North Dakota
Housing Finance Agency

HOUSING CREDIT PROGRAM COMPLIANCE MANUAL

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Equal Housing Opportunity

PREFACE

This manual is a training and reference guide for the administration of the Low-Income Housing Tax Credit (Housing Credit) Program. It is intended to answer questions regarding the procedures, rules, and regulations that govern Housing Credit developments. The manual should be used in conjunction with, and as a supplement to, Section 42 of the Internal Revenue Code. If a determination is made that any provision of this manual is in conflict with Section 42 of the Internal Revenue Code, the Internal Revenue Code will govern.

Included in the manual are a number of forms or "exhibits" for your use. The use of some of the forms is mandatory while the use of other forms is optional. Please pay particular attention to language within the manual that states which are required forms. **If management uses forms other than those provided, care should be taken to assure that the forms used solicit sufficient information to meet HUD 4350.3 income determination guidelines.**

The Property Management Division will administer compliance monitoring for the North Dakota Housing Finance Agency. Questions regarding compliance monitoring should be directed to the Agency Property Management Director at ekrein@ndhfa.org or by calling (701)328-8070 or toll-free 1-800-292-8621 or through Relay North Dakota 1-800-366-6889 or 1-800-366-6888 (TTY).

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INTRODUCTION

The Tax Reform Act of 1986 established the Low Income Housing Tax Credit Program (Housing Credit) under Section 42 of the Internal Revenue Code (the "Code").

The Housing Credit is an incentive for taxpayers to provide housing for lower income tenants in exchange for a credit against federal income taxes. It is a dollar-for-dollar reduction in tax liability to the owner in exchange for the construction or rehabilitation of rental housing units for lower income households. The amount of credit allocated is directly based on the cost of the development and on the number of qualified Housing Credit units that meet federal rent and income targeting requirements.

The Omnibus Budget Reconciliation Act of 1990 amended the Code to require that state tax credit allocating agencies provide a procedure for monitoring developments for compliance with the occupancy requirements of the tax credit program.

Under Section 42(m)(1)(B)(iii) of the Code, an allocating agency must have a procedure for monitoring compliance with the provisions of the Code and notifying the Internal Revenue Service (IRS) of any noncompliance. The monitoring requirements became effective January 1, 1992, and apply to all buildings that received a tax credit at any time. The North Dakota Housing Finance Agency as the allocating agency (the "Agency"), is authorized by the Code to charge a reasonable fee to cover the costs of compliance monitoring.

Staffing

1) Dorothy Anderson, Tax Credit Program Specialist – is responsible for on-site building inspection, health/safety/building code reports, tenant file reviews, certifications, notifications to owners, and reports to the IRS.

2) Mike Koshney, Housing Program Administrator - is responsible for on-site building inspection

3) Larry Stockert, Contract Administration Coordinator

4) Eldon Krein, Director, Property Management Division

Compliance Period

Owners of developments that received tax credit allocations during 1987, 1988, and 1989 have a 15-year compliance period. Owners of developments receiving a tax credit allocation after January 1, 1990, must make a commitment to comply with eligibility requirements for a period of at least 15 years beginning with the development's first taxable year and for an additional 15-year extended use period (the "compliance period"). The owner and Agency must enter into an agreement pursuant to which the development owner and any successors agree to meet the applicable fraction of low-income tenant occupancy for the compliance period. The Code allows for earlier termination of the compliance period under certain circumstances.

RESPONSIBILITIES

The Owner

Each owner has chosen to utilize the Housing Credit Program to take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met.

Prior to issuance of a final tax credit allocation, the owner and accountant must certify the total development costs and that all requirements of the Housing Credit Program have been met. Any violation of the requirements of the Housing Credit Program could result in the loss of tax credits to the owner.

The owner is responsible for compliance with the Code. The Agency is assigned the responsibility for monitoring compliance. Any and all financial consequences to the owner, as a result of noncompliance, whether identified by the Agency or by the IRS, will be the responsibility of the owner.

The owner is responsible for insuring that the development is properly administered. The owner must make certain that the on-site management team is familiar with, and complies with all appropriate rules, regulations and policies that govern the development.

