



Michigan State Housing Development Authority

HOME Compliance Manual For Rental Housing

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**735 E. Michigan Avenue
Lansing, Michigan 48912
(517) 241-2560 (phone)
(517) 335-0125 (fax)**

E-mail: mshdacompli@michigan.gov
Website: www.michigan.gov/MSHDA



Not paid for at taxpayer expense.

Toll Free: 855-MI-MSHDA
(855-646-7432)

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INTRODUCTION

The HOME Investment Partnerships (HOME) Program was created under Title II (the Home Investment Partnerships Act) of the Cranston-Gonzalez National Affordable Housing Act of 1990. Implementing Regulations are codified at 24 CFR part 92. The Michigan State Housing Development Authority (“MSHDA” or “the Authority”) is designated a participating jurisdiction for the HOME Program in the State of Michigan.

This HOME Compliance Manual (“Manual”) outlines Michigan’s monitoring policies and procedures for MSHDA HOME projects. The Manual should be used in conjunction with, and as a supplement to, HUD regulations for the HOME program, including the National Affordable Housing Act of 1990 and 24 CFR part 92. If a determination is made that any provision of this manual is in conflict with the National Affordable Housing Act of 1990 or 24 CFR part 92, those regulations will govern.

Note: Virtually every HOME rule has a variation or an exception for specific circumstances. This Manual, by necessity, oversimplifies some aspects; otherwise, no overview would be possible. Every project is different. In some situations, a rule or procedure discussed in the Manual could be (or has been) superseded by the requirements outlined in the Regulatory Agreement. Therefore, owners and managers of housing projects should carefully and thoroughly read the Regulatory Agreement for their project(s) in order to ensure compliance with all requirements specific to the particular project. It is the responsibility of the owner and management agent to know and understand applicable rules and regulations affecting the project and to ensure compliance with HOME and other federal and state program rules and regulations and any additional contractual agreements with the Authority.

Compliance is the responsibility of the development owner. Use or reliance upon any of the provisions contained in this Manual does not, expressly or impliedly, directly or indirectly, suggest, represent or warrant that the user will be in compliance with HOME regulations. MSHDA hereby disclaims any and all alleged responsibility or liability arising from reliance upon the procedures and information in this Manual. Owners and managers are urged to consult with attorneys and/or accountants that specialize in the HOME Program in the administration of their rental housing developments.

This Manual does not describe the procedures to obtain an award of HOME dollars. Persons interested in pursuing a HOME award should first consult with a person familiar with the HOME regulations, such as an attorney, CPA, or other professional advisor, and should consult with the MSHDA’s Rental Development Division and/or Asset Management Division.

Should you have any questions or desire assistance meeting the HOME Program compliance requirements, please contact:

Michigan State Housing Development Authority
Compliance Monitoring, Rental Development Division
735 E. Michigan Avenue, P. O. Box 30044
Lansing, MI 48909

(517) 241-2560 [Compliance Monitoring]
Website: www.michigan.gov/mshda
Compliance E-mail: mshdacompliance@michigan.gov

Chapter 1

Overview of the HOME Program

Part 101 : HOME Program Description

The goals of the HOME Investment Partnerships Program, or HOME Program, are to expand the supply of decent, safe and affordable housing for low and very-low income households, promote partnerships among the Federal Government, States and units of local government and to expand the capacity of nonprofit housing providers to develop and implement affordable housing strategies tailored to local needs and priorities.

The four primary HOME housing activities are:

- **Rental (New Construction, Acquisition and Rehabilitation)**
- Homeowner Rehab
- Home Buyer
- Tenant Based Rental Assistance

One of the primary uses of HOME funds is the acquisition, construction, and rehabilitation of rental housing. All rental housing units acquired, built, or rehabilitated with HOME funds must meet affordability and income-targeting requirements as specified in the HOME Final Rule (24 CFR Part 92). Properties developed using HOME funds are subject to specific rules to ensure that they remain affordable to low and very low-income households throughout the required affordability period. This manual is intended to focus primarily on topics related to HUD's compliance regulations for rental housing.

Part 102 : HOME Program Legislation

- National Affordable Housing Act of 1990
- 24 CFR part 92

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

Part 103 : 2013 HOME Final Rule

HUD published a Final Rule in the Federal Register on July 24, 2013 to amend the HOME Program regulations. These amendments represent the most significant changes to the HOME program in 17 years. Key Final Rule dates include:

- 2013 HOME Final Rule was published 7/24/13
- Majority of changes are effective as of 8/23/13

- Some changes have delayed implementation dates

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

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

The 2013 HOME Final Rule is available on the HUD Exchange website at and <https://www.hudexchange.info/programs/home/home-final-rule/>. The 2013 HOME Final Rule Applicability Chart are available on the HUD Exchange website at <https://www.hudexchange.info/resource/4407/home-final-rule-requirements-applicability-charts/>. The Chart is also included in **Appendix C** of this Compliance Manual.

Part 104 :: **Michigan State Housing Development Authority**
 :: **(“MSHDA” or “The Authority”)**

The Michigan State Housing Development Authority (MSHDA or the Authority) serves as one of the Participating Jurisdictions (PJs) in the State of Michigan responsible for administering the HOME program. MSHDA and local government entities approved as PJs receive direct allocations of HOME program funds from the Department of Housing and Urban Development (HUD).

Part 105 :: **MSHDA HOME Compliance Manual and**
 :: **HUD HOME Compliance Resources**

This HOME Compliance Manual (manual) is designed to assist owners and their agents in complying with HOME regulatory requirements associated with rental properties. This manual is intended only as a supplement to the existing laws and rules, and is not a comprehensive guide to the HOME Program and all of its requirements. This manual was produced for use in conjunction with the HOME Program Final Rule and the Michigan State Housing Development Authority (MSHDA) Regulatory Agreement.

In addition to this manual, property owners/managers should download and follow the HUD guide titled Compliance in HOME Rental Projects: A Guide for Property Owners. This guide is currently being amended to include the 2013 HOME Final Rule changes and is available at: <https://www.hudexchange.info/resource/2395/compliance-in-home-rental-projects-a-guide-for-property-owners/>

Owners should also thoroughly review the HOME regulations and compliance resources including the following:

- Title II of the Cranston-Gonzalez National Affordable Housing Act

- HOME Final Rule - Subpart F and the U.S. Department of Housing and Urban Development (HUD)
- 24 CFR Part 92

If MSHDA or HUD determines that any provision of this manual is in conflict with 24 CFR Part 92, the federal regulation will govern. This manual may be superseded without notice by changes in income determinations under Part 5 of the Section 8 Program and technical revisions in the HOME Program. This manual has not been reviewed by HUD and should not be cited or relied upon for interpretation of federal regulations.

It is the responsibility of MSHDA's Compliance Monitoring Section in the Rental Development Division and the staff in MSHDA's Asset Management Division to monitor the continuing compliance of HOME-assisted projects in accordance with the HUD regulations contained in 24 CFR Part 92. It is MSHDA's responsibility to ensure that property owners retain the housing units as affordable to low and very low-income persons throughout the HOME affordability period and the MSHDA Compliance Period, if applicable. This manual covers the procedures that apply to all rental properties that have received HOME Program funds from MSHDA. Any violation of the HOME Program requirements could result in acceleration of the repayment or recapture of the HOME funds received.

Successful operation of a HOME-funded property requires intensive management as the owner is responsible for ensuring that the property is properly administered and remains in compliance with the HOME program rules throughout the federal affordability period and the MSHDA compliance period, if applicable. Thorough understanding of HOME requirements and compliance monitoring procedures requires training of owners and managers. This training should occur before a property is occupied and should be provided to the on-site property management staff. At a minimum, such training should cover key compliance terms, tenant eligibility, determination of rents, file documentation, maintaining the required unit mix, reporting, record retention requirements, and file audits, and physical inspections. Continuing education each year, or at a minimum every other year is strongly recommended to gain knowledge pertaining to the regulatory and procedural changes of the HOME Program. MSHDA's obligation to monitor for compliance with the requirements of the HOME Program does not make MSHDA responsible for an owner's noncompliance.

In the event a property has both tax credits and HOME Program funds, the most restrictive compliance requirements must be applied to units containing both. See the Michigan LIHTC Compliance Manual for information about LIHTC rules and regulations.

Chapter 2 HOME Project Requirements

Section 2A – Overview of HOME Project Requirements

Project owners must execute the required HOME legal documents including a written agreement, and must have the following pre-approved by MSHDA prior to marketing units, qualifying households, selecting applicants, or leasing the HOME-assisted units:

- Tenant Selection Plan – Must be pre-approved by the MSHDA Asset Manager
- Affirmative Fair Housing Marketing Plan – Must be pre-approved by MSHDA Legal
- Initial Rents and Utility Allowances – Must be pre-approved by the MSHDA Asset Manager

Part 201 : Written Agreements and Regulatory Agreements

MSHDA and the project owner are required to execute a legally binding written agreement holding the Owner accountable for HOME program compliance during the affordability period and additional MSHDA Compliance Period, if applicable. For properties receiving HOME funds, the written agreement (Regulatory Agreement) typically takes the form of a land use restriction. This document, recorded with the local Register of Deeds, is a deed restriction that binds all subsequent owners of the property.

When there is more than one financing source imposing land use restrictions on a property, e.g., a HOME Loan and Tax Credits, there may be restrictions from one program that are more restrictive than similar restrictions in the other program(s). Some projects with more than one source of financing, such as Tax Credits and bonds, may have more than one Regulatory Agreement simultaneously in effect. In these instances, the more restrictive requirements will apply to the property. An owner may voluntarily make additional commitments in the application process, including occupancy restrictions, demographic targeting requirements, stricter rent and income restrictions, single-family rent-to-own options or an extended compliance period. Such additional commitments are made to MSHDA and are not federal requirements of the HOME program. Owners must comply with these covenants pursuant to the Regulatory Agreement.

The written agreement contains important information including the number of HOME-assisted units, the unit mix requirements and whether the units are fixed or floating.

Fixed and Floating HOME Units:

According to 24 CFR 92.252j, in a property containing HOME-assisted and other units, MSHDA must designate in the written agreement at the time of project commitment whether the HOME units are fixed or floating. Fixed units remain the same throughout the period of affordability, but the location of floating units may change as needed to maintain compliance with the requirements

of the written agreement throughout the affordability period. The total number of restricted units required to meet the income and rent limit restrictions remains the same, and each substituted unit is comparable in terms of size, features and number of bedrooms to the originally designated HOME-assisted units.

NOTE: In a property where 100% of the units have been financed with HOME Program funds, the HOME units are considered to be fixed.

MSHDA and the project owner are required to execute a legally binding documents holding the Owner accountable for HOME program compliance during the affordability period and additional MSHDA Compliance Period (if applicable). Two of these documents are the HOME Written Agreement and the HOME Regulatory Agreement and are discussed below.

HOME Written Agreement (92.504) – This document contains, at a minimum, requirements and information about the use of the HOME funds, affordability requirements, a schedule for completing tasks, budget and project requirements, property standards and provisions related to other federal requirements (such as displacement, nondiscrimination, etc.).

HOME WRITTEN AGREEMENT

THIS HOME WRITTEN AGREEMENT is made effective as of the 1st day of January 2015, by and between ABC APARTMENTS LIMITED DIVIDEND HOUSING ASSOCIATION, a Michigan limited partnership, whose address is 123 ABC Drive, ABC City, Michigan (the "Mortgagor"), and the MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY, a public body corporate and politic of the state of Michigan, whose address is 735 E. Michigan Avenue, Lansing, Michigan 48912 (the "Authority").

R E C I T A L S:

A. The Mortgagor has applied to the Authority for a mortgage loan in the amount of \$100,000 (the "HOME Loan") to be funded by the Authority acting on behalf of the State of Michigan as the Participating Jurisdiction under the HOME Investments Partnership Program (the "HOME Program") funded by the U.S. Department of Housing and Urban Development ("HUD") under Title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (42 U.S.C. 12701 *et seq.*).

B. The HOME Loan will be used to assist the Mortgagor in financing the acquisition and construction or rehabilitation of the development known as ABC Apartments, MSHDA Development No. 12345, which is located or to be located in the City/Township of ABC, ABC County, Michigan, and is more particularly described on Exhibit A to this Agreement (the "Development").

C. The Development is intended to provide fifty (50) units of permanent housing for a persons with disabilities, and preference may be given to eligible tenants.

HOME Regulatory Agreement

The HOME Regulatory Agreement is a land use restriction. This document is recorded with the local Register of Deeds and is a deed restriction that binds all subsequent owners of the property.

When there is more than one financing source imposing land use restrictions on a property, e.g., a HOME Loan and Tax Credits, there may be restrictions from one program that are more restrictive than similar restrictions in the other program(s). Some projects with more than one source of

financing, such as Tax Credits and bonds, may have more than one Regulatory Agreement simultaneously in effect. In these instances, the more restrictive requirements will apply to the property. An owner may voluntarily make additional commitments in the application process, including occupancy restrictions, demographic targeting requirements, stricter rent and income restrictions, single-family rent-to-own options or an extended compliance period. Such additional commitments are made to MSHDA and are not federal requirements of the HOME program. Owners must comply with these covenants pursuant to the Regulatory Agreement.

The HOME Regulatory Agreement contains important information including the number of HOME-assisted units, the unit mix requirements and whether the units are fixed or floating.

REGULATORY AGREEMENT		25 FEB 13 10:44 AM RECEIPT 123 RECEIVED FOR RECORD ABC COUNTY - STATE OF MICHIGAN JOHN SMITH, REGISTER OF DEEDS LIBER 123 PAGE 456
<p>THIS REGULATORY AGREEMENT, made and entered into as of January 1, 2015, between ABC Apartments LIMITED DIVIDEND HOUSING ASSOCIATION, a Michigan limited partnership (the "Mortgagor"), whose address is 123 ABC Drive, ABC City, Michigan, and the MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY, a public body corporate and politic of the State of Michigan (the "Authority"), whose address is 735 East Michigan Avenue, P.O. Box 30044, Lansing, Michigan 48909.</p>		
<p>R E C I T A L S:</p>		
<p>A. The Mortgagor is the owner in fee simple of the real property described in Exhibit A attached to and made a part of this Agreement (the "Property").</p>		
<p>B. The Mortgagor has applied to the Authority for a mortgage loan in the amount of \$100,000 (the "First Mortgage Loan"), to aid the Mortgagor in financing the acquisition and construction or rehabilitation of a housing development for persons of low and moderate income, to be known as ABC Apartments, MSHDA Development No. 12345 (which development, including the Property and all assets of whatever nature owned by the Mortgagor and used in the business conducted on the Property, is referred to as the "Development").</p>		
<p>C. The Mortgagor has also applied to the Authority for a loan in the amount of \$50,000 (the "Preservation Fund Loan") to assist in financing the acquisition and construction or rehabilitation of the Development.</p>		
<p>D. The Mortgagor has also applied to the Authority for a loan in the amount of \$50,000 (the "HOME Loan") to be funded by the Authority acting on behalf of the State of Michigan as the Participating Jurisdiction under the HOME Investments Partnership Program (the "HOME Program") funded by the U.S. Department of Housing and Urban Development ("HUD") to assist in financing the acquisition and construction or rehabilitation of the Development.</p>		
<p>E. As a condition of making the HOME Loan to the Mortgagor, the Authority and the Mortgagor have entered into a HOME Written Agreement dated January 1, 2015, which agreement complies with the requirements of 24 CFR §92.504 for written agreements (the "HOME Written Agreement").</p>		

Part 202 HOME Project Completion

24 CFR 92.251

The HOME Affordability Period begins when a HOME project is completed. HOME projects are "completed" when certain conditions are met, including the following:

- construction completion
- title transfer
- compliance with property standards
- HOME funds disbursed and drawn, and
- the required completion information has been entered into HUD's Integrated Disbursement Information System (IDIS) system.

