



Memorandum

To: OHCS LIHTC and Tax Exempt Bond Partners
From: Jennifer Marchand, Multifamily Compliance Technical Advisor
Date: August 29, 2017
Re: Presidential Declared Disasters and Maintaining Compliance

Revenue Procedure 2014-49 (Rev. Proc. 2014-49) addresses guidelines for LIHTC housing in response to presidentially-declared disasters. (Similar guidance for tax-exempt bond properties can be found in Rev. Proc. 2014-50).

When a presidential declared disaster occurs, OHCS as an allocating agency has the right to either issue a statewide approval to qualify displaced households or approve requests for housing displaced individuals on a property specific basis.

When either situation occurs, there are certain compliance requirements that must be kept in mind when renting to displaced households.

- 1) Once the allocating agency has issued the approval, displaced households can move in. Each must first sign a statement (under penalty perjury) with the following information*:

Name(s);

Address of the principal residence at the time of the disaster;

Social security number(s);

That the household was displaced as a result of the disaster; and

The principal residence was located in a jurisdiction both covered by the presidential declaration and eligible for FEMA Individual Assistance.

*Please note that OHCS has a required form that must be completed to meet the above requirements - "Displaced Household Certification".

- 2) It is best to income qualify households when possible. However, if a household cannot be qualified because they are over income, they cannot provide sufficient documentation because paperwork/verifications are unavailable, or the household must be housed immediately, the household can be placed for a temporary housing period of up to one year from the date of the declared disaster without meeting general LIHTC qualifications.
- 3) The maximum housing expense must comply with the applicable property LIHTC limits (Tenant Paid Rent +UA+ Mandatory fees as applicable cannot exceed gross rent).



- 4) Current tenants cannot be evicted or displaced in order to house displaced victims.
- 5) Occupancy by displaced households satisfies the non-transient use requirement.
- 6) During the temporary housing period the next available unit rule applies based solely on occupancy by those not displaced.
- 7) At the end of the temporary housing period the household must be qualified for the unit or must vacate the unit. There is a 60 day grace period allowed per regulation. Leases offered to displaced households should have the appropriate provisions in them to meet this requirement.
- 8) If the property is in its first year the unit is treated as low-income for purposes of determining the qualified basis and meeting the minimum set-aside (e.g., 40 percent of the units at 60 percent of area median income). If the move-in takes place after the first year, “the unit retains the status it had immediately before” (i.e., LIHTC eligible, market-rate, or never occupied).
- 9) The income of the Displaced Individual occupying the unit does not affect the building's applicable fraction under § 42(c)(1)(B) for purposes of determining the building's qualified basis under § 42(c)(1), nor does it affect the satisfaction of the 20-50 test under § 42(g)(1)(A), 40-60 test under § 42(g)(1)(B), or 25-60 test under §§ 42(g)(4) and 142(d)(6) for New York City, as applicable.
- 10) The emergency housing of displaced Individuals in low income units during the Temporary Housing Period (and, if applicable, the 60-day correction period under section 13.07 of the revenue procedure) does not cause the building to suffer a reduction in qualified basis (which would cause the recapture of low income housing credits).
- 11) In addition to the required OHCS displaced household certification form, the Owner must maintain a record of both the OHCS approval of the Project’s use for Displaced Individuals and of the approved Temporary Housing Period. The Owner must report to OHCS at the end of the Temporary Housing Period a list of the names of the Displaced Individuals and the dates the Displaced Individuals began occupancy. The Owner must also provide any dates Displaced Individuals ceased occupancy and, if applicable, the date each unit occupied by a Displaced Individual becomes occupied by a subsequent tenant. The Owner must maintain the records described in this section as part of the annual compliance monitoring process and submit with the annual certification of continuing program compliance (CCPC) due by February 28th of each year. This information must also be available and shared with OHCS and the IRS upon request.

Please send all additional questions regarding compliance with presidential declared disasters to Jennifer Marchand at Jennifer.C.Marchand@oregon.gov (503)-986-2031.