Prior to issuance of the IRS Form 8609, which certifies an allocation of Credits, the owner and on-site managers will be required to attend or document that they have recently attended industry recognized training on management and compliance. In addition, if significant or repeated noncompliance events are discovered during the on-going compliance monitoring activities, further follow-up training will be required.

The North Dakota Housing Finance Agency

The Agency allocates tax credits through the Housing Credit Program within the State of North Dakota. Once a final allocation is awarded to a development, the Code requires the Agency to monitor compliance by reviewing certain records kept by the owners of Housing Credit housing developments.

The Agency will accomplish this monitoring requirement by conducting an on-site inspection of all buildings in the development by the end of the second calendar year following the year the last building in the development is placed in service and at least once every three years thereafter. The on-site inspection will include a review of the Housing Credit certifications, the documentation supporting the certifications and the rent records for the tenants in at least 20 percent of the units. It will also include a review of any local health, safety, or building code violation reports or notices and an inspection of the property to determine if the buildings are suitable for occupancy taking into account inspection standards as prescribed by the IRS. The Code requires the Agency to conduct the on-site inspection at least through the end of the compliance period.

The Agency must notify the owner of a Housing Credit housing development, in writing, as soon as possible, if the Agency discovers on audit, inspection, review, or in some other manner, that the development is not in compliance with the Code.

The owner has an opportunity to correct noncompliance within 90 days from the date of the notice. An extension of up to six months may be granted by the Agency, for good cause, as determined by the Agency.

The Agency is required to notify the IRS of an owner's noncompliance no later than 45 days after the end of the allowed time for correction, whether or not the noncompliance is corrected. The Agency will notify the IRS by filing Form 8823, explaining the nature of the noncompliance and indicate whether the owner has corrected the noncompliance.

The Agency will charge an annual fee to all developments during the compliance period. The fee is currently set at $50 per development plus $25 per set-aside unit. Scattered site developments will pay $50 per building plus $25 per set-aside unit. This fee will be reviewed on an annual basis to reassess its reasonableness and will be adjusted accordingly. The fee is used to cover expenses incurred during normal and routine monitoring activities. Additional fees may be assessed if a development is determined to be in substantial noncompliance or more extensive monitoring is required. Additional fees may also be assessed in cases where an inordinate time commitment is required, such as subsequent training due to higher than normal management staff turnover.

COMPLIANCE PROCEDURES

Record Keeping and Record Retention

Owners are required to keep records on a monthly basis, unless otherwise noted, for each qualified Housing Credit building in the development showing the following information:

1. the total number of residential rental units in the building, including the number of bedrooms and the size, in square feet, of each unit;

2. the percentage of residential rental units in the building that are dedicated for low-income usage;

3. the rent charged on each residential rental unit in the building, including any utility allowance;

4. the number of occupants in each Housing Credit unit;

5. the Housing Credit unit vacancies in the building and the rentals of the next available units;

6. the certification of each Housing Credit tenant and documentation to support that certification;

7. the eligible basis and qualified basis of the building at the end of the first year of the credit period; and,

8. the character and use of any nonresidential portions of the building included in the building's eligible basis under the Code (e.g. tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the development.)

Owners are required to keep all records for each building for six years beyond the due date (with extensions) for filing the federal income tax for that year. As an example, records for the 1996 tax year used to prepare the federal tax return which was due April 15, 1997, must be retained until April 15, 2003. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period for the building.

Owner Certifications

The monitoring provisions of the Code require the owner to certify at least annually that the development meets the following:

1. the requirements of the 20-50 test or the 40-60 test, as applicable;

   (At least 20% or more of the residential units in the development are both rent-restricted and occupied by individuals whose income is 50% or less of area median income; or

   At least 40% or more of the residential units in the development are both rent-restricted and occupied by individuals whose income is 60% or less of area median income.)

2. there was no change in the applicable fraction of any building in the development (or that there was a change, and a description of the change);

   (Applicable fraction is defined as the percentage of qualified low-income units in a development or the percentage of floor space of qualified low-income units, whichever is less.)

3. the owner has received an annual certification from each Housing Credit tenant and documentation to support that certification;

4. that each Housing Credit unit is rent-restricted as defined in the Code;

5. that all units in the development are for use by the general public and are used on a nontransient basis (except for transitional housing for the homeless provided under section 42 (i)(3)(B)(iii)); including the requirement that no finding of discrimination under the Fair Housing Act occurred for the development. A finding of discrimination includes an adverse final decision by the Secretary of the Department of Housing and Urban Development, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgement from a federal court.