The date MSHDA enters the required information into IDIS becomes the “completion date” which starts the beginning of the HOME Affordability Period for the property.

=====

HOME units that are not yet occupied:

HOME understands that rental units may not always be leased up immediately, and for that reason permits rental activities to be completed with vacant units. However, the 2013 HOME rule at 92.252 imposes two deadlines within which the units must be occupied by low-income households:

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

Source: HUD Exchange website

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Part 203 : HOME Affordability and Compliance Periods

24 CFR 92.252(e)(4)

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

HOME Affordability Period (statutory federal period)

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

Rental housing activity	Minimum period of affordability in years
Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000 or rehabilitation involving refinancing	15
New construction or acquisition of newly constructed rental housing	20

Additional MSHDA (State of Michigan) Compliance Period (if applicable):

Many HOME projects have an additional MSHDA Compliance Period that begins with project completion and continues **after the federal HOME Affordability Period has ended**. This additional MSHDA compliance period is generally based on the length of the HOME mortgage, which can be up to 50 years. Noncompliance that occurs after the end of the federal HOME affordability period but during the additional MSHDA compliance period may result in a mortgage default.

Section 2B – HOME Tenant Selection Requirements

Part 204 : HOME Tenant Selection Plan Requirements - : Overview

24 CFR 92.253(d)

HUD regulations require the owner to have a written tenant selection policy that clearly specifies how households will be selected for participation in the project. Application selection procedures must:

- Limit the housing to very low-income and low-income families;
- Clearly articulate all requirements of occupancy and any locally established preferences or priorities;
- Identify applicants who meet the selection criteria on a lottery or “first come, first served” basis in accordance with preference policies;
- Provide for the selection of households from a written waiting list in the chronological order of application;
- Provide immediate written notification to any rejected applicant of the specific grounds for rejection and maintain records of the rejection; and
- Provide for reasonable accommodations for persons with disabilities to ensure they have equal access.

The Tenant Selection Plan (TSP) must contain all of the required elements listed above and the MSHDA Asset Manager must pre-approve the TSP prior to implementation of any marketing or tenant selection. Existing tenants of units who will remain in the unit after HOME assistance are subject to other eligibility requirements of HOME-assisted tenants, but not to the selection policies and procedures outlined in the plan.

The written policy must clearly state the procedures and criteria the owner will consistently apply in drawing applicants from the waiting list, screening for suitability for tenancy, and implementing income targeting requirements.

Tenant Selection Plans for MSHDA HOME projects should, at a minimum, include or address the following:

Project Eligibility Requirements

- A definition of the special population served, if the Property is designated for elderly, disabled, or homeless households.
- A description of the implementation of citizenship requirements, including how citizenship will be verified (Note: illegal aliens cannot reside in an LIHTC development.)
- The requirements for providing and documenting Social Security Numbers (SSN) for ALL household members; Also, a description of how inadequate proof of the SSN will be handled and whether any exceptions are allowed, such as for new-borns.

Income Limit Requirements

- The income limits for the property. For example, low income, very low income, or extremely low income for 236 properties or 30%, 50%, and 60% of AMI for tax credit properties; specific maximum income amounts do not need to be included.

Procedures for Accepting Applications and Pre-applications

- The policy for taking pre-applications (if applicable) and applications.
- Any alternative methods for accepting applications.

Procedures for applying preferences

- How preferences will be used to select applicants from the waiting list.
- A description of the acceptable sources of information that may be used to verify the qualification for each preference.

Applicant screening criteria is included for:

- Household members evicted from federally assisted housing within 3 years for drug-related criminal activity.
- Household members currently engaging in illegal use of drugs that may interfere with the health, safety, and right to peaceful enjoyment by other residents.
- Household members subject to the State sex offender registry and the Dru Sjodin National Sex Offender database, which can be access at: <http://www.nsopw.gov>.
- Household members whose abuse of alcohol interferes with the health, safety, and right to peaceful enjoyment by other residents.
- Rental History, Credit History, Criminal History, Housekeeping, and any other screening criteria used by the development, if applicable.
-

Procedures for rejecting ineligible applicants

- Define the circumstances under which the owner may reject an applicant for occupancy or assistance. Define any exceptions to the rejection policy in the plan. All communication must include the right to appeal and the Fair Housing logo.
- Rejection notices must be in writing and include the specific reason for rejection.

Unit Transfer Policies

- Procedures for selecting between applicants on the waiting list and current tenants who need transfer for below reasons are included in the plan.
- Family Size.
- Change in Family Composition.
- Deeper Subsidy (applicable if not 100% section 8).
- Medical Reason.
- Need for Accessible Unit.

Policies to comply with Section 504 of the Rehabilitation Act of 1973, the Fair Housing Act Amendments of 1988 and Title VI of the Civil Rights Act of 1964

- Does not discriminate - Disability.
- Does not discriminate - Race.
- Does not discriminate - Color.
- Does not discriminate - Religion.
- Does not discriminate - Sex.
- Does not discriminate – Familial Status.
- Does not discriminate – National Origin.
- Does not discriminate - Age.
- Does not discriminate – Marital Status.
- Does not discriminate - Height.
- Does not discriminate - Weight.

Waiting Lists

- A description of how the waiting list is updated to maintain fairness and accuracy.
- The methods of advertising used to announce opening and closing of the waiting list.

Eligibility of Students

- The requirements for determining the eligibility of students enrolled at an institution of higher learning.

Violence Against Women Act (VAWA)

- A reference to the Violence Against Women Act. (Make an observation\ recommendation, if not included)

Source: MSHDA Small Scale Asset Management Section

Part 205 : Tenant Selection Plan – Preferences

24 CFR 92.253

The Tenant Selection Plan must state whether or not there are any preferences in the admission of tenants, citing supporting documentation to ensure nondiscrimination in the selection of tenants. Tenant selection policies and criteria must be based on local housing needs and priorities that are consistent with MSHDA's consolidated plan and all preferences must be administered in a nondiscriminatory manner across all protected classes within the preference.

Income: To the extent that MSHDA has approved units for particular income groups (e.g., 30% AMI or 50% AMI), the owner may be required to limit occupancy to those units to persons with incomes at or below the approved limits. "AMI" is an acronym for Area Median Income, which is sometimes termed "AMGI" for Area Median Gross Income.

Local residency: Local residency preferences or requiring the household to currently be a resident of the local jurisdiction is permitted for some types of projects. The owner or management agent should check with the MSHDA Asset Manager for information regarding local residency requirements.

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

- 1) the housing also receives funding from a Federal program that limits eligibility to a particular segment of the population (e.g., HUD's Section 202 supportive housing for the elderly, Section 811 housing for persons with disabilities, etc.) or,
- 2) HUD also permits preferences to be given to disabled families who need services offered at a project, if certain conditions are met. Specifically, HUD permits preferences for occupancy of HOME-assisted units for disabled individuals who need services offered at a project if:
 - The disability significantly interferes with their ability to obtain and maintain housing;

- They are not able to obtain and maintain housing without appropriate supportive services; and
- The services cannot be provided in a non-segregated setting.

Important Note - MSHDA pre-approval of preferences is required and approved preferences must be included in the Tenant Selection Plan.

If such a preference is approved, the owner may advertise the project as offering services for a particular type of disability, but the project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project.

This Michigan HOME Compliance Manual is intended only to provide a general overview of federal and state laws that may be applicable to HOME projects. This list of applicable federal and state laws may not be complete. Owners and managers of HOME projects should consult with their legal counsel to determine which federal and state laws, including Fair Housing laws, are applicable to their particular HOME projects and how best to comply with those laws. MSHDA approval of the Tenant Selection Plan does not provide indemnity in the event of a fair housing claim.

Section 2C – Nondiscrimination and Fair Housing

Nondiscrimination and equal access requirements apply to HOME projects. Among the federal requirements are the following:

- Fair Housing and Equal Opportunity,
- Handicapped Accessibility,
- Affirmative Marketing,
- Violence Against Women Act,
- Equal Access to Housing Regardless of Sexual Orientation (HUD Final Rule of 2012),
- Lead-Based paint for pre-1978 projects (discussed in **Part 736**), and
- Non-discrimination against Section 8 and Housing Choice Voucher participants.

This Michigan HOME Compliance Manual is intended only to provide a general overview of federal and state laws that may be applicable to HOME projects. This list of applicable federal and state laws may not be complete. Owners and managers of HOME projects should consult with their legal counsel to determine which federal and state laws, including Fair Housing laws, are applicable to their particular HOME projects and how best to comply with those laws. MSHDA approval of the Tenant Selection Plan does not provide indemnity in the event of a fair housing claim.

Part 206 : Fair Housing and Equal Opportunity

Property owners providing assisted rental housing are subject to all state and federal fair housing laws and orders, as referenced in 24 CFR 92.350. In general, the housing must be provided in a manner that does not discriminate against persons based on race, color, religion, sex, familial status, national origin, age, or disability.

Fair Housing and Equal Opportunity, including, but not limited to the following:

- **Title VI of Civil Rights Act of 1964 (42 U. S. C. 2000d et. seq.)**
 - Provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Fair Housing Act (42 U. S. C. 3601-3620)**
 - Title VIII of the U.S. Civil Rights Act
 - Prohibits discrimination in the sale, rental, purchase, lease, financing and/or advertising of housing based upon race, color, religion, sex, national origin, handicap and familial status.
 - The Fair Housing Act applies to all housing except owner-occupied 1 to 4 unit dwellings and housing for older persons where persons 55 and older are concentrated or designated to assisting elderly people.

- **State of Michigan Fair Housing Laws**
 - **Elliott Larsen Civil Rights Act (Michigan Public Act #453)**, as amended
 - Prohibits employers consisting of one or more employees, both public and private, employment agencies, labor organizations, from discriminating against an employee or an applicant for employment based on the employee/applicant's race, color, religion, national origin, age, sex (including pregnancy and sexual harassment), height, weight, or marital status. It is further unlawful to discriminate against a person in retaliation for opposing a violation of this Act, making a charge, a complaint, testifying or participating in an investigation, proceeding or hearing under this Act. The Act covers not only employment discrimination, but also housing, real estate transactions, educational institutions, public accommodation, law enforcement, and public services.
 - **Persons with Disabilities Act (Michigan Public Act #220)**, as amended
 - Prohibits discrimination based on a person's disability in the areas of employment, housing, real estate and the full equal utilization of public accommodations, public services, and education. A person shall accommodate a person with a disability for purposes of employment, public accommodation, public service, education, or housing unless the person demonstrates that the accommodation would impose an undue hardship.
- **Executive Order 11063** (amended by Executive Order 12259), as amended
 - Provides that no person in the United States because of race, color, religion (creed), sex, or national origin, shall be denied equal opportunity in housing and related facilities provided with Federal financial assistance, and that all Federal executive departments and agencies shall take action to promote the abandonment of discriminatory practices with regard to residential property and related facilities provided with Federal financial assistance.
- **Age Discrimination Act of 1975**, as amended (42 U. S. C. 6101), as amended
 - Provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Part 207 :: Handicapped Accessibility – Section 504

Handicapped Accessibility, including:

- Section 504 of the Rehabilitation Act of 1973 (implemented at 24 CFR Part 8), as amended.
 - Provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance.
- For multi-family buildings, 24 CFR 100.205
 - Outlines design and construction requirements.

HOME projects are subject to the requirements of Section 504 of the Rehabilitation Act of 1973. The requirements for the provision of accessible units are triggered when there is new construction of five or more units or substantial rehabilitation of 15 or more units.

If there are units designated as accessible units under Section 504, these units should be affirmatively marketed for persons with disabilities, and a separate intake and waiting list process for those units is permissible.

- Occupancy of designated accessible units by persons without disability needs is permitted only after all persons with disability needs have been processed, and the non-disabled occupants must agree to be relocated within the development should a need arise for the accessible unit.

Accessibility – Marketing & Intake:

Section 504 and its implementing regulations at 24 CFR Part 8 obligate recipients of Federal financial assistance to make their programs accessible to persons with disabilities, including providing a policy, practice, or rule modification, or an accessible feature in a unit or common area, if needed as an accommodation by an applicant or tenant with a disability. See 24 CFR 8.4, 8.20, 8.24, and 8.33 for further requirements and guidance.

The owner should take the following steps to ensure that it operating the project in a manner that makes the program accessible to persons with disabilities:

- Ensure that the in-take office of the program is in a building that is accessible to persons with mobility disabilities;
- Make notices and application forms available in a variety of formats, to ensure that persons with disabilities receive information about the program, and are able to access the program; and
- Provide information about the availability of accessible units to persons who require accessible units, where known.

Effective communication with applicants and beneficiaries may require auxiliary aids when necessary, such as sign language interpreters, TTY devices, note readers, large-sized written materials, Braille materials, audio recordings, and other similar services and devices; and having a TTY or equally effective communication system available if the owner communicates with the public by telephone.

Working with Households with Disability Needs:

Under the Fair Housing Act, property owners must make reasonable accommodations for applicants or residents with disabilities to enable them to fully enjoy or use their dwelling and any related amenities afforded to other residents, in accordance with 24 CFR 100.203 and 100.204.

- Typically, an accommodation can be made with little or no cost to the housing provider. However, in some circumstances an applicant or resident will require an accommodation that has a cost and is necessary to the full use and enjoyment of the property by the tenant. In these cases, the owner is obligated to bear the cost of a reasonable accommodation, provided it does not impose an undue financial and/or administrative burden on the owner.

Beyond those improvements provided by the program as part of the rehabilitation, property owners must permit tenants with accessibility needs to make and pay for structural modifications to units or common areas that are needed to allow them to have effective use of the housing program (reasonable modifications).

- The owner is not required to pay for modifications or structural changes to the development if it is not economically feasible to do so.
- If the owner wishes to make these modifications on behalf of the tenant, the cost of these modifications can be passed on to the tenant, either as a direct payment to the housing provider, or in a series of payments over time.
- The tenant can also arrange to have these modifications made on his or her own. An owner may require the tenant or applicant to provide a description of the proposed work and reasonable assurances that the work will be done in a workmanlike manner and with required building permits.
- The owner may also require restoration of the unit to its original condition (except for normal wear and tear) prior to moving out if the modification might interfere with a subsequent tenant's use and enjoyment of the unit, and require the tenant/applicant to pay the funds for restoration into an interest-bearing escrow.

Part 208 :: Affirmative Fair Housing Marketing Plan

CFR 92.351

If a project has five or more HOME-assisted units, the project is subject to affirmative marketing requirements at 24 CFR 92.351, and must adopt and follow a MSHDA-approved Affirmative Fair Housing Marketing Plan (AFHMP). The AFHMP must be made readily available for review by MSHDA staff.

