website with the Consolidated Funding Cycle (CFC) materials.

OHCS requires that owners obtain evidence of tenant receipt of any pamphlet distributed. Owners may create their own receipt of disclosure the “*Disclosure of Information on Lead*” form located on the OHCS website at http://www.oregon.gov/ohcs/pages/hpm_risk_share_compliance_manual.aspx. The Asset Management section will audit for proof of receipt.

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

All of these changes are 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 Risk Sharing property -- **not only to Risk Sharing units**. During the compliance review, the Asset Management Section Compliance Officer will monitor to ensure that the owner has conducted all necessary activities and maintained appropriate documentation in their files.

Affirmative Fair Housing Marketing

The Affirmative Fair Housing Marketing Regulations (24 CFR 200.600) implement HUD's policy of assuring that persons of similar income levels in a housing market area have a like range of housing choices available to them, regardless of race, color, religion, sex, or national origin. The act, pattern, or intent of discrimination also extends to classes or groups. The Department will annually assess a property's affirmative marketing program to determine the success of affirmative marketing efforts and any necessary corrective actions.

Basic Requirements:

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

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

Advertising – Marketing Efforts

It is unlawful to make, print or publish any notice, statement or advertisement with respect to the sale or rental of a dwelling which indicates a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin. All written or oral notices or statements by a person engaged in the sale or rental of a dwelling are subject to this provision.

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

For more information regarding AFHMP advertising guidelines, go to:

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

Fair Housing & Equal Opportunity (FHEO)

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

Federal Protected Classes:

- Race: Racial Background
- Color: Additional distinction within the category of race
- Gender: Male/female
- Religion: A person's religion; or lack thereof
- National Origin: Where the person or their ancestors came from
- Disability: A mental or physical impairment that substantially limits one or more of a person’s major life activities.

- Familial Status: Familial status means having a child in the household, whether living with a parent, a legal custodian, or their designee. It also covers a woman who is pregnant, and people in the process of adopting or gaining custody of a child.

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

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

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

*Please note: This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant’s sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for the purpose of determining the number of bedrooms to which a household may be entitled. This provision is intended to ensure privacy, safety and modesty in temporary, emergency shelters. Please also note:

This provision does not prohibit voluntary or anonymous reporting of sexual orientation or gender identity pursuant to local, state or federal data collection requirements.

State of Oregon Protected Classes:

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

Local Jurisdictions: Counties-Cities in Oregon Protected Classes:

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

www.FHCO.org/pdfs/matrix_ore.pdf

More Information:

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

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

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

<http://www.fhco.org>

ADA, 504 and Fair Housing Accessibility

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

- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) protects race, religion, sex and national origin
- The Fair Housing Amendments Act of 1998 (Amendments Act - FHAA) added disability and familial status
- The Americans with Disabilities act (ADA) of 1990 addresses public accommodations (rental offices and common areas are considered public accommodations)
- Section 504 of the Rehabilitation Act of 1973 (Section 504) applies to those receiving federal assistance
- Persons with disabilities have their rights protected under three main laws (ADA, FHAA, and 504)

Disability Rights in Housing

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

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

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

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

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

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

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

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

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

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

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

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

For information on how to comply with the physical accessibility requirements of the Fair Housing Act, visit the Fair Housing Accessibility FIRST Web site:

<http://www.fairhousingfirst.org/>

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

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

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

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

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

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

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

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

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

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

For more information on the Americans with Disabilities Act, visit the Department of Justice ADA Home Page.
<http://www.ada.gov/>

For information on how HUD processes housing discrimination complaints, see Fair Housing-It's Your Right:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights

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

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