6. that each building in the development is suitable for occupancy taking into account local health, safety, and building codes (or other habitability standards), and the State or local government unit responsible for making local health, safety, or building code inspections did not issue a violation report for any building or Housing Credit unit in the development. If the governmental unit issued a violation report or notice, the owner must attach a statement summarizing the violation report or notice or a copy of the violation report or notice to the annual certification submitted to the Agency. In addition, the owner must state whether the violation has been corrected;

7. that there has been no change in the eligible basis of any building (as defined in Section 42(d)) (or that there has been a change, with an explanation of the change);

8. that all tenant facilities included in the eligible basis of any building in the development are provided on a comparable basis without a separate fee to all tenants in the development;

9. that if a Housing Credit unit in the development becomes vacant during the year, reasonable attempts are made to rent that unit to tenants having a qualifying income and while the unit is vacant no units of comparable or smaller size are rented to tenants not having a qualifying income;

10. that if the income of tenants of Housing Credit units increases above the limit allowed in the Code, the next available unit of comparable or smaller size will be rented to tenants having a qualifying income; and,

11. that an extended use agreement as described in the Code is in effect for developments receiving allocations on or after January 1, 1990.

The Owner is required to submit a certification to the Agency each year of the compliance period as defined in the Land Use Restrictive Covenant. The Owner must submit to the Agency the **Annual Owner Certification (Exhibit A)** and the **Tax Credit Data and Certification (B-2)** as of the anniversary date each development was placed in service. Annual operating statements, documentation that the property taxes and mortgage are current and that the replacement reserve account is being properly funded and any other information requested by the Agency will also be submitted with Exhibits A and B. The annual fees for compliance monitoring are due at this time and must accompany the annual reports.

REGULATIONS

Rent Requirements

For developments that received an allocation of tax credits during the years 1987 through 1989, the tenant's gross rent may not exceed thirty percent of median income (not 30% of the particular family's income, but 30% of the applicable median income, adjusted for family size for the area in which the development is located.) The gross rent must include an allowance for any tenant-paid utilities.

The amount of rent allowed to be collected by a development that received an allocation after January 1, 1990, is based on the number of bedrooms in the unit as opposed to the actual family size. For example, the maximum rent for an efficiency apartment with no separate bedroom would be based on the income limit for a one-person household regardless of the actual number of persons occupying the unit. Maximum rent is otherwise based on the qualifying income limits for 1.5 persons for each bedroom in the unit.

For one-bedroom units, the maximum rent is determined by using the average of the one and two person income limits. The maximum gross rent for a three-bedroom unit is determined by using the average of the four and five-person income limits.

The appropriate utility allowance is subtracted from the maximum monthly rent to determine the net monthly rent limit. The owner is responsible for obtaining updated utility allowances at least annually from the local Public Housing Authority, HUD, Rural Development, or local utility company office and for implementing any applicable changes. Federal regulations require new utility allowances to be used to compute rents within 90 days after the change in allowances.

The Agency publishes income and rent limits, based on area median income, for developments receiving a Housing Credit allocation and will provide updated limits as made available by HUD.

QUALIFICATION OF APPLICANTS

Applicants for Housing Credit units should be advised early in their initial visit to the development that there are maximum income limits that apply to these units. Management should explain to the tenants that the anticipated income of all persons expecting to occupy the unit must be verified and included on an Application and Income Certification form prior to occupancy and **that they will be required to have their financial status reviewed annually**.

The Application

A fully completed application is critical to an accurate determination of eligibility. The information furnished on the application should be used as a tool to determine all sources of income and assets. The Agency encourages the use of the **Application for Housing** (**Exhibit C)**. If management chooses to use their own application, it must solicit sufficient information to make an accurate determination of the household's total income and assets using HUD 4350.3 standards. It is recommended that roommates complete separate applications.