The plan must define the affirmative marketing procedures and actions that will provide information and otherwise attract eligible persons in the program service area to the available housing or assistance without regard to race, color, national origin, sex, religion, familial status or disability.

Required elements of the AFHMP include:

- Identification of those persons across the protected classes that are expected to be "least likely to apply";
- Description of how the owner generally will inform potential participants about fair housing and the project's affirmative marketing policy;
- Specific procedures or activities that will be used to inform and solicit applications "who are not likely to apply" without special outreach; and
- Delineation of the records that will be kept to document the affirmative efforts.

The plan must be reviewed and approved by MSHDA's Legal Division and must be updated every five years at a minimum. Fair housing posters must be posted in conspicuous places (i.e., anywhere management meets with the public) within the property for public viewing. Non-discrimina-

tory advertisements, statements and notices should be used. Discriminatory words, phrases, photographs, symbols or forms that convey that rental units are available or not available to a particular group of person because of race, color, religion, sex, handicap, familial status or national origin must not be used. All advertisements and office or property signs must reflect the Equal Housing Opportunity slogan or logo.

Part 209 :: Violence Against Women Act (VAWA)

42 U.S. Code § 14043e-11; Federal Register published August 6, 2013; Violence Against Women Reauthorization Act of 2013

VAWA provides certain protections in regards to admissions, occupancy, termination, evictions, and leases for victims of domestic violence, dating violence, sexual assault and stalking. Following is a general description of the VAWA program. Owners and managers of HOME-assisted housing should consult with its legal counsel for a complete description of VAWA and to determine how to apply and meet VAWA requirements for its HOME project.

VAWA

No applicant for or tenant of HOME-assisted housing may be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated violation of a lease for HOME-assisted housing by the victim or threatened victim of such incident, or good cause for terminating the assistance, tenancy or occupancy rights to HOME-assisted housing of the victim of such incident.

No person may deny assistance, tenancy, or occupancy rights to HOME-assisted housing to an applicant or tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking. The owner and/or manager of HOME-assisted housing may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing. The owner and or manager must provide any remaining tenants with the opportunity to establish eligibility.

Any information submitted to the staff of HOME-assisted housing, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is requested or consented to by the individual in writing, and required for use in an eviction proceeding against any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, or otherwise required by law.

Part 210 : HUD 2012 Final Rule – Equal Access to Housing
: Regardless of Sexual Orientation

HUD issued its Final Rule on February 3, 2012 regarding Equal Access to Housing in HUD programs regardless of sexual orientation or gender identity. Owners may not inquire about the sexual orientation or gender identity of an applicant or occupant of HUD assisted housing for the purpose of determining eligibility or continued occupancy. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. Nor does the prohibition bar lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms.

Part 211 : Section 8 and Housing Choice Voucher Recipi-
: ents – Discrimination Prohibited

24 CFR 92.253(d)(4)

HOME funded rental projects may not “exclude an applicant with a certificate or voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR part 982) or an applicant participating in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.”

Section 2D – Other HOME Project Requirements

Part 212 : Application Intake & Waiting List

Applications must be taken in a manner that ensures fair access, including reasonable time periods and methods of submission. Assistance must be offered to any household requesting assistance in completing the application.

The method for establishing the queue and waiting lists must be approved by MSHDA and clearly stated in application materials and briefings.

While priority or preference households may be placed on a separate waiting list, and processed according to the state priority, applications must be accepted from any household.

Waiting lists must be maintained and available for inspection by MSHDA.

Income eligibility need not be verified to place an applicant in the queue or on a waiting list. Placement on the list can be based upon the applicant's representation of income, with disclosure that income will be verified prior to the offering of a rental unit.

Part 213 : Conflict of Interest – Occupancy of HOME-Assisted Units

24 CFR 92.356(f)(1).

HUD presumes a conflict of interest exists with certain persons and therefore prohibits these individuals and their immediate family members from occupying HOME-assisted units during the affordability period. Individuals with a presumed conflict of interest (“covered persons”) include the following:

1. Project owner, developer, or sponsor – Includes its officers, board members, employees, agents, consultants, developers, or sponsors, or an immediate family member of any of these persons. All such covered persons may not occupy an assisted unit without a prior written exception granted by MSHDA.
2. Affiliates of the Participating Jurisdiction (PJ), State Recipient, subrecipient and other participants in the decision-making process – Includes (among others) all elected, appointed or employed persons of the participating jurisdiction (and an immediate family member of any of these persons). These covered persons may not occupy an assisted unit or receive a contract or financial benefit from the project without a prior written exception granted by HUD.

Immediate Family Members

- HUD specifies the types of familial relationships that are considered to be immediate family member. 24 CFR 92.356 (Conflict of interest) states “Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.”

- In general, HUD does not include persons in intimate relationships with officers or employees of the owner, developer or sponsor in the prohibition due to the difficulty of establishing the nature and existence of such relationships.
- HOME rules regarding conflict of interest have long been in place, however, in 2013, HUD expanded this prohibition to include not only the covered persons (i.e. project owner and affiliates of the PJ), but to the immediate family members of such covered persons.

MSHDA and HUD Approval of Conflict of Interest Exception Requests:

Under certain circumstances, it is permissible for MSHDA to grant an exception to HUD's Conflict of Interest rule and thereby allow individuals that would typically not be eligible to occupy HOME units due to the presumed conflict of interest. Conflict of Interest exception requests must be submitted in writing to the MSHDA Asset Manager for review and consideration. Certain types of exception requests will be forwarded by MSHDA to HUD for HUD's approval. Pre-approval of a Conflict of Interest Exception Request must be obtained in writing prior to an ineligible individual being permitted to occupy a HOME-assisted unit.

Chapter 3 Tenant Eligibility and Income Certification Process

Section 3A – Tenant Eligibility

HOME project owners must have MSHDA-approved initial rents, utility allowances, a written Tenant Selection Plan and projects with five or more HOME-assisted units must also have a MSHDA-approved Affirmative Fair Housing Marketing Plan prior to implementation and prior to the marketing and selection of qualified tenants.

Part 301 : Overview of Tenant Eligibility, Household Composition and Demographics

Household composition and demographic determinations for HOME-Assisted units are the same as those found in the following portions of the LIHTC Compliance Manual:

- Part 500 (Determining Household Composition)
- Part 502 (Changes in Household Composition)
- Part 506 (Occupancy Guidelines)

Part 302 : Student Rule for HOME Projects - Overview

*24 CFR 5.612, HOME Final Rule 2013
And 24 CFR 92.2*

HUD Applicability Chart – Category 1: Applicable to all HOME projects in portfolio (regardless of when funds were committed).

HUD Requirement: If a tenant currently living in a HOME unit is an excluded student (see below) who is not part of a low-income family, or does not qualify individually as a low-income family, the owner/management agent must correct this noncompliance by treating the tenant as an over-income tenant on the next recertification.

The 2013 HOME Final Rule specifically excludes students who do not qualify as a low-income family on their own, or are not part of a low-income family, from participating independently in the HOME program. The HOME program adopts the Section 8 Housing Choice Voucher (HCV) program restrictions on student participation found at 24 CFR 5.612, which exclude any student who:

1. Is enrolled in a higher education institution, as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);
2. Is under 24 years of age;
3. Is not a veteran of the United States military;
4. Is not married;
5. Does not have a dependent child;

6. Is not a person with disabilities, as such term is defined in section 3(b)(3)(C) of the 1937 Act and was not receiving assistance under Section 8 of the 1937 Act as of November 30, 2005; and
7. Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive assistance under Section 8 of the 1937 Act.

Excluded students are prohibited from receiving any type of HOME assistance, including renting HOME-assisted rental units, receiving HOME tenant-based rental assistance, or otherwise participating in the HOME program independent of their low- or very low-income families. If a HOME-assisted unit includes one ineligible student, the entire household is disqualified to occupy -the assisted unit.

Additional information about the HOME student rule is contained in **Appendix A** of this HOME Compliance Manual. **Appendix A** also contains an excerpt of 20 U.S. Code § 1001 – General definition of institutions of higher education.

Also note the following:

- **Student Housing** - The HOME Rule (Definitions 92.2) states that HOME rental housing specifically excludes dormitories student housing in any configuration, including dormitories of any type (including those for farm workers). Student housing is ineligible for HOME funding.
- **Student Income** - No portion of student financial assistance is counted as part of household income for HOME-assisted units unless the particular household also receives Section 8 funding or assistance.
- **LIHTC and Bond Projects have additional student regulations** - HOME projects that have LIHTC or bond financing must also comply with LIHTC/Bond Student Regulations, which are discussed in **Part 508** of the LIHTC Compliance Manual.

Note that while the new rule focuses on determination of income eligibility of students, all student applicants for a HOME unit must also meet all other HOME eligibility requirements.

Part 303 :: Student Rule – Otherwise Eligible

Otherwise Eligible:

To be otherwise eligible a student must be income eligible and either:

- his/her parents are, individually or jointly, income eligible (see Parents Income Test)
- be an independent student (see Criteria for Determining an Independent Student)

Criteria for Determining an Independent Student:

To be considered an independent student, all of the following criteria must be met:

- The student must be of legal contract age under state law
- The individual must have established a household separate from parent(s) or legal guardians for at least one year prior to application for occupancy OR the individual must meet the U.S. Department of Education's definition of an independent student (see April 10, 2006 Federal Register – Appendix A for the definition)

- The individual must not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations
- The individual must obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support.

Verification of an Independent Student:

To verify a student’s independence from his or her parent(s) and to determine if the student’s parent(s)’ income is not relevant for determining the student’s eligibility for assistance, all of the following must be done:

- Review and verify previous address information to determine evidence of a separate household, or verify the student meets the U.S. Department of Education’s definition of “independent student”
- Review prior year income tax returns to verify if a parent or guardian has claimed the student as a dependent (except if the student meets the Department of Education definition of “independent student”)
- Verify income provided by a parent by requiring a written certification from the individual providing the support. Certification is also required if the parent is providing no support to the student. Financial assistance that is provided by persons not living in the unit is part of annual income.

Parent’s Income Test - Screening and Verification of Parents Income for Assistance:

In order to verify a parent(s) income, agents may accept a parent(s) declaration and certification of income, which includes penalty of perjury language. The agent also retains the right to request and review supporting documentation at any time they determine the declaration, certification, and eligibility of the parent(s) is in question.

Supporting documentation includes, but is not limited to:

- Internal Revenue Services (IRS) tax returns
- Consecutive and original pay stubs, bank statements
- Pension benefit statements
- Temporary Assistance to Needy Families (TANF) award letter
- Social Security Administration (SSA) award letter
- Other official and authentic documents from a Federal, State or local agency.

Part 304 :: Elderly Housing Preference

HOME projects that are exclusively for elderly persons must comply with the Federal Fair Housing Act guidelines for elderly housing. The Fair Housing Act prohibits discrimination in residential rental activity, and prohibits adults-only housing unless the housing falls within stated exceptions for housing for older persons. In general, the Fair Housing Act lists the following as permissible forms of the housing for the elderly:

- Housing intended for and solely occupied by residents who are 62 or older;
- Housing intended and operated for persons 55 or older, where at least 80% of the total housing units are occupied by at least one resident who is 55 or older; or

- Housing financed, constructed, and operated under the Rural Housing Services Section 515 program for the elderly (i.e. where each resident is either 62 or older or is a person with a handicap or disability, regardless of age, as such terms are defined in the Rural Housing Services program).

HOME projects that have LIHTC, bond or other MSHDA financing must also comply with the requirements for elderly projects that are listed in the State Housing Development Authority Act (P.A. 346), which requires that the head of household be at least 55 years of age and all other household members be at least 50 years of age. For additional information, see [Part 532](#) of the LIHTC Compliance Manual.

Section 3B – Income Determination and Tenant Certification Process

Part 305 : Overview – Income Determination and : Tenant Income Certification Process

A household must be certified as income eligible to reside in a HOME-assisted unit. Documentation of household income and composition is needed. Household income must be within program guidelines and the rent amount must be restricted. Tenant income must be calculated in a manner consistent with Section 8 of the United States Housing Act of 1937 (“HUD Section 8”), **not** in accordance with the determination of gross income for federal income tax liability. HUD Handbook 4350.3 (Section 8 Multifamily Guidelines) outlines the methodology that must be used in determining tenant and household income.

An overview of the initial eligibility certification procedures is as follows:

1. Prospective tenant households complete a **rental application**.
2. The head of household and every adult member of the household (i.e. any person age 18 and over) must complete a **Checklist** which is available on the MSHDA website. The checklist identifies all income sources and assets held by the tenant or prospective resident.
3. Each adult household member must sign a “**Consent to Release Information**” form.
4. **Verifications** must be obtained by the owner/management for every item that the applicant marks “yes” on the Checklist.
5. The owner/management should **date stamp** all completed verification forms when received from the third party employer, bank, or other source.
6. The owner/management agent must determine household income in accordance with the guidelines outlined in the **HUD 4350.3**.
7. Once all the income and asset verifications have been obtained, management must prepare a MSHDA **Tenant Income Certification** form (which is available on the MSHDA website) for each household.
8. As also discussed in **Part 505**, all tenant income certifications (initial/move-in and recertifications) must be completed on a MSHDA Tenant Income Certification (TIC) form and require third party documentation verifying income. HUD form 50058, 50059 or other equivalent forms are not acceptable.
9. In addition to being income-qualified, a tenant/household must meet all applicable **household composition and demographic** requirements (such as student eligibility, age restrictions for elderly projects, etc.) in order to reside in a HOME-assisted unit.
10. A **lease agreement** must be executed.
11. The owner/management agent must maintain a **tenant / unit file**.

12. The owner/management agent must enter household data into **MSHDA's Online Tenant Data Reporting System**.

13. **Recertifications** are discussed in **Part 311**.

Part 306 **Income Determination**

The household's total annual gross anticipated income must be calculated to determine if the household meets the applicable income limit. Annual gross anticipated income is the gross income the household anticipates it will receive in the 12-month period following the effective date of certification of income. HOME household income determinations are the same as those found the following portions of the LIHTC Compliance Manual with the exceptions noted below.

- Part 304 (Definition of Income)
 - MSHDA requires that the household income of all HOME residents be calculated in accordance with the rules and procedures outlined in the HUD 4350.3 as indicated in 24 CFR part 5 (often referred to as the Section 8 definition).
 - The HOME Rule has eliminated the Census long form as an acceptable method of determining income.
 - MSHDA does not permit using the IRS's definition of adjusted gross income for purposes of determining eligibility for HOME units.
- Part 306 (Gross Income versus Net or Adjusted Income)
 - The HOME program bases eligibility on gross income and does not permit allowances and deductions such as Elderly, medical, etc.
- Part 308 (Projected Income vs. Past Actual Income)
- Part 310 and (Calculating Total Household Income)

Note: Adjusted income is used in the following situations:

- Over-income households (see **Part 601**)
- Relocation (URA)
- Tenant Based Rental Assistance (TBRA)

Chapter 5 of HUD Handbook 4350.3 provides a detailed discussion of what is included in annual income, income exclusions and income from assets. Chapter 3 of HUD Handbook 4350.3 provides a detailed discussion of the factors that affect household size and whose income is counted as part of household income. HOME projects must count the income of all persons in the household (including nonrelated individuals) when establishing eligibility.

Effective for projects which had HOME funds committed on or after 8/23/2013, all income verifications must use at least 2 months source documentation. This applies to all new determinations and renewals. [*Section 92.203(a)(1)(i) & (a)(2).*]

Part 307 **Mathematical Considerations**

Mathematical considerations for HOME projects are the same as those found in the following portions of the LIHTC Compliance Manual with the exception of the rounding methodology as discussed below:

- Part 312 (Rounding)
 - HOME-assisted units, including those that also have LIHTC, must use the HUD 4350.3 Method of Rounding, which involves rounding down when cents are .49 or below and rounding up when cents are .50 and above.
- Part 314 (Ranges and Averaging)
- Part 316 (Income Computations and Projects)

Part 308	Assets
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Assets must be included as part of household income. The HUD Passbook Rate (as determined by HUD's Office of Multifamily Housing) is used to determine imputed income from assets. Household assets for HOME-assisted units are the same as those found in the following portions of the LIHTC Compliance Manual with the exceptions as noted below:

- Part 318 (Assets)
- Part 320 (Example of Calculating Income from Assets)
- Part 322 (Net Family Assets Less than or Equal to \$5,000)
- Part 324 (Asset Certification Form for under \$5,000 in Assets)
 - Part 324 is not applicable to HOME-assisted units. HOME-assisted units, including those that also have LIHTC, are not eligible to use the Asset Certification Form. All HOME-assisted units, including those that also have LIHTC, must complete full third party verification of all assets, including those for households which have less than \$5,000 in total assets.
- Part 326 (Disposal/Divestiture of Assets)

Chapter 5 of HUD Handbook 4350.3 provides a detailed discussion of what is included in net family assets, how to value assets, and items that are excluded as assets.

Part 309	Verifications
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MSHDA HOME projects must complete full third party verification of all income and assets for each initial certification and recertification. The HOME provision that allows for full third party verifications once every six years does not apply to MSHDA HOME-funded projects.

Like the LIHTC program, the HOME Program requires third party verification of income whenever possible. These verifications should be delivered directly from the owner/management to the third party source and returned directly back to the owner/management; potential tenants should not hand-deliver verifications. Faxed and emailed documents between the owner/manager and the source are acceptable. Tenants may supply official government documents or in a case where the third party absolutely will not respond, the tenant may supply bank statements and pay check stubs. HUD requires that the owner/manager collect at least two (2) consecutive months of pay stubs. Owners/managers should never rely on an amount deposited into a bank account as income; it is not likely to be a gross amount.

MSHDA HOME projects require that verifications are valid for **120 days** following receipt by the Manager/Owner. After the 120th day a new verification must be obtained. Owners/management agents must date stamp documents as they are received. (Note: The 120 day time frame is shorter than the 6 months allowed for some non-MSHDA HOME projects.)

For additional information about verifications, see the following sections of the LIHTC Compliance Manual:

- Part 328 (Overview of Verification Methods)
- Part 330 (Third-Party Written Verification)
 - Note: HUD 4350.3 Change 4 now includes the following as acceptable third party documentation: “An original or authentic document generated by a third party source that is dated within **120 days** from the date of receipt by the owner. Such documentation may be in possession of the tenant (or applicant), and commonly referred to as tenant-provided documents. These documents are considered third-party verification because they originated from a third-party source.”
- Part 332 (Electronic Verification)
- Part 334 (Oral Verification)
- Part 336 (Documenting Why Third Party Verification is Not Possible)
- Part 338 (Review of Documents Provided by the Tenant/Applicant)
 - The HOME Program requires third party verifications of all income and assets. (24 CFR § 92.203 (Income Determinations))
 - Income determinations must include the examination of at least 2 months of source documents evidencing annual income (e.g., wage statement, interest statement, or unemployment compensation statement) for the family. [Note: This differs from the guidelines for LIHTC and Bond projects.]
- Part 340 (Self-Affidavit / Sworn Statement)
- Part 342 (Notifications and Expiration of Verifications / 120 Days)

Part 310 **Certification Dates**

The effective date of a certification (initial and recertification) is that date on which all the necessary information to substantiate the household’s income amount has been obtained. It cannot be arbitrarily assigned.

Part 311 **Recertifications**

On an annual basis, an income certification including full third party verification of all income and asset sources must be completed for each HOME-assisted unit. Upon receipt of all verifications, the owner or management agent must determine if the household is below 80% of the area median income limit. If the household’s income at recertification exceeds 80% of the area median income, the household is considered to be over-income by HOME Program standards and the rent must be increased as described in Section 601.

Recertification of income must occur no later than 365 days from the later of the following:

- The move-in date, or
- The date of the last certification.

The procedures for recertifying HOME-assisted units are the same as those found in the following portions of the LIHTC Compliance Manual with the exceptions noted below:

- Part 352 (Overview of Annual Recertifications)
- Part 354 (Procedures for Recertification)
- Part 356 (Recertification Effective Dates)
- Part 358 (Mass Recertifications)
- Part 360 (Interim Recertifications)
- Part 362 (Elimination of Recertification Requirement)
 - Part 362 is not applicable to HOME-assisted units. Annual recertifications must be conducted for all HOME-assisted units, including those that also have LIHTC.
- Part 364 (Annual Self-Certification)
 - Part 364 is not applicable to HOME-assisted units since annual recertifications are required for those households.
- Part 366 (Review of Documents with Self-Certification of Income)
 - Part 366 is not applicable to HOME-assisted units since annual recertifications are required for those households.
- Part 368 (Recertification Waiver – old Procedures)
 - Part 368 is not applicable to HOME projects or HOME-assisted units.

Part 312 : HOME Income Limits

The maximum amount of annual gross income that a household may earn to qualify for a HOME-assisted unit is called the **Income Limit**. HUD establishes HOME Income Limits for different localities and adjusts them for household size, from one to eight persons. These limits establish the specific maximum annual dollar amount that a low-income and very low-income household can earn in order to qualify to reside in a HOME unit.

HUD issues HOME Income Limits on an annual basis. It is the owner's (or management agent's) responsibility to obtain the limits published by HUD. The MSHDA Compliance website provides a link to the HOME Income Limits. Only the Income limits published on or linked to on the MSHDA website can be used for the HOME program.

Refer to the MSHDA HOME Regulatory Agreement to confirm how many units must be reserved for housing tenants at the low-income level and very low-income level. The property must maintain these percentages throughout the term of affordability.

Low-income Families (High HOME Units) are families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

Important Note: Income Limits are capped at 60% AMI at move-in (initial) for the HOME-assisted units for many MSHDA projects.

Very Low-income Families (Low HOME Units) are families whose annual incomes do not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

U.S. DEPARTMENT OF HUD 03/25/2015		----- 2015 ADJUSTED HOME INCOME LIMITS -----							
STATE:MICHIGAN		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
Allegan County, MI									
	30% LIMITS	12950	14800	16650	18450	19950	21450	22900	24400
	VERY LOW INCOME	21550	24600	27700	30750	33250	35700	38150	40600
	60% LIMITS	25860	29520	33240	36900	39900	42840	45780	48720
	LOW INCOME	34450	39400	44300	49200	53150	57100	61050	64950
Alpena County, MI									
	30% LIMITS	11400	13000	14650	16250	17550	18850	20150	21450
	VERY LOW INCOME	19000	21700	24400	27100	29300	31450	33650	35800
	60% LIMITS	22800	26040	29280	32520	35160	37740	40380	42960
	LOW INCOME	30350	34700	39050	43350	46850	50300	53800	57250
Antrim County, MI									

In many instances, the Income Limits required for a project are more restrictive than the typical HOME statutory income limits (i.e. 50% AMI and 80% AMI) and may involve up to 100% of the units in the project (not just the statutory minimums). (AMI means Area Median Income, which is sometimes referred to as AMGI for Area Median Gross Income.)

Important Notes:

- HOME projects that have additional sources of financing, such as LIHTC, may be subject to an additional set of Income Limits (such as the Multifamily Tax Subsidy Projects (MTSP) Income limits for the LIHTC Program), which may be lower than 50% AMI or 80% AMI for its HOME-assisted units.
- Income limits for the LIHTC program may be issued by HUD at a different time during the year than the income limits for the HOME program.

Chapter 4

HOME Rent Restrictions and Utility Allowances

Part 401 : HOME Rent Limits

CFR 92.252(d)(2)

Annual Pre-Approval of HOME Rents:

HOME regulations require project owners to annually obtain MSHDA's pre-approval for any changes in rents and utility allowances for each HOME-financed development. The Authority's Asset Management Division must review the proposed rents against the current HOME rent limits and for reasonableness in the local market. Asset Management typically conducts reviews of proposed rents and utility allowances during the annual budget review process. Information regarding HOME rent and utility allowance policies and procedures are located in Asset Management's Budget Guide Policy on the MSHDA Asset Management website at the following location:

<https://www.michigan.gov/mshda/rental/property-managers/management-agents/am-policies-and-forms>

HOME Maximum Rent Limits:

HUD requires that HOME rents be affordable for very low-income and low income households. HUD provides HOME rent limits to establish what is affordable. The HOME rent limits are the maximum rents that can be charged to an income-eligible household residing in a HOME-assisted unit. The MSHDA Compliance website provides a link to the HOME rent limits. The HOME program has two rent limits: the High HOME rent limits and the Low HOME rent limits.

- **Low HOME rents** apply to a minimum of 20% of the units in properties with five or more HOME-assisted units and are occupied by very low-income tenants. These units must have rents that do not exceed the **lesser of**:
 - 30% of 50% AMI with adjustments for the number of bedrooms in the unit, **or**
 - Fair Market Rent (FMR) for the unit bedroom size, calculated annually by HUD. Should the FMR be lower than the Low HOME rent calculation, the FMR is then considered the Low HOME rent.

- **High HOME rents** are the maximum rents that can be charged to low-income households. These units must have rents that do not exceed the **lesser of**:
 - 30% of 65% AMI with adjustments for the number of bedrooms in the unit, **or**
 - Fair Market Rent (FMR) for the unit bedroom size, calculated annually by HUD. If the FMR is lower than the High HOME rent calculation but greater than the Low HOME rent calculation, the FMR is then considered the High HOME rent.

Important Note: HUD has implemented a hold-harmless policy on rents that will affect these calculations, therefore Owners/Managers should only use the Low and High HOME rent limits published by HUD.

U.S. DEPARTMENT OF HUD 03/2015 STATE:MICHIGAN		----- 2015 HOME PROGRAM RENTS -----						
PROGRAM	EFFICIENCY	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR	
Cass County, MI HUD Metro FMR Area								
LOW HOME RENT LIMIT	513	526	660	761	850	938	1025	
HIGH HOME RENT LIMIT	523	526	689	990	993	1142	1291	
For Information Only:								
FAIR MARKET RENT	523	526	689	990	993	1142	1291	
50% RENT LIMIT	513	550	660	761	850	938	1025	
65% RENT LIMIT	680	730	878	1005	1101	1197	1292	
Alcona County, MI								
LOW HOME RENT LIMIT	448	475	610	705	786	868	948	
HIGH HOME RENT LIMIT	448	475	643	856	996	1081	1165	
For Information Only:								
FAIR MARKET RENT	448	475	643	856	1139	1310	1481	
50% RENT LIMIT	475	508	610	705	786	868	948	
65% RENT LIMIT	616	661	796	910	996	1081	1165	
Alger County, MI								

HOME Rent Limits include the following:

- **Utility allowance:** The owner/agent must deduct tenant paid utilities from the published HOME rents to determine the maximum rents that can be charged for a HOME-assisted unit. Utility allowances for HOME projects are discussed in [Part 404](#).
- **Fees Charged to Residents:** See [Part 403](#) for a discussion about permissible and impermissible fees.
- **Mandatory Charges:** All mandatory charges must be pre-approved by the MSHDA Asset Management Division. For additional information about mandatory fees, see [Part 403](#).
- **Subsidy Payments:** HOME rental assistance is discussed in [Part 402](#) of this HOME Compliance Manual.

Also note the following:

- Rent restrictions are specified in the HOME regulatory agreement and in some instances, are more restrictive than the typical HOME statutory rent limits (i.e. Low HOME (lesser of 50% AMI or FMR) and High HOME (lesser of 65% AMI or FMR)).
- Gross Rent Floor - The gross rent floor limits for a HOME project are based on HUD's published rent limits effective at the time of HOME fund commitment. MSHDA will not apply gross rent limits that are lower than the HOME rent limits that were in effect at the time MSHDA made its initial commitment of HOME funds to the HOME property.

Rent Increases:

Any changes in rents for occupied units are subject to the terms of the tenant's lease. HUD requires that a written notice be provided to a tenant at least 30 days prior to a rent increase (24 C.F.R. 92.252(C)(3)).

Part 402 :: Rental Assistance and Subsidies

24 CFR 92.252(b)(2)

Gross rent includes the tenant-paid portion of rent plus the utility allowance plus mandatory charges plus rental assistance/subsidy. The gross rent cannot exceed the maximum allowable HOME rent. There is an exception for subsidy payments for Low HOME units with project-based rental assistance.

Tenant-based Rental Assistance

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

Project-based Rental Assistance

If the project receives Federal or state **project-based rental assistance** for tenants designated as Low HOME, the rent limits from the project-based rental assistance program (such as Section 8) can be used. In other words, the owner may accept a subsidy payment that causes the Gross Rent to exceed the maximum HOME rent provided the Low HOME unit meets the following two conditions:

- the household occupying the unit had an initial income that was no more than 50% of AMI (i.e. very low-income); and
- the household is paying no more than 30% of adjusted gross income for rent (which could exceed the maximum HOME rent).

Note: If the project does not have any HIGH HOME units (i.e. the property is 100% Low HOME), the rent cannot be raised to HIGH HOME. Rather, the rent charged must be at 30% of adjusted income if the household's increases to above the 50% AMI limit.

For further discussion about over-income units, see **Part 601** (Over-Income HOME Units and Maintaining Unit Mix Requirements).

Part 403 :: Tenant Fees and Charges – Allowable and Ineligible

Owners may not impose fees that are not customarily charged in rental housing (e.g., laundry room access fees). It is not permissible to charge an eligible tenant a fee for the work involved in completing the additional forms or documentation required for HOME eligibility, such as the Tenant Income Certification. Residents also cannot be charged for administrative costs associated with the HOME program, such as for construction management or for inspections for compliance with property standards.

Mandatory fees and surcharges, such as washer/dryer fees and parking fees, may be allowable, but **must have written authorization from MSHDA Asset Management** prior to being imposed for HOME-assisted units. Generally HUD requires the owner to deduct all mandatory fees from the HOME rent limit to determine the maximum rent that can be charged for a unit.

MSHDA may approve certain mandatory fees that are considered to be reasonable, such as application fees, if such fees are customary for rental housing in the neighborhood.

Service fees for services such as bus transportation or meals are allowable as long as the services are voluntary and fees are charged only for services provided.

Mandatory Supportive Services – HOME Projects are prohibited from imposing lease terms that make acceptance of supportive services mandatory, except that a tenant in transitional housing may be required to accept supportive services. This is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of disability and

HUD's implementing regulations at 24 CFR part 8. Supportive services related to a disability can never be mandatory.