After the household completes the application, the owner must verify all income and assets. After all income and assets have been verified, the owner or manager must then complete the **Housing Credit Tenant Income Certification** (TIC) **(Exhibit D**). The TIC must be signed by both the tenant(s) and owner/manager and a copy retained in the tenant file. The TIC must be used for all move-ins and annual recertifications completed on or after June 1, 2001. The TIC, along with the lease, is to be executed prior to move-in. All occupants in a Housing Credit unit must be certified and under lease.

Prior to each anniversary date of the tenant's move-in, a subsequent application must be completed and all household income re-verified, followed by completion of another TIC.

A unit does not lose its status as Housing Credit solely because of an increase in the household's income. Once a unit qualifies as a Housing Credit unit it continues to qualify as such until the tenant's income exceeds 140 percent of the applicable income limit. Once the 140 percent is exceeded the household is referred to as an "over-income" household. Even then, the unit remains a Housing Credit unit as long as the owner continues to fill vacancies in comparable or smaller units within the same building with tenants who qualify as Housing Credit tenants. The unit ceases to qualify as a Housing Credit unit if any vacancy in a comparable or smaller unit within the same building is filled with an income-ineligible tenant. The owner is then also subject to recapture of the accelerated portion of the Credits previously taken with respect to these units. If a tenant wishes to move to a different unit within the same building the units simply change status and a new certification is not required. If the tenant wishes to transfer to a different building within the same development, the household is treated as a new move-in and initial eligibility must be re-established.

Leasing to Students

If an income eligible household is composed entirely of full time students, the household will not be treated as a Housing Credit unit unless it falls within certain exceptions. The four exceptions are as follows:

1. At least one member of the household receives assistance under Title IV of the Social Security Act (i.e. TANF).

2. At least one member of the household is currently enrolled in a job training program assisted under the Job Training Partnership Act (JTPA) or a similar federal, state, or local program.

3. The household consists of a single parent(s) with child(ren) and both the parent and child(ren) are not dependents of a third party. Owners or managers should obtain a copy of any divorce decree showing custody and dependent status and a signed copy of the current tax return verifying the dependent status.

4. All members of the household are married and file a joint tax return. (Members of the household do not need to be married to each other.). Owners or managers should obtain copies of the actual marriage certificate or license and a signed copy of the current joint tax return for their files.

A full-time student is defined as any individual who has been or will be a full-time student (as determined by the education institution) at an educational institution with regular facilities during at least five months of the calendar year. K – 12 students are considered full time students.

A unit occupied solely by a low-income tenant who becomes a full-time student after move-in would no longer qualify as a Housing Credit unit. Owners may wish to protect themselves by including language in their tenant leases that provide that full-time student status will be a violation of the lease.

If it appears the applicant could be a student, it is suggested that the applicant complete the **Student Certification Form.** If the applicant indicates that he or she is a student, have them sign the **Student Verification Form** and send it to the educational institution to verify full-or part-time status. If the school verifies full-time status, and the applicant has checked "No" to questions 2 through 5 on the **Student Certification Form,** the applicant is ineligible to occupy a unit unless another non-student is a member of the household.

Change in Household Composition

All household members must be certified and named on the lease. In the event the tenant in a Housing Credit unit wishes to have an additional person move into the unit during the first 6 months of tenancy, the following steps must be taken:

1. The prospective tenant must complete an Application for Housing and allow for verification of income and assets as required of the initial tenant.

2. The prospective tenant's income must be added to the current tenant's previously certified income and a determination made as to whether the income requirement is jeopardized by adding an additional occupant.

The lease should include the legal name(s) of the parties to the agreement and all other occupants, a description of the unit to be rented, the term of the lease, the rental amount, the use of the premises, and the rights and obligations of the parties. This will cover the owner when the addition of a household member might jeopardize the Housing Credit status.

In the event a household member vacates the unit, the unit will remain in the category as originally certified. Any changes in household composition should be documented in the tenant file.

General Income Verification Requirements

All regular income sources, including asset income must be verified. Written verification of income directly from the source (third-party verification) must always be attempted.

- Applicants should be asked to sign two copies of each verification form. The second copy may be used if the first request has not been returned in a timely manner.

- Income verification requests must be sent directly to and from the source, not through the tenant. It is suggested that a self-addressed, stamped envelope be included with the request for verification.