Part 404 : **HOME Utility Allowances**

24 CFR 92.252, HOME Final Rule 2013

HUD Applicability Chart – Category 2 – Applies to new projects only with funds committed on or after August 23, 2013*.

HUD Requirement: PJs must use HUD Utility Schedule Model or otherwise determine a project's utility allowance based upon utilities used at the project.

***HUD will issue guidance and a new effective date for certain provisions regarding HOME utility allowances.**

HOME projects must include an allowance for utilities paid by the resident as part of the gross rent calculation. HOME projects must use either the **HUD Utility Schedule Model** or the **Actual Consumption Method** to determine utility allowances. The Actual Consumption Method is based upon the utilities used at the project and is discussed in **Part 454** of the LIHTC Compliance Manual.

MSHDA HOME projects must use utility allowance figures that are approved by the MSHDA Asset Management division. HOME project owners/managers should contact the Asset Management Division for information regarding utility allowances.

The utility allowance for each project must be updated and pre-approved annually by MSHDA Asset Management.

The HUD Utility Schedule Model was developed by HUD and enables the user to calculate utility schedules by housing type after inputting utility rate information. The IRS uses this model to determine utilities for its LIHTC program. The model can be found at: <http://huduser.org/portal/resources/utlmodel.html>.

Chapter 5 HOME Procedures and Forms

Part 501 : Record Retention

All records pertaining to each fiscal year of HOME funds must be retained for the most recent **five-year period**, except as provided below. All records must be available upon request for MSHDA staff to review.

- For rental housing properties, general rental records must be retained for five years after the property completion date; except that records of individual tenant income verifications, property rents and property inspections must be retained for the most recent five-year period until five years after the affordability period terminates. *CFR 92.508C*.
- **In addition to the above, MSHDA requires each tenant’s initial eligibility certification and verifications to be retained for as long as the tenant resides in the HOME-assisted project.**

Lead-Based Paint information and records for each HOME-assisted household must be kept at least three years. The Owner must keep other project-related lead-based paint reports, tests, etc. for the life of the development since these project-related reports must be made available to each tenant.

- If the property has Low Income Housing Tax Credits, refer to the LIHTC Compliance Manual ([Part 208](#) and [Part 210](#)) for further record retention requirements.

Part 502 : Reporting Changes in Ownership, Management Agent or Contacts

Any change in ownership, management agent or contacts must be reported to MSHDA Compliance. Please complete the applicable form - “Notice of Change in Ownership” or “Notice of Change in Management Agent”. Forms may be sent by email to mshdacompli@michigan.gov or by mail:

MSHDA, Compliance Monitoring
735 E Michigan Ave, P.O. Box 30044
Lansing, MI 48909

Changes in the name, address, fax number, e-mail address, primary contact person, or telephone number of any of the following must be submitted to MSHDA on the applicable form immediately:

- Ownership Entity
- General Partners
- Limited Partner
- Management Agent

MSHDA Compliance must also be notified if there is any change in the on-site telephone number or fax number, or if the location at which the tenant files are maintained changes. Failure to expeditiously update contact information to facilitate monitoring activities will be deemed as non-compliance.

Important Note: MSHDA Direct Loan Projects and other authority-financed developments require pre-approval from MSHDA's Asset Management Division prior to selling a project or changing management agents. Also all Limited Dividend Housing Associations (LDHA) are required to obtain MSHDA's pre-approval prior to changing the composition of the entity and prior to changing the terms of the Partnership Agreement.

Part 503 :: Rental Application

A complete rental application is critical to an accurate determination of tenant eligibility. In addition to providing information for such things as credit checks and rental history, it is a screening tool for gathering preliminary information about household income. This is useful in avoiding the completion of unnecessary paperwork for persons whose income is clearly over the program limit. If it appears that a household may meet the guidelines for the housing program, the household should complete a MSHDA checklist.

While MSHDA does not require the completion of a rental application or mandate the use of any particular application format for HOME projects, suggested guidelines are listed below. (Note: the completion of an application is required for MSHDA Direct Loan projects, which includes those financed with tax-exempt and taxable bonds. HUD Guidebook 4350.3 lists additional guidelines for the rental application for Section 8, Section 236, and other HUD-regulated programs.)

- A. The name, age, social security number, relationship, handicap or disability, and sex of each person that will occupy the unit (legal name should be given just as it will appear on the lease and tenant income certification).
- B. Basic information about employment and other income sources.
- C. The current and anticipated student status of each applicant during the twelve-month certification period.
- D. A screening process, i.e. credit information, references from previous landlords, criminal history.
- E. The application must include the signature of the applicant and the date the application was completed. It may be useful to explain to the applicant that all information provided is considered confidential and will be handled accordingly.

Part 504 :: MSHDA Checklist (Mandatory)

After obtaining preliminary eligibility information on the rental application, the Owner/Management Agent must have the tenant complete a checklist detailing all income sources and assets. Each household member over the age of 18 must complete a separate checklist. A copy of the MSHDA Checklist, which is the mandatory checklist for use for the HOME Program, is available on the MSHDA website.

[Owners/Management Agents that desire to use a substitute form in lieu of the MSHDA Checklist must include all of the questions listed on the MSHDA Checklist on the substitute form. In addition, the Owner/Management Agent must provide the file audit contractor with a crosswalk mapping the locations of each of the questions contained on the MSHDA Checklist to those on the substitute form. For example, “*Question #3 on the MSHDA Checklist is Question #17 on ABC Management Company’s checklist.*” Failure to incorporate all of the questions from the MSHDA Checklist may be deemed as noncompliance.]

Michigan State Housing Development Authority		
CHECKLIST MSHDA PROGRAMS		
(Issued under P.A. of 1966 as amended and Section 8 of the U.S. Housing (program) Act of 1937.)		
Complete a separate form for each household member who is age 18 or older.		
Name:		Unit Number:
	Yes	No
COMPLETE EACH ITEM:		
1		I am a citizen of the United States or a permanent legal resident.
2		I am presently a student. Check one: <input type="checkbox"/> Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> Other _____
3		I was a student sometime during the past twelve-month period or anticipate becoming a student at sometime during the upcoming twelve-month period.
INCOME		
4		I have a job and receive money/wages, tips or bonuses. (List the businesses or companies that pay you.) _____
5		I am self-employed. (List the types of jobs you do.) _____
6		I receive Social Security or Rail Road Retirement Act income.
7		I receive Supplemental Security Income (SSI).
8		I receive quarterly payments from FIA for the State-paid portion of a SSI grant.
9		I receive unearned income for a family member(s) age 17 or under (e.g.: Social Security).

Important Note: The Owner/Management Agent should check the MSHDA website periodically to ensure that the project is using the most current version of the Checklist.

The checklist must be completed and signed by the tenant no earlier than 120 calendar days prior to (not after) the effective date of the certification.

Part 505 : Tenant Income Certification (TIC) form
: (Mandatory)

Once all income and asset information has been obtained and computed, the Owner/Management Agent must prepare a Tenant Income Certification for each household. Michigan uses the TIC created by National Council of State Housing Agencies (NCSHA) Best Practices, along with a mandatory supplement. The MSHDA TIC, which is the mandatory form for use for the HOME Program, is available on the MSHDA website. It must be executed along with the lease prior to move-in or the effective date of the recertification. The following guidelines apply:

1. Upon receipt of all verifications, Owners or Managers should review all documentation and calculations. If all requirements for eligibility are met, the applicant is qualified.

2. Management should instruct the prospective tenant(s) or current resident(s) to sign the TIC exactly as the name appears on the form and date it.
3. The TIC must be signed by all heads of household, co-heads, and adult household members (age 18 and over). If, due to an extenuating circumstance, an individual cannot sign the TIC, the extenuating circumstance must be documented.
4. It is preferred that the TIC be executed on the date of move-in or on the effective date of the recertification.

White-out must never be used on the TIC, verifications, checklists or any other certification documents. If a correction or change is necessary, a line should be drawn through the error and the correct information should be written above it, initialed by the Owner/Management Agent, and dated (i.e. the date the change was made). If a change/correction impacts eligibility (such as the total annual household income amount), it must also be initialed by the applicant/tenant. If the TIC contains more than one correction or revision or is not fully legible, a new TIC must be completed and executed.

As discussed in **Part 305** of this HOME Compliance Manual, **all** Tenant Income Certifications (initial/move-in and recertifications) **must be completed on a MSHDA TIC** (Tenant Income Certification) form and require documentation of third party income verification. HUD form 50058, 50059 or other equivalent forms are not acceptable.



TENANT INCOME CERTIFICATION

___ % AMGI*

Project Name	MSHDA Project Number	Effective Date of Certification
Household Name	Unit Number	HOME unit (check one box) <input type="checkbox"/> N/A <input type="checkbox"/> LOW Home <input type="checkbox"/> HIGH Home
Building Address:	Building Identification Number	



TYPE OF TRANSACTION (check one box only)

INITIAL Certification / New Move-In INTERIM Recertification ANNUAL Recertification

Cert Correction (Explanation: _____) Program Change, from _____ to _____

Unit Transfer Within Same Building
Moved out of Unit # _____ on _____ and into Unit # _____ on _____

Unit Transfer To A Different Building Within Project (For LIHTC projects, a unit "transfer" to different building must be treated the same as a new move-in and an initial cert must be completed.)

Other (Describe: _____) MOVE-OUT (Date: _____)

HEAD OF HOUSEHOLD

a. Race of Head of Household (Enter Code Number from list below): _____
1-Caucasian 2-Black 3-American Indian 4-Asian 5-Hispanic 6-Multiracial 9-Other, _____

b. Marital Status of HEAD (Enter Code Number from List below): _____
1-Married 2-Single 3-Widow(w) 4-Divorced 5-Separated 9-Not Reported

c. Number of Dependents: _____

Information about HOUSEHOLD COMPOSITION

Member #	Last Name	First Name	Elderly?	Handicapped?	Disabled?	Gender (Male or Female)
1-Head						
2						
3						
4						
5						
6						
7						

Information about Tenant's RENT

a. Check one box only: Rent-Regulated Unregulated Rent

b. If rent is subsidized, indicate type: MSHDA Subsidy Section 8 Tenant-Based Voucher
 Other, _____

* AMGI % Indicate which of the project's income targeting levels this unit/household is being counted towards meeting.

TENANT INCOME CERTIFICATION		Effective Date: _____ Month/Day/Year				
<input type="checkbox"/> Initial Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Other						
PART I - DEVELOPMENT DATA						
Property Name: _____		County: _____ BIN #: _____				
Address: _____		Unit Number: _____ # Bedrooms: _____				
PART II. HOUSEHOLD COMPOSITION						
HH Unit #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/P Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						
PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)						
HH Unit #	(A) Employment or Wages	(B) Social Security/Pensions	(C) Public Assistance	(D) Other Income		
TOTALS	\$	\$	\$	\$		
Add totals from (A) through (D), above				TOTAL INCOME (E): \$		
PART IV. INCOME FROM ASSETS						
HH Unit #	(F) Type of Asset	(G) Cash Value of Asset	(H) Annual Income from Asset			
TOTALS: \$			\$			
Enter Column (H) Total If over \$5000			Passbook Rate X 2.00% = (I) Imputed Income \$			
Enter the greater of the total of column I, or J. Imputed income			TOTAL INCOME FROM ASSETS (J) \$			
(L) Total Annual Household Income from all Sources (Add (E) + (K))			\$			
HOUSEHOLD CERTIFICATION AND SIGNATURES						
<small>The information on this form will be used to determine maximum income eligibility. You have provided for each person(s) set forth in Part II acceptable verification of current/expected annual income. You agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. You agree to notify the landlord immediately upon any member becoming a full-time student. Under penalty of perjury, you certify that the information presented in this Certification is true and accurate to the best of your knowledge and belief. The undersigned further understands that providing false information constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.</small>						
Signature _____	(Date) _____	Signature _____	(Date) _____			
Signature _____	(Date) _____	Signature _____	(Date) _____			
May 2010 Page 2 of 3						

PART V. DETERMINATION OF INCOME ELIGIBILITY			
TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES From Item (L) on page 1	\$	Household Meets Income Restriction at: <input type="checkbox"/> 80% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> _____%	RECERTIFICATION ONLY: Current Income Limit ≤ 140% Household Income exceeds 140% at recertification. <input type="checkbox"/> Yes <input type="checkbox"/> No
Current Income Limit per Family Size:	\$		
Household Income at:	\$	Household Size at Move-in:	
PART VI. RENT			
Tenant Paid Rent:	\$	Rent Assistance:	\$
Utility Allowance:	\$	Other non-optional charges:	\$
GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges)	\$	Unit Meets Rent Restriction at: 80% 50% 40% 30% _____%	
Maximum Rent Limit for this unit:	\$		
PART VII. STUDENT STATUS			
ARE ALL OCCUPANTS FULL TIME STUDENTS? <input type="checkbox"/> yes <input type="checkbox"/> no		If yes, Enter student explanation (also attach documentation)	
		<small>*Student explanation: 1. TA/TA assistance 2. Job Training Program 3. Single parent dependent child 4. Married joint return 5. Foster Care</small>	
PART VIII. PROGRAM TYPE			
Mark the program(s) listed below (a. through e.) for which the household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.			
a. Yes/No: <input type="checkbox"/>	b. HOME: <input type="checkbox"/>	c. Yes/No/Example: <input type="checkbox"/>	d. Taxable Bond: <input type="checkbox"/>
See Part V above.	Income Status: <input type="checkbox"/> ≤ 50% AVIGI <input type="checkbox"/> ≤ 60% AVIGI <input type="checkbox"/> ≤ 80% AVIGI <input type="checkbox"/> Other	Income Status: <input type="checkbox"/> 50% AVIGI <input type="checkbox"/> 60% AVIGI <input type="checkbox"/> 80% AVIGI <input type="checkbox"/> Other	Income Status: <input type="checkbox"/> 50% AVIGI <input type="checkbox"/> 60% AVIGI <input type="checkbox"/> Other (Name of Program) <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____
* Upon recertification, household size determines over-income (OI) according to eligibility requirements of the program(s) marked above.			
SIGNATURE OF OWNER REPRESENTATIVE			
Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.			
SIGNATURE OF OWNER REPRESENTATIVE	DATE		
May 2010 Page 3 of 3			

Part 506 HOME Lease Agreement

24 CFR 92.209(g)

All HOME-assisted tenants must have a written lease agreement. Owners must execute lease agreements with tenants that incorporate specific provisions that establish tenant responsibilities and avoid certain prohibited provisions.

Lease Requirements:

- a) **Lease.** There must be a written lease between the tenant and the owner of rental housing assisted with HOME funds that is for a period of not less than one year, unless the tenant and the owner mutually agree to a shorter period.
- b) **30 day notice.** Any changes in rents for occupied units are subject to the terms of the tenant's lease. Per 24 C.F.R. 92.253(c) HUD requires a 30 day notice to increase rents or terminate tenancy.
- c) **Prohibited lease terms.** 24 CFR 92.253(b) prohibits specific language in a lease for HOME-assisted properties. The lease may not contain any of the following provisions:
 - (1) Agreement to be sued. The tenant may not agree to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease;

- (2) Treatment of property. The tenant may not agree to allow the owner to take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this abandoned personal property in accordance with State law;
- (3) Excusing owner from responsibility. The tenant may not agree not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent;
- (4) Waiver of notice. The tenant may not agree to permit the owner to institute a lawsuit without notice to the tenant;
- (5) Waiver of legal proceedings. The tenant may not agree to permit the owner to evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties;
- (6) Waiver of a jury trial. The tenant may not waive any right to a trial by jury;
- (7) Waiver of right to appeal court decision. The tenant may not waive his/her right to appeal, or to otherwise challenge in court, a court decision in connection with the lease;
- (8) Tenant chargeable with cost of legal actions regardless of outcome. The tenant may not agree to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses and;
- (9) Mandatory supportive services. The tenant (other than a tenant in transitional housing) may not be obligated to accept supportive services that are offered.