- When written verification is not possible prior to move-in, direct contact with the source will be acceptable to the Agency but must be followed up by written verification. The conversation should be documented in the applicant's file to include all the information that would be included in a written verification. The name and title of the contact, the name of the management representative accepting the information and the date must be included. **Document Viewed or Telephone Information Received (Exhibit E)** may be used for documentation of a direct contact. By using this approach, the ultimate risk of admitting an ineligible tenant is borne solely by the owner and management.

- Management should give the applicant the opportunity to explain any significant differences between the amounts reported on the application and amounts reported on third-party verification in order to determine actual income. The explanation should be documented in the tenant file.

Effective Term of Verification

Written verifications are valid for 120 days. After 120 days, the information may be verbally updated from the source and will be valid for an additional 30 days. After this time a new written verification must be obtained.

Acceptable Forms of Verification

The annual income for a household receiving housing assistance payments under HUD Section 8 may be verified by obtaining a statement from the public housing authority (PHA). The owner should submit the **Section 8 Eligibility Verification (Exhibit V)** to the PHA for completion. If the tenant's gross annual income does not exceed the applicable income limit, the household is eligible to occupy a Housing Credit unit.

Acceptable forms of verification for other specific types of income situations are as follows:

A. Employment Income

1st choice — **Employment Verification (Exhibit F)** completed by the employer or statement from employer on company letterhead.

2nd choice — Check stubs or earning statements showing the employee's gross income per pay period and frequency of income.

B. Self Employment Income

1st choice — Federal tax return (Schedule C or F) or accountant's statement of net income.

2nd choice — Current financial statements of the business and a certification from the applicant giving the anticipated income for the 12 months following certification.

C. Social Security

1st choice **Social Security Verification (Exhibit G)** completed by the agency providing the benefits.

2nd choice Award or benefit notification letter prepared and signed by the authorizing agency.

3rd choice **Social Security Check Verification (Exhibit H)** completed by the housing manager and tenant.

D. Railroad Retirement

1st choice **Railroad Retirement Verification (Exhibit I)** completed by the firm providing the benefits.

2nd choice Award or benefit notification letter prepared and signed by the authorizing firm.

E. Unemployment Compensation

1st choice **Unemployment Benefits Verification (Exhibit J)** completed by the unemployment compensation agency.

2nd choice Records from the unemployment office stating payment dates and amounts.

F. Workers Compensation or other Pension

1st choice **Pension Verification (Exhibit T) or Workers Compensation Verification (Exhibit K)** completed by the agency providing the benefits.

2nd choice Award or benefit notification letter prepared and signed by the authorizing agency.

G. Veterans Benefits

1st choice **Veterans Benefits Verification (Exhibit L)** completed by the agency providing the benefits.

2nd choice Award or benefit notification letter prepared and signed by the authorizing agency.

H. Military Pay

1st choice **Military Pay Verification (Exhibit M)** completed by the military branch of service.

2nd choice Check stubs or earnings statements showing the employee's gross pay per pay period and frequency of pay.

I. Child Support and/or Alimony/Spousal Support

1st choice Copy of separation or divorce decree stating the amount and type of support payment schedule and **Child Support and/or Alimony/Spousal Support Verification (Exhibit N)** completed by the Clerk of Court for court ordered support.

2nd choice **Child Support and/or Alimony/Spousal Support Verification (Exhibit O)** completed by spouse.

Note: If the applicant is reporting the receipt of less child support and/or alimony/spousal support than is shown in the divorce decree, you must obtain a certification from the applicant stating that the full amount is not being received and that the applicant has made reasonable efforts to enforce payment. (See page 15)

J. Public Assistance (i.e.TANF)

1st choice **Public Assistance Verification (Exhibit P)** completed by the agency providing the benefits.

2nd choice Copy of TANF or other budget signed and dated by caseworker.

K. Recurring Contributions and Gifts

1st choice Certification signed by the person providing the assistance stating the purpose, dates and value of the gifts, or

A verification letter from the bank, attorney, or a trustee administering the contribution.

2nd choice Certification from the applicant stating the purpose, dates and value of the gifts.

Unemployed Zero Income Applicants

If a household member is currently unemployed and claims no income from such sources as Social Security, pensions, income from assets, etc., the tenant must complete the **Certification of Zero Income (Exhibit S).** The income of unemployed household members, with regular income from any source such as Social Security, pension, recurring gifts, income from assets, etc., must be verified.

Annual Income

Annual income includes all of the types of income listed below in the amount anticipated to be received by the head of household, spouse and co-head (regardless of age) and by all other adult members (18 years of age and older) of the household in the 12 months following certification.

1. The gross amount (before payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services of all members of the household, ages 18 and over. (Includes income received from a family-owned business.)

   Please note: Only the first $480 of earnings for full-time students, 18 years of age and older, is counted provided the student is not the head of household, co-head, or spouse. If the student is the head, co-head, or spouse, all income is counted.

2. Net income, salaries, and other amounts distributed from a business.

3. The gross amount (before deductions for Medicare, etc.) of periodic Social Security payments. (Includes payments received by adults on behalf of minors or by minors for their own support.)

4. Annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts.

5. Lump-sum payments received because of delays in processing unemployment, welfare, or other benefits (not to include Social Security or Supplemental Security Income (SSI) benefits).

6. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. Any payments that are anticipated during the next 12 months must be included.

7. Welfare assistance.

8. Alimony/spousal support and child support. Include the amount specified in a divorce settlement or separation agreement unless the applicant:

   a) certifies the income is not being provided; and,
   b) has made reasonable effort to collect the amounts due, including filing with courts or agencies responsible for enforcing payments.

9. Interest, dividends, and other income from assets (including income distributed from trust funds) (On deeds of trust or mortgages, only the interest portion of the monthly or annual payments received by the applicant is included.)

10. Recurring monetary contributions or gifts regularly received from persons not living in the unit. (Excludes rent or utility payments regularly paid on behalf of the family by a government agency.)

11. Student Income – For adult students (part-time or full-time), all educational assistance is now considered as income for eligibility purposes.

    The 3 exceptions are:

    a) Students 24 or older with a dependant child,

    b) Student loans taken out by the applicant,

    c) The cost of tuition, with verification from the educational institution the student is attending. Tuition includes whatever the school declares, excluding books, fees, or other expenses that may be itemized separately on the verification form.

Annual Income Excludes

1. Employment income of children, (including foster children) under the age of 18, unless the minor is the head of household, spouse, or co-head. (All non-employment income of household members under age 18 must be included as income.)

2. Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household, co-head, and spouse).

3. Meals on wheels or other programs that provide food for the needy.

4. Income associated with persons that are living in the unit but are not regular household members, such as payments received for care of foster children or income of live-in attendants.

   Note: Do not count income received by or on behalf of foster children or adults and do not count these individuals in determining household size for income or rent restriction purposes.

(A live-in attendant is defined as a person who lives with an elderly, disabled, or handicapped individual and is essential to that individual's care and well being, is not obligated for the individual's support and would not be living in the unit except to provide the support services.)

5. The principal portion of payments received on mortgages or deeds of trust.

6. Lump-sum additions to family assets, such as inheritances; capital gains, one-time lottery winnings; insurance settlements under health and accident insurance and workmen's compensation; or settlement for personal or property losses.

7. Non-recurring or sporadic gifts.

8. Annual rent credits or rebates paid to senior citizens by government agencies.

9. Hazardous duty pay to a family member in the military.

10. Payments received under HUD-funded Comprehensive Improvement Assistance Program.

11. Payments received under Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, and Foster Grandparents Program).

12. The value of the allotment made under Food Stamp Act of 1977.

13. Payments, rebates or credits received under Federal Low-Income Home Energy Assistance programs. (LIHEAP).

14. Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, State job training programs, career intern programs).

15. Financial assistance a student receives while residing with a parent or guardian.

16. Financial assistance for a disabled student (full or part-time) living in an affordable unit prior to November 5, 2005

17. Payments received under Title V of the Older American Act (Green Thumb, Senior Aides, Older American Community Service Employment Program).

Calculating Annual Income

Owners must convert all verified incomes to annual amounts. To annualize full-time employment, multiply:

1. hourly wages by 2080;

2. weekly wages by 52;

3. bi-weekly amounts by 26;

4. semi-monthly amounts by 24; or,

5. monthly amounts by 12.