Nonrenewal of Leases / Requirement for Good Cause

Qualified residents may not be evicted or not allowed to renew a lease for other than "good" or "just cause". Owners and management agents are encouraged to consult a legal advisor for interpretation of the requirement. Owners are encouraged to consult their legal and property management advisors for assistance in developing each property's standard lease, taking into account applicable landlord-tenant laws, HOME Program requirements and any other governmental programs in effect at the property. The Good Cause requirement is discussed further in [Part 602](#).

Part 507 :: Tenant / Unit Set-Up and Organization

A separate file must be maintained for every unit/tenant in the development. MSHDA recommends that all developments use six-part press-board divider files or classification folders. Below is an outline of the preferred set-up of each tenant file:

1. Taped to the left inside jacket (cover) of the folder, copies of social security cards, driver's licenses, and tenant pictures. The unit number, number of bedrooms,

move-in date and head of household should be clearly identified on the label of the folder or on the top sheet in the left inside jacket of the folder.

2. In a separate compartment of the folder, all eligibility certification paperwork should be organized in the following manner:
 - A. A Tenant Income Certification (TIC) form and, if applicable, a HUD 50058 or HUD 50059 with the appropriate backup documentation or RHS 1944-8 form;
 - B. A MSHDA checklist for adult household member #1;
 - C. A copy of third-party verification of income and assets, of adult household member #1, in the order that they appear on the checklist;
 - D. A MSHDA checklist for adult household member #2, etc., if applicable, followed by third-party verifications;
 - E. A copy of the Student Eligibility Certification, if applicable; and
 - F. HUD 9887 or HUD 9887A, Authorization to Release Information, or similar form, if used by the development.
3. In another separate compartment of the folder should be the lease, lease addendums, and paper work discussing rent amounts (such as rent change notices).
4. In another separate compartment should be all move-in paperwork (i.e. rental application, move-in checklist, criminal history background form, credit report, etc.). Note: Initial (move-in) eligibility documentation must always be maintained in each household's current tenant file, even if outdated recertification information is archived or purged from the file.
5. In another separate compartment should be correspondence, legal, or eviction notices, maintenance requests, recertification notices, etc.
6. A colored sheet of paper or tabbed divider should be placed between the initial eligibility and each recertification thereafter to clearly separate the documentation pertinent to that certification.
7. The outside of each tenant file should contain a label clearly identifying the unit number, household name, and move-in date.

Chapter 6 Ongoing Compliance Requirements

MSHDA is required to monitor HOME projects for the period of affordability and the MSHDA compliance period. In addition to this manual, owners should download and follow the HUD Guide: Compliance in HOME Rental projects: A Guide for Property Owners (currently being amended to include HOME Final Rule changes), which is available at:

<https://www.hudexchange.info/resource/2395/compliance-in-home-rental-projects-a-guide-for-property-owners/>

Rent and Utility Allowance Approval - As previously discussed, HOME-financed projects must have the project's rents and utility allowances approved by MSHDA's Asset Management Division each year. This approval process is typically completed during the Asset Management annual budget review. Information regarding HOME rent and utility allowance policies and procedures are located in Asset Management's Budget Guide Policy on the MSHDA Asset Management website at the following location:

<https://www.michigan.gov/mshda/rental/property-managers/management-agents/am-policies-and-forms>

Income Recertification - Project owners/managers must certify each HOME-assisted household's income annually. MSHDA requires complete full third party verification of income and assets for each household's annual recertification. The same procedures are used as are used for the initial certification and determination of rent. Recertifications are discussed in greater detail in **Part 311**.

On-going Compliance Reporting Requirements (tenant data reporting and annual compliance certifications forms) and on-site monitoring (tenant file audits and physical inspections) are discussed in **Chapter 7**.

Section 6A – Over-Income Units and Maintaining The Unit Mix

Part 601 Over-Income HOME Units and Maintaining Unit Mix Requirements

24 CFR 92.252(i) and HUD Guide - Compliance in HOME Rental Projects: A Guide for Owners

HOME properties must maintain the required number of High and Low HOME rent units throughout the affordability period (and MSHDA compliance period, if applicable). This requirement is called maintaining the unit mix.

High HOME Rent Units: Are occupied by low-income households (income at or below 80% AMI, but typically 60% AMI for MSHDA properties). Rents are maintained at the High HOME rent limits per bedroom size.

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

A unit is considered **over-income** in the HOME program when:

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

When a tenant is over-income, the unit that the tenant occupies is considered **temporarily out of compliance** with HOME's unit mix requirements. Temporary noncompliance due to an increase in an existing tenant's income is permissible if the owner takes specific actions to correct the unit mix in the property as soon as possible.

Owners must track the unit mix to ensure that the project continues to meet the requirements of HOME program and the MSHDA Regulatory Agreement. This includes the correct number and sizes of Low HOME and High HOME rent units. The unit mix should be checked any time a unit becomes vacant to determine whether it must be a Low HOME, High HOME, or unrestricted unit (for HOME purposes.) This is critical prior to renting the unit to ensure the correct income household is selected for the unit. All vacancies must be filled in accordance with HUD requirements until the noncompliance is corrected and all appropriate redesignations and rent changes have been made in accordance with HUD requirements.

The information and charts below show the steps that must be taken when units are designated as over-income.

Note: The following examples are for HOME only and assume NO LIHTC funding. Regarding the information and charts that follow – if the project has other government financing or assistance, such as LIHTC, the amount of rent that may be charged may be restricted by that other program.

Vacated HOME-Assisted Units:

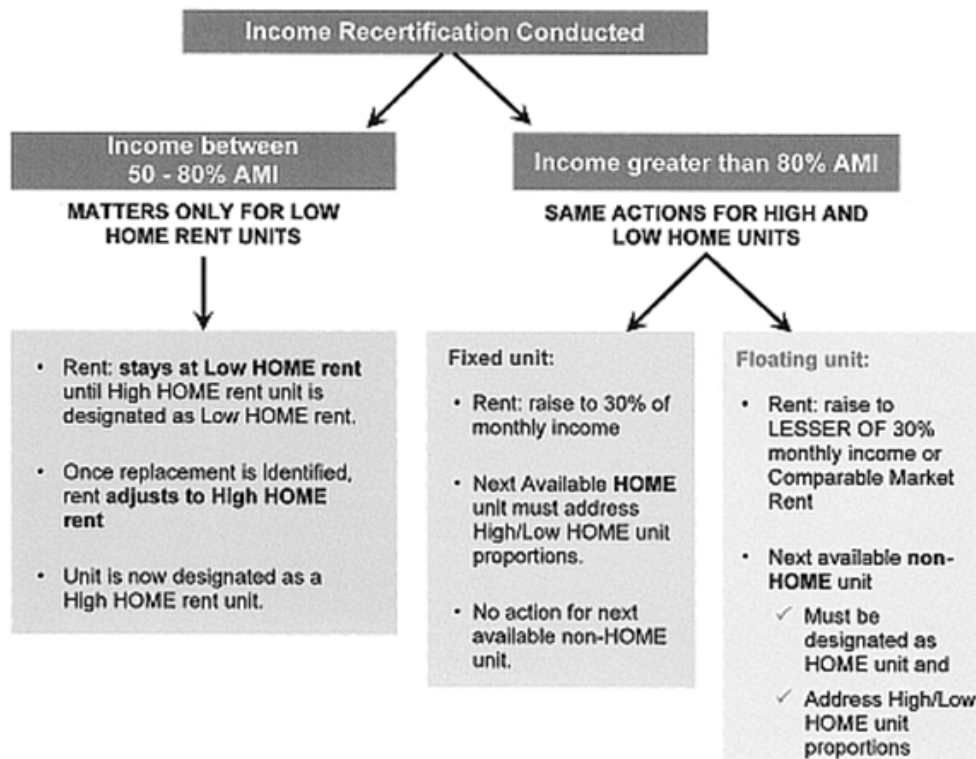
Generally, when a fixed or floating HOME-assisted unit is vacated and the property is in compliance with unit mix requirements (no over-income tenants in any of the HOME-assisted units), the owner must take the following steps to fill the vacancy:

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

However, the owner also could choose to shift the designation of High and Low HOME units within the existing unit mix as part of restoring the project to full compliance. For example, if a Low HOME Rent unit is vacated, a High HOME Rent unit that is occupied by a very low income household could be designated as the replacement Low HOME Rent unit, adjusting that household's rent to comply with the approved Low HOME Rent, and consequently the unit to be rented could be a High HOME unit. The owner/agent should always review the mix and determine the appropriate actions to restore the mix before filling vacant units.

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

SUMMARY OF STEPS: MANAGING RENTAL UNIT MIX UNDER HOME



Over-Income Tenants in a Property with Floating HOME units

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

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

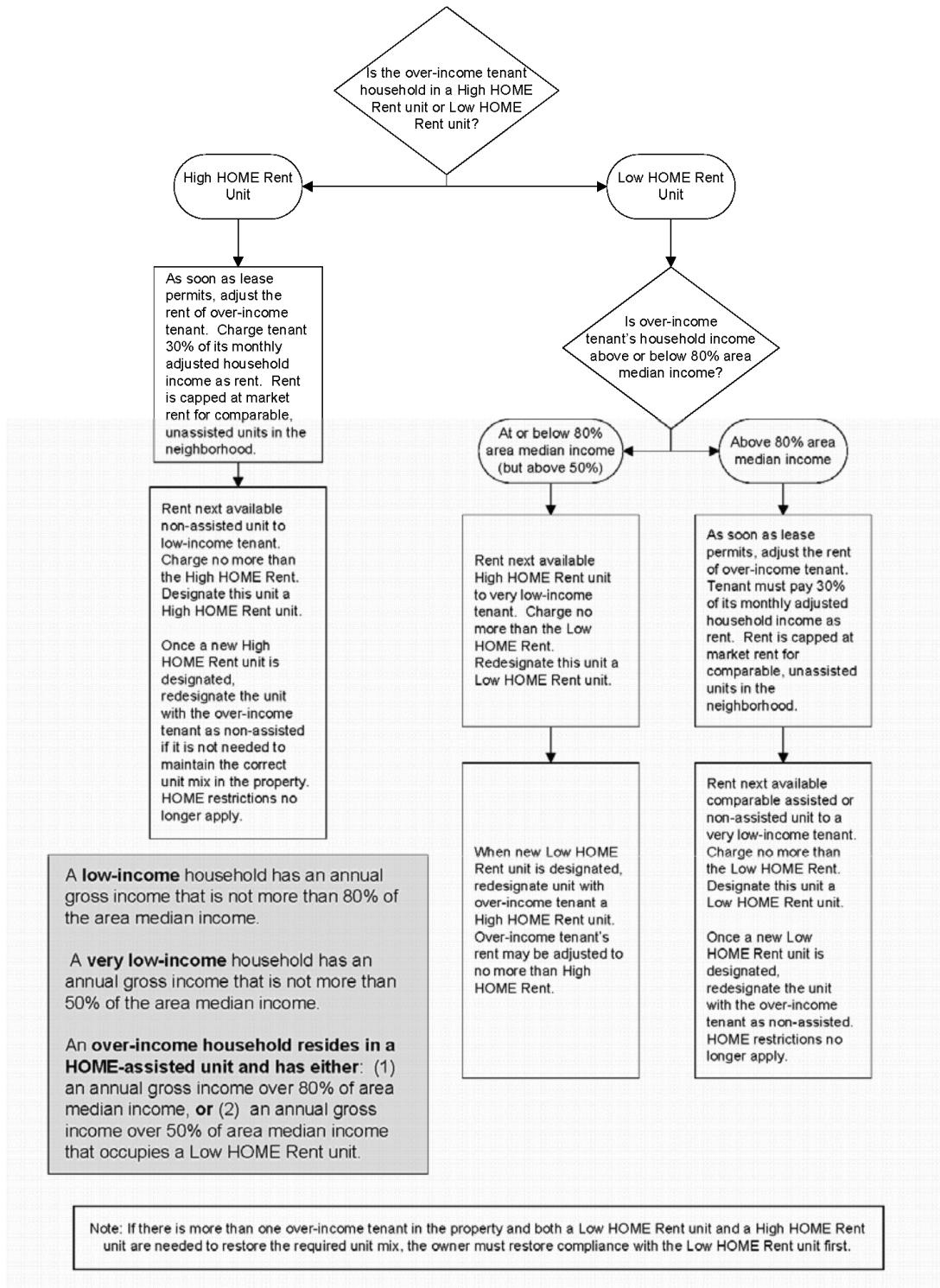
- The owner/agent must adjust the rent of the over-income tenant household so that they pay 30 percent of their monthly adjusted income as rent. The rent adjustment must be made as soon as the lease permits, and in accordance with the terms of the lease. Note, unlike the rule for properties with fixed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

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

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

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

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



A **low-income** household has an annual gross income that is not more than 80% of the area median income.

A **very low-income** household has an annual gross income that is not more than 50% of the area median income.

An **over-income household resides in a HOME-assisted unit and has either:** (1) an annual gross income over 80% of area median income, **or** (2) an annual gross income over 50% of area median income that occupies a Low HOME Rent unit.

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

Over-Income Tenants in a Property with Fixed HOME units

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

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

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

- The rent amount payable under state or local law;
- 30 percent of the tenant's monthly adjusted family income; or
- If the unit is also tax credit (LIHTC), the tenant's rent should not exceed the maximum permitted by the Tax Credit Program.