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

1. hourly wages by the number of hours the family expects to work annually;

2. average weekly amounts by the number of weeks the family expects to work; or,

3. other periodic amounts (monthly, bi-weekly, etc.) by the number of periods the family expects to work.

Use an annual wage without additional calculations. For example: if a teacher is paid $24,000 a year, use $24,000 whether the payment is made in 12 monthly installments, 9 installments or some other payment schedule.

Assets

Assets, other than necessary personal items, are considered along with verified income in determining the eligibility of a household. (See Exhibits)

Valuing Assets

In computing assets, owners must use the cash value of the asset (the amount the family would receive if the asset was converted to cash). Cash value is the market value of the asset less reasonable costs that were or would be incurred in selling or converting the asset to cash. The Agency considers 10 percent as a reasonable basis for the costs of conversion.

Example: An applicant owns a home with a market value of $30,000 and a loan against the home of $18,000. The cash value of the asset would be shown as $9000 ($30,000 less 10% less $18,000).

If assets are owned by more than one person, prorate the assets according to their percentage of ownership. If no percentage is specified, prorate the assets evenly among all owners.

Assets Include:

1. Cash held in savings and checking accounts, safety deposit boxes, homes, etc.

2. Trusts: include the principal value of any trust available to the household. (Do not include irrevocable trusts, i.e. ones that no household or family member can control.)

3. Equity in rental property or other capital investments. Include the current 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 - penalties, broker fees, etc.

4. Stocks, bonds, treasury bills, certificates of deposits, money market funds, etc.

5. Individual Retirement and Keogh Accounts.

6. Retirement and pension funds.

a) While the person is employed, include only amounts the family can withdraw without retiring or terminating employment.

b) At retirement or termination of employment, if benefits will be received in a lump sum, include the benefits in Net Family Assets. If benefits will be received through periodic payments, include the benefits in annual income.

7. Lump sum receipts: include inheritances, capital gains, one-time lottery winnings, and settlements on insurance and other claims. (Do not count lump sum receipts that must be counted as income. See page 13.)

8. Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. (An applicant's wedding ring and other personal jewelry are not counted as an asset.)

9. Cash value of life insurance policies available to the individual before death.

10. Assets disposed of within two years before effective date of certification/recertification.

a) If the cash value of the disposed assets exceeds the actual amount the family received by more than $1000, include the whole difference between the cash value and the amounts received. Do not include if the difference is less than $1000.

Example: On 6-1-99 a couple gave $2000 to each of their three grandchildren and deeded a home to their son. The home had a <u>cash value</u> of $40,000 and the son paid his parents $12,000 for the home. $34,000 ($40,000 less $12,000 plus $2000 x 3) is counted as an asset until such time as the household can certify on an Income Certification 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.)

b) Do <u>not</u> consider assets disposed of for less than fair market value as a result of a foreclosure, bankruptcy, or a divorce or separation agreement.

c) <u>Do</u> consider:

i. assets put into trusts, and

ii. 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.)

Net Family Assets D<u>o Not</u> Include:

1. Necessary personal property (clothing, furniture, cars, etc.).

2. Life insurance policies.

3. Assets that are part of an active business; (A business does not include rental of properties that are held as an investment and not a main occupation.)

4. Assets that are not effectively owned by the applicant, i.e., when assets are held in an individual's name but:

a) the assets and any income they earn accrue to the benefit of someone else; and,

b) that another person is responsible for income taxes incurred on income generated by the assets.

Example: Assets held pursuant to a power of attorney because one party is not competent to manage the assets or assets held in a joint account solely to facilitate access to assets in the event of an emergency.

5. Assets that are not accessible to the applicant and provide no income to the applicant. Example: A battered spouse owns a house jointly but because of the domestic situation receives no income from the asset and cannot convert the asset to cash.

Asset Verification Guidelines

Checking accounts, savings accounts, certificates of deposit and money market accounts must be verified by a third party using the **Asset Verification Form.** Other assets such as bonds, stocks, IRA's and retirement funds may be verified by documentation provided by the tenant, such as copies of statements.

After arriving at a total value of the assets, if the asset value is $5000 or less, add the actual amount of income to be derived from the assets to the other verified household income. When assets exceed $5000, add the greater of 1) the actual annual income to be derived from these assets, or 2) the imputed income using the passbook interest rate (currently set at 2 percent) to the total verified household income. The household's combined total income cannot exceed the applicable low-income limits at move-in.