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

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

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

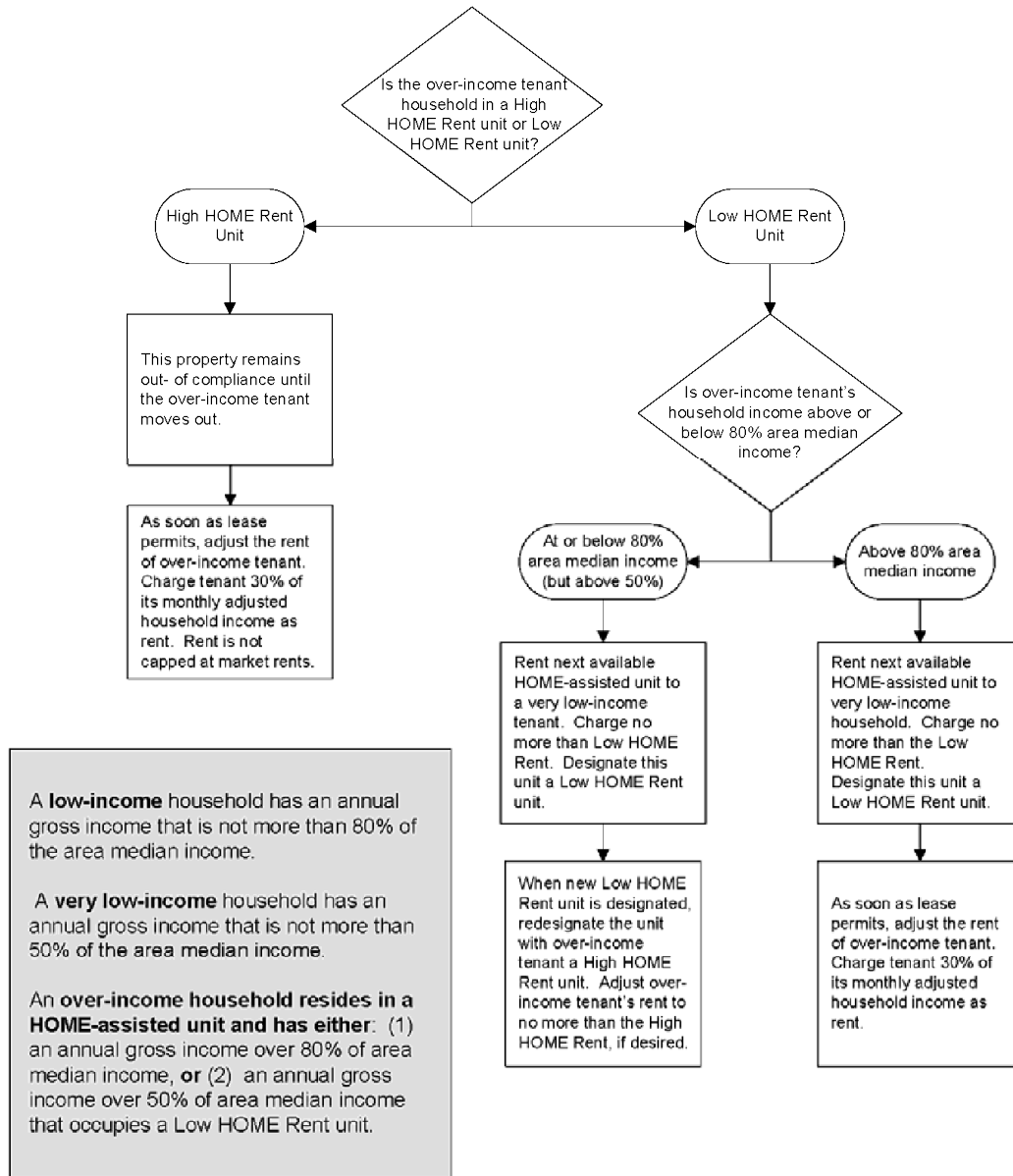
When a High HOME Rent unit in the property is vacated, regardless of bedroom size, the unit must be re-designated as a Low HOME Rent unit and rented to a very low-income tenant, at no more than the Low HOME Rent. Once a new Low HOME Rent unit has been designated, the unit that is occupied by the over-income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

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

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

- The rent payable under or state or local law;
- 30 percent of the tenant's monthly adjusted family income;
- If the unit is also tax credit (LIHTC), the tenant's rent should not exceed the maximum permitted by the Tax Credit Program.

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



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

Section 6B – Lease Renewal or Termination

Part 602 : Leases and Termination of Tenancy

CFR 92.253

Leases:

All HOME-assisted tenants must have a written lease between the tenant and the owner of the rental housing that is for a period of not less than one year, unless by mutual agreement between the tenant and the owner a shorter period is specified.

Termination of Tenancy:

HUD requires that a written notice be provided to a tenant at least 30 days prior to a termination of tenancy as required in *24 CFR 92.253(c)*. An owner may not terminate the tenancy or refuse to renew the lease of a tenant, except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; or for other good cause.

The 2013 HOME rule added the following:

- Failure to follow a required transitional housing supportive services plan is grounds for termination.
- Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase the housing.

Chapter 7 Ongoing Compliance Requirements and On-Site Monitoring

Section 7A – Tenant Data Reporting

Part 701 : MSHDA's On-Line Tenant Data Reporting System

Name of Software Program: Certification On-Line (COL)

Owners and managers of HOME projects must report the annual income, rent charged and additional resident information for each income/rent restricted unit in the development to MSHDA (24 CFR 92.508(a)(3)) through the on-line tenant data reporting system - Certification On Line (COL). This data must be entered on an on-going basis as transactions occur (e.g. move-in, move-out, recertification, rent changes, etc.). The owner/management agent must then submit the data monthly or quarterly to MSHDA's On-line Tenant Data Reporting System via data entry or upload.

Tenant Data Reporting for Income/Rent Restricted Units

The owner/management agent must enter the following information into MSHDA's Online Tenant Data Reporting System for each restricted unit in the project:

- Number of qualified low-income units;
- Information on each low-income tenant (every household member)
 - tenant name
 - social security number
 - date of birth
 - move-in date
 - number of people in the household
 - annual income
 - utility allowance (for tenant paid utilities)
 - rent charged and utility allowance for each unit;
- Move-in date and move-out date for all tenants (including market rate tenants); and
- Such other information as is set forth in the system and required by MSHDA.

Tenant Data Reporting for Unrestricted Units

For market rate units (unrestricted), the move-in date and move-out dates for all tenants is required and the remainder of above information is requested but is not mandatory. This information is helpful because it is used by MSHDA for market analysis and statistical reporting.

Submission Deadline

All tenant data must be entered into the COL system no later than the 15th of the month following the end of the reporting period. For example, ABC project submits tenant data on a monthly basis. The tenant data for the month of January must be submitted to MSHDA via COL no later than February 15.

Failure to submit accurate and/or complete tenant data in a timely manner will result in a finding of noncompliance. Detailed information about the MSHDA On-Line Tenant Data Reporting System is provided on the MSHDA Website (www.michigan.gov/mshda). Select “Property Managers” and then “Online Systems”)

Section 7B – Annual Compliance Certifications

HUD requires HOME-assisted development owners to annually provide MSHDA with a certification of continuing program compliance that includes information on rents and occupancy of HOME-assisted units to demonstrate compliance with CFR 92.252.

The forms and procedures discussed in this Section are subject to change. Please refer to the MSHDA website for up to date information about annual compliance certifications forms and reports.

Part 702 : Annual Owner Compliance Certifications and Re-ports

CFR 92.252

The Annual Owner Certification of Continuing Program Compliance form requires project owners to certify under penalty of perjury that the information provided is true, complete and in compliance with 24 CFR Part 92.

- A. Owner Certification of Continuing Program Compliance Form (AOC) – The purpose of this form is to certify continuing compliance with 24 CFR Part 92 on an annual basis. See **Part 703** for a detailed description of the Owner Certification form.
- B. Utility Allowance Documentation Form – This form details the monthly amount estimated for each utility, the source of the estimate, and whether or not the utility is tenant-paid. This form must be completed annually by the owner/manager, and submitted along with a copy of the approved Utility Allowance from the MSHDA Asset Manager.
- C. Resident Fees Form – Any fees required for occupancy at the project are reported on this form. Mandatory fees must be included as part of gross rent and cannot (when combined with the tenant-paid portion of rent plus the utility allowance) exceed the maximum allowable gross rent. Note: mandatory fees for HOME-assisted households must be approved by the MSHDA Asset Manager.
- D. Rent and Occupancy Report – This form provides a record of the events within each unit throughout the certification year.

Obtaining Current Forms - Copies of these forms are located online. Owners and management agents should use the following instructions to access the AOC information and forms (or any other compliance-related documents, information or forms) located on the MSHDA website at www.michigan.gov/mshda. From MSHDA's main page, select "Property Managers" on the column located on the left side of the screen, then select "Compliance for Rental Housing", then "Recent Updates" (or "Forms" then "Year End Reports"). Owners must check the website to verify that the form being used is the most current version.

E-mail notification - Each year, MSHDA Compliance Monitoring sends a memorandum via email to notify owners and management agents of the AOC requirements and to provide links to the updated forms located on the MSHDA Compliance website. The memorandum is also posted on the Compliance website. Owners and management agents may request to be included on the

emailing list to receive the electronic notification (email your request to MSHDACompliance@michigan.gov). However, Owners are responsible to meet the annual reporting deadline regardless of whether or not they receive the email notification. MSHDA Compliance no longer sends mass correspondence by U.S. mail.

Submission Due Dates - Annual HOME owner certifications must be submitted for HOME projects no later than March 1st of each year during the affordability period and MSHDA's compliance period, if applicable. If the submission deadline falls on a weekend, the Annual Owner Certification package and attachments must be received the Friday before the deadline.

Extension Requests - If the owner is unable to submit the Annual Owner Certification package by the deadline due to extenuating circumstances, the owner may request an extension. Extension requests must be in writing and must include the reason for the extension and the extension date requested. Extension requests will only be approved for extenuating circumstances.

Failure to submit legible and thoroughly completed Annual Compliance Certifications when they are due will be deemed noncompliance.

Note: LIHTC projects are required to submit a LIHTC annual certification in addition to the HOME annual certification.

**Part 703 : Annual HOME Owner's Certification of
 : Continuing Program Compliance**

The owner of a HOME project must certify annually to MSHDA, under penalty of perjury, for each year of the affordability period, that the HOME-funded units in the project are in compliance with the requirements of 24 CFR Part 92. The owner is required to certify on MSHDA's Owner Certification of Continuing Program Compliance form (AOC) or other forms designated, as to the following for the preceding 12 month period:

1. The owner/management agent has received an initial income certification from each HOME household and documentation to support that certification.
2. The owner/management agent has performed an annual re-examination in accordance with the rules mandated by the HOME program and/or MSHDA requirements for this project.

For each household occupying a unit designated as HOME, the owner/management agent has conducted an initial certification and an annual recertification including full third-party documentation of all income and assets.

3. Each HOME restricted unit in the project has been and is rent restricted as prescribed in the executed HOME Regulatory Agreement, Grant Agreement, Affordability Agreement, or other official document.
4. No fee(s) other than rent and approved mandatory fees, if any, were charged to any HOME tenant for a service or provision that was not optional (i.e. water-billing service fees, mandatory parking fees, non-refundable security deposit fees, mandatory payments for meals, etc.).
5. The Owner certifies that the utility allowance is reviewed annually and is obtained through the local PHA, MSHDA, directly from the local utility companies, or calculated by using the Actual Consumption Method (ACM).

Note: Owners of HOME projects must include a Utility Allowance documentation form with this annual compliance certification. In addition, for ACM allowances, these figures must be submitted to MSHDA on the ACM form (available on the MSHDA website) and the final figures must be pre-approved by the MSHDA Asset Manager prior to their use at the development.

6. If the income of a resident of a HOME restricted unit increased to an amount that exceeds the limit allowed under the HOME Regulatory Agreement (or similar document), the next available unit in the project was rented to a qualified household.
7. If the annual income of a resident of a HOME restricted unit increased to an amount that exceeded 80% of the area median income at recertification, the household's rent was adjusted to 30% of the family adjusted income (unless Low Income Housing Tax Credit Program rules apply to the unit).
8. If a HOME unit became vacant during the year, reasonable attempts were made to rent that or a comparable unit (for floating HOME units, comparable in terms of size, features, and number of bedrooms) to a qualified household, and while the unit was vacant no units of comparable size were rented to an unqualified household.
9. Each unit and building in the project is and has been for the entire period covered by this certification, suitable for occupancy taking into account State and local codes, ordinances, and HUD's Uniform Physical Condition Standards (UPCS).
10. All tenants have signed the "Lead Based Paint" form and have been given a copy (*applies to projects built or under construction during or before January 1, 1978*).
11. The property owner has incorporated ongoing lead-based paint maintenance activities into regular building operations, such as a visual inspection of lead-based paint annually and at unit turnover; repair of all unstable paint; and repair of encapsulated or enclosed areas that are changed (*applies to projects built or under construction during or before January 1, 1978*).
12. All HOME units in the project are and have been available for use by the general public and used on a non-transient basis.
13. The Owner certifies that all tenant facilities (such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances) of any building are provided on a comparable basis to all tenants (including HOME-assisted and non-HOME-assisted) in the development.
14. The lease term for all HOME-assisted units is at least one year (unless the tenant and the owner mutually agree to a shorter period) and each lease contains all of the provisions required by the HOME Program, and does not include any prohibited provisions.
15. The owner/management has adopted and utilizes written tenant selection policies that:
 - are consistent with the purpose of providing housing for very low-income and low-income families;
 - are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;
 - provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and

- requires prompt written notification to any rejected applicant of the grounds for any rejection.
16. All required special needs units designated in the HOME Regulatory Agreement (or similar document) have been rented to tenants with special needs.
 17. All required supportive housing services agreed to in the HOME Regulatory Agreement (or similar document) have been made available to the residents of the HOME-assisted units. Where permitted in the HOME Regulatory Agreement (or similar document), these supportive services were provided by a local service provider.
 18. The Owner certifies that no tenants have been evicted or not had leases renewed, except for serious or repeated violations of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing, or for other good cause.
 19. All HOME restricted units were leased to residents without regard to their status as holders of rental vouchers or certificates that are available under 24 CFR 882,887, or 92.211.
 20. An up-to-date Affirmative Fair Housing Marketing Plan (AFHMP) is on file (and available for viewing by interested parties) at the development.
 21. The AFHMP has been reviewed by the Owner and has been found to be effective.
 22. If the affirmative marketing requirements were not met, the Owner has attached a plan of corrective actions to be taken to make the AFHMP a success.
 23. The owner has and is complying with all federal, state and local laws relating to fair housing and equal opportunity, including but not limited to the following:
 - The Federal Fair Housing Act and the Michigan Fair Housing Act;
 - Age Discrimination Act of 1975;
 - Section 504 of the Rehabilitation Act of 1973;
 - Americans With Disabilities Act of 1990 (ADA);
 - Title VI Civil Rights Act – 1964;
 - Section 3 of the Housing and Urban Development Act of 1968; and
 - Violence Against Women Reauthorization Act of 2013.
 24. There has been no change in the management of the project during this Certification Period.
 25. There has been no change in the ownership of the project during this Certification Period.
 26. The Owner maintains required records for the most recent five year period during the affordability period, and has policies in place to keep these records until five years after the end of the affordability period. (Required records include documentation related to tenant income verifications, unit rents, affirmative marketing, and property standards.) **Initial (move-in) certifications and verifications are retained in the file until the household vacates a unit.**
 27. All resident data for the project has been entered as required into MSHDA's on-line data collection system for all project activity through December 31st of the reporting year.

28. The Owner has notified MSHDA Compliance of any other government funding and/or income, rent or leasing restrictions, other than the MSHDA HOME funds and its requirements.

Owner Signature - The Owner's Certification of Continuing Program Compliance form must be signed by the Owner or an authorized representative of the owner. If signed by an individual other than a person affiliated with the ownership entity (i.e. member, partner, principal, etc.), a copy of a document authorizing the individual to sign on behalf of the ownership entity must be included with each Owner Certification submitted to MSHDA.

Use Current Form - Owners/management agents should be aware that the Owner's Certification of Continuing Program Compliance form and required attachments may change from year to year. Owners should go to the MSHDA Website to access the most current version of the form each year.

Execute forms after January 1st - The AOC form may be executed (signed) no earlier than January 1st following the certification year.