THE ANNUAL OWNER CERTIFICATION REPORT

The **Annual Owner Certification (Exhibit A)** must be completed and submitted to the Agency on an annual basis based on the anniversary date of when the development was placed in service. The report is available, upon request, as a Microsoft Word template document. The report must be received by the Agency within 15 days of the due date. Non-receipt of the report within the 15-day grace period will automatically trigger the filing of a notice of noncompliance to the IRS, as required by the Code. All owners, including owners of developments financed under the RHS 515 program and developments where 50 percent or more of the aggregate basis is financed with proceeds of tax-exempt bonds are required to submit the Annual Owner Certification and the Tax Credit Summary Reports.

THE ANNUAL OWNER COMPLIANCE REPORTING PROCEDURE

Each project is assigned a compliance reporting period when the project is placed in service. All reports must be sent in by the pre-determined date. This annual date remains the same throughout the time the project is participating in the Housing Tax Credit Program.

NDHFA requires the following documentation be sent to our office at the end of your compliance reporting period. **NDHFA will send out reminder notices.**

- Annual Owner Certification
- Certification of Tax Credit Summary Report for each building (Exhibit B-2)
- Annual Operating Statements showing Project Income & Expenses for the most recent calendar year
- Third party verification of Mortgage Balances, showing that payments are current
- Third party verification showing the Property Taxes are Current
- Third party verification showing the Replacement Reserve Account is being funded in accordance with the Allocation Plan
- Compliance Monitoring Fees
- Documentation to show the correct utility allowance is being used

NOTE: You will no longer be required to email summaries to NDHFA. The files will be downloaded by NDHFA on the date of the required submittal deadline. Compliance with this date is critical.

If you need assistance, please call 701-328-8052 and ask for anyone in the Tax Credit Compliance Division.

NONCOMPLIANCE

If the Agency does not receive the required certifications within 15 days of the due date or if the Agency discovers on inspection, review, or in some other manner that the development is not in compliance with the Code, the Agency will notify the owner as soon as possible.

The owner will have an opportunity to supply missing certifications or to correct noncompliance within a specified correction period, not to exceed 90 days from the date of the notice to the owner. At the sole discretion of the Agency, the correction period may be extended for a period of up to six months if there is good cause for granting an extension.

The Agency is required to notify the IRS of an owner's failure to file the Annual Owner Certification on a timely basis, or any noncompliance, no later than 45 days after the end of the allowed time for correction, whether or not the noncompliance or failure to certify has been corrected.

LIABILITY

Compliance with Section 42 of the Code is the sole responsibility of the owner of the development for which the Housing Credit is allowed. The Agency's obligation to monitor for compliance with the requirements of the Code does not make the Agency liable for an owner's noncompliance.

EXHIBITS

Annual Owner Certification (*mandatory)*	Exhibit A
Certification of Tax Credit Summary Report (*mandatory)*	Exhibit B
Application for Housing and Tenant Income Certification	Exhibit C
Housing Credit Tenant Income Certification *(mandatory, requires compliance software)*	Exhibit D
Document Viewed or Telephone Information Received	Exhibit E
Employment Verification	Exhibit F
Social Security Verification	Exhibit G
Social Security Check Verification	Exhibit H
Railroad Retirement Verification	Exhibit I
Unemployment Benefits Verification	Exhibit J
Workers Compensation Verification	Exhibit K
Veterans Benefits Verification	Exhibit L
Military Pay Verification	Exhibit M
Child Support and/or Alimony Verification (State Disbursement Unit)	Exhibit N
Child Support and/or Alimony Verification (Former Spouse)	Exhibit O
Public Assistance Verification	Exhibit P
Student Verification	Exhibit Q
Asset Verification	Exhibit R
Certification of Zero Income	Exhibit S
Pension Verification	Exhibit T
Designation of Authorized Representative *(mandatory, if applicable)*	Exhibit U
Section 8 Eligibility Verification	Exhibit V
Student Certification	Exhibit W
Real Estate Verification	Exhibit X
Stocks / Bonds Verification	Exhibit Y