In addition to the Owner's Certification of Continuing Program Compliance form, other documents are required to be submitted. These documents include but are not limited to the Utility Allowance Documentation Form, Resident Fee Form, and the Rent and Occupancy Report.

Part 704 : Monitoring Fees

The HOME final rule 24 CFR Part 92.214(b)(1) allows MSHDA to charge a reasonable compliance monitoring fee during the period of affordability. MSHDA's compliance fee covers the cost for audits, inspections, and follow-up inspections required during the Affordability Period. This fee applies to projects funded after 8/23/2013.

Section 7C - Tenant File Audits

The requirements and procedures discussed in this Section are subject to change. Please refer to the MSHDA website for up-to-date information about Tenant File Audits.

Part 705 : Overview of Tenant File Audits

As provided in HOME compliance monitoring regulations, MSHDA (or a contractual agent authorized by MSHDA) has the right to review a project's Tenant/Unit Files, Development File, and record-keeping and record retention files. The reviews may be conducted in-house (at MSHDA offices) or on-site at a HOME project as deemed necessary throughout the HOME Affordability Period and MSHDA's compliance period, if applicable. MSHDA has the right to conduct the file audits at any time, without notice. However, notice typically will be provided to the owner/management agent and the general procedures discussed in this Chapter will usually be followed.

Tenant file audits ("file audits" or "audits") are required to determine if owners of HOME-assisted developments are complying with federal and state regulations. Compliance with these regulations includes certifying the incomes of tenants, and ensuring that rents charged are within program guidelines and that residents meet program and project eligibility.

Presently, MSHDA contracts with one or more companies to conduct tenant file audits. Owners, management agents, and on-site leasing staff must cooperate with the contractors. MSHDA oversees the file audit process and makes final determinations regarding noncompliance.

It is important that MSHDA's contact information for the owner and management agent, as well as the on-site telephone number be up-to-date. When changes in management or owner contacts occur, the owner must immediately report the change(s) to MSHDA Compliance. A Notice of Change in Ownership or a Notice of Change in Management form is required (both available on the MSHDA website). A project for which current contacts are unknown, making scheduling the file audit difficult or impossible, will be deemed in noncompliance.

Part 706 : General Scope of Tenant File Audits

To determine if a unit is in compliance with applicable program/project rules and regulations, the file auditor will review the following information:

- Income at move-in or initial eligibility of each household and the documentation used to determine that income;
- Current income of each household and the documentation used to determine that income;
- Zero Income Statements, where required;
- For Over-Income High HOME units, deductions and allowances (i.e. medical, elderly, and dependent) for each household and the documentation used to determine those deductions and allowances, if required;
- Supplemental documentation (i.e. social security cards, birth certificates, etc.);
- Project and program eligibility of each household (i.e. student status, elderly status, etc.);
- Recertifications for each household;

- Rent amount charged to each household;
- Utility allowance for each unit;
- Lease agreement;
- Lead hazard disclosure/notice for housing constructed prior to 1978;
- Consistency of the information provided in the tenant file, on reports submitted to MSHDA, on the rent roll, vacancy report, and on the lease agreement;
- Current number of vacant units and vacancy percentage; and
- Other items and information as specified by MSHDA.

Part 707 :: File Audit Frequency

Effective 1/1/2015, depending on the source of funding, projects are audited on an eighteen-month or three-year cycle for the duration of the HOME Affordability Period and MSHDA’s compliance period, if applicable. Listed below is the minimum file audit frequency for each program type. MSHDA reserves the right to conduct audits more frequently if MSHDA deems this necessary and appropriate based on the results of a previous tenant file audit or for any other reason(s).

For all properties with HOME funds committed on/after 8/23/2013, the HOME Final Rule dated 07/24/2013, 24 CFR 92.504(d)(ii)(A), requires that the first tenant file audit be conducted within 12 months of the project completion date and on-going audits be conducted at least every three years thereafter throughout the affordability period.

For all pre-2013 rule “legacy” properties (HOME funds committed before 8/23/2013), beginning January 24, 2015, audits will be conducted at least every three years.

- **HOME developments** (with no additional funding sources) - Audits are conducted every three years.
- **Developments with multiple sources of funding** – Audit frequency will be determined by the most restrictive program requirement.

Part 708 :: Number of Files Audited

Listed below are the minimum percentages of files for each program type that will be audited. MSHDA reserves the right to review a higher percentage of files, if MSHDA deems this necessary and appropriate based on the results of a previous tenant file audit or for any other reason(s).

HOME Developments (as described in 24 CFR Part 92.504(d)(ii)(D))

- 20% of the HOME-assisted units in the development; or
- 100% of the HOME-assisted units if development has four or less HOME-assisted units.

Developments with Multiple Funding Sources –The most restrictive program requirement will determine the number of units to be inspected.

Units occupied by Housing Choice Voucher (HCV) participants are also subject to HOME audits and may be included as part of the audit sampling.

In general, the files to be audited will be randomly selected by the auditor on the date of the audit. However, MSHDA may designate specific files to audit.

Part 709 **Scheduling and Preparing for the File Audit**

As a general rule, the file audit contractor will contact the management agent by telephone or email at least 30 calendar days prior to planned audit to arrange the file audit date, location, and time. The file audit contractor will then send a scheduling letter to the management agent/owner confirming the scheduled audit date, time, and location.

The scheduling letter also notifies the management agent/owner that a current Rent Roll (or similar report) and a Vacancy Report must be submitted to the file audit contractor at least ten (10) days prior to the scheduled audit, preferably by email. Providing this information before the audit allows the contractor to plan the file or unit sample, which saves valuable time on the day of the file audit.

The Rent Roll (or similar report) and Vacancy Report must include the information listed below.

Rent Roll for **all units** must include:

- Unit #
- Head of Household Name (first and last)
- Move-in Date
- Designation (Market Rate or Program/Funding Source)

The Rent Roll (or similar report) must contain the following additional information for **all restricted units**:

- Current Income
- Current Rent
- Programs/Funding Sources and AMI % (i.e. HOME 50%, HOME 30%, etc.) Any and all applicable unit designations for each unit must be included, such as elderly, disabled, homeless, battered women, etc.

Vacancy Report must include:

- Unit #
- Move-Out Date of Last Resident
- Number of Days Vacant (preferred but not mandatory)

Part 710 **Conducting the Audit**

The owner must provide the following items to the auditor at the time of the audit:

- a. Updates to the development's rent roll, if applicable.
- b. Tenant files for the units selected for review. For information on the recommended format and required contents of the tenant file, see **Part 507**.
- c. Updates to the development's vacancy report, if applicable.
- d. Any other program-related documents, reports, etc. deemed necessary by the MSHDA auditor, if requested.

During and/or at the conclusion of the file audit, if the particular circumstances are conducive and time permits, the auditor may verbally review and explain the file audit findings and results with the management agent representative or personnel, if such personnel are on-site and available at the file audit. The auditor will prepare a File Audit Report and send it to the owner/management agent.

Part 711 : File Audit Report

A File Audit Report will be prepared after the tenant file audit. It will be sent to the management agent within 30 calendar days after the date the file audit was performed, unless there are unusual or unforeseen circumstances that result in a delay in preparing or sending the report. A copy of the report may also be sent to the owner of the project.

For all units cited as having potential compliance issues, the report will include a description of the issue(s), the required and/or suggested corrective actions, the date each unit identified was “out of compliance”, and the appropriate correction deadline.

Part 712 : Owner’s Response to Audit Report

Name of Software Program: Compliance Audit Response System (CARS)

The owner/management agent must submit a complete, accurate and timely written response to the File Audit Report (Audit Response or AR) detailing the corrective actions taken and providing pertinent documentation of those actions. The AR must be submitted to the file audit contractor and to MSHDA Compliance Monitoring. The AR to the file audit report must also be generated using MSHDA’s **Compliance Audit Response System (CARS)** found at the MSHDA Compliance Portal website. Detailed information about CARS is provided on the MSHDA Website (www.michigan.gov/mshda - Select “Property Managers” and then “Online Systems”.) After entering the appropriate information, the CARS system will produce two forms for submittal:

- (1) Owner’s Certification of File Audit Corrections and
 - (2) An Owner’s Report of File Audit Corrections.
- **Owner’s Certification of File Audit Corrections** - This form must be signed by the owner of the development or an authorized representative of the owner.

<Owner's Letterhead>
FILE AUDIT CORRECTIONS
OWNER'S CERTIFICATION OF FILE AUDIT CORRECTIONS

[Name of Development Owner:] _____ (the "Development Owner"), the owner/Management of [Development Name:] _____, located in [City:] _____, Michigan. MSHDA Number: _____ by and through its duly authorized representative identified below, hereby certifies the following:

1. All file audit findings identified in the file audit performed on _____ and listed in the file audit report have been corrected and the files are now in compliance with the MSHDA file audit requirements.
2. The attached file audit report accurately identifies the actions taken to correct the file audit findings and the date(s) the corrections were made.

The undersigned acknowledges that any material omission or misrepresentation of fact herein constitutes an act of fraud, which is punishable by a fine of not more than \$15,000 or imprisonment for not more than ten years. False, misleading or incomplete information shall also be grounds for rejection of this Certification and will result in an event of noncompliance.

Owner's Report of File Audit Corrections - The Audit Response must address all findings cited in the File Audit Report. For each unit cited as being in noncompliance, the following information is required for each individual finding:

- Description of corrective actions taken, and
- Completion date

Documentation (TIC forms, 50059 forms, verifications, etc.) of the corrective action taken must also be attached to the two generated forms printed from CARS. (The documentation should be submitted to the file audit contractor only. MSHDA will request documentation, if needed.)

Owner's Report of File Audit Corrections

Development: _____ Audit Date: _____
MSHDA #: _____ LIHTC#: _____ Submission #: _____
Address: _____

Item	Bin/Unit	HOH Name	Move-in Date	Category	Finding	Corrective Action	Completion Date	High Home	Low Home
								<input type="checkbox"/>	<input type="checkbox"/>
								<input type="checkbox"/>	<input type="checkbox"/>

Submission and Correction Deadline - In general, the audit response must be received no later than 30 days after the report is issued (file audit report cover letter date). The File Audit Report will indicate the correction deadline.

Failure to Submit a Timely Response - If the owner/management agent does not respond within the required time period (no later than the correction deadline), the auditor will issue a nonre-

sponse letter to the owner/management agent (with a copy sent to MSHDA Compliance Monitoring). When the owner/management agent's response is received, the auditor will review the response, if received within the specified timeframe, or forward to MSHDA for appropriate action, if not received within the specified timeframe.

Extension requests - The correction deadline is typically 30 days from the date the File Audit Report is issued. If extenuating circumstances exist, the owner/management agent may submit an extension request in writing to the Contractor for approval with a copy to MSHDA.

Part 713 :: File Audit Closeout

When the owner/management agent responds to noncompliance findings and forwards correction documents to the auditor (currently an agent contracted by MSHDA), the auditor will notify the owner/management agent in writing that the response is either acceptable or that outstanding issues still exist that must be resolved. If outstanding issues still exist, the auditor will identify the noncompliance issues that remain outstanding and the corrective actions required or recommended. The auditor will forward a copy of the response to MSHDA Compliance Monitoring. If all items have been corrected, no additional follow-up is required by the owner/management agent. If outstanding items still exist at the time the file audit contractor closes the audit process, the owner/management must work with MSHDA staff (Compliance and Asset Management, if project is MSHDA-financed) to resolve the issues. MSHDA may also conduct other follow-up actions.

Part 714 :: MSHDA File Audit Follow-Up Actions

Survey – MSHDA conducts customer satisfaction surveys on an on-going basis to continuously evaluate contractor performance and to obtain valuable feedback on the file audit process. Survey forms are available on the MSHDA Compliance website or may be hand delivered at the completion of the file audit. MSHDA may also mail or fax a survey form to the on-site office and/or to the management agent's office.

Quality Assurance Review - MSHDA may conduct a quality assurance review (on-site or desk review) of the contractor's work.

Part 715 :: Vacancy Reporting

The owner must report the number of unit vacancies within the project. If unit vacancies exceed 10 percent of the total units in the project, including market rate units if any, the owner/management agent must provide an explanation and improvement plan for addressing the vacancy issue to the auditor and MSHDA. This information must be provided to the auditor (in writing) at the time of the tenant file audit or may be included with the audit response. Information about vacancies must also be submitted to MSHDA, upon request.

Section 7D Ongoing Physical Inspections and Property Standards

24 CFR Section 92.2

Ongoing Property Physical Condition Standards

HUD Applicability Chart – Category 2 – This chapter includes some new project requirements applicable to new projects only (funds committed on or after August 23, 2013)*.

HUD Requirement: Newly adopted property standards for the acquisition and rehabilitation of existing housing and ongoing standards for rental projects without local code standards.

The MSHDA requirements and procedures discussed in this Section are subject to change. Please refer to the MSHDA website (Compliance for Rental Housing) for up-to-date information about physical inspections.

***HUD will issue guidance with a new effective date for certain provisions regarding physical inspection standards.**

Part 716 : Overview of Ongoing Physical Inspections

HUD requires that MSHDA (or a contractual agent authorized by MSHDA) inspect HOME properties to ensure that HOME-assisted buildings, units, and common areas are suitable for occupancy. Under 24 CFR Part 92, on-site inspections must be conducted at least once every three years. MSHDA reserves the right to conduct inspections on a more frequent basis, if MSHDA deems this necessary and appropriate based on the results of a previous inspection or for any other reason(s). During these physical inspections, MSHDA assesses whether HOME properties are in safe, decent, sanitary condition and in good repair, according to the Uniform Physical Conditions Standards (UPCS) established by HUD.

Presently, MSHDA contracts with one or more companies to conduct physical inspections. Owners, management agents, and on-site leasing staff must cooperate with the contractors. MSHDA oversees the inspection process and makes final determinations about noncompliance.

It is important that MSHDA's contact information for the owner and management agent, as well as the on-site telephone number be up to date. When changes in management or owner contacts occur, the owner must promptly report the change to MSHDA Compliance. A Notice of Change in Ownership or a Notice of Change in Management form is required (both available on the MSHDA website). A project for which current contacts are unknown, making scheduling the inspection difficult or impossible, will be deemed in noncompliance.

Part 717 : Physical Inspection Standards (Property Standards)

24 CFR 92.251 outlines the Uniform Physical Condition Standards (UPCS) or state and local codes as the inspection protocol for the HOME program. The UPCS is defined in Federal Register 24 CFR, Parts 5 and 200 and is the standard used by HUD REAC PASS inspectors. The UPCS:

- Identifies the five inspectable areas and health and safety hazards. The five inspectable areas are Site, Building Exterior, Building Systems, Common Areas and Units.
- Standardizes definitions for inspectable items.
- Provides uniform, objective protocol for training inspectors to perform inspections of all property types and sizes, at any location.

MSHDA Compliance Monitoring oversees physical inspections for several MSHDA-administered housing programs, some of which have physical condition standards over and above UPCS. When conducting physical inspections for HOME, the UPCS standards will be applied. HOME projects must comply with all state and local building, health and fire codes as well as UPCS. The owner/management agent must notify the MSHDA inspector of any state or local code violations, regardless of whether or not the violations have been corrected.

UPCS Manual - The Department of Housing and Urban Development's (HUD) Real Estate Assessment Center developed a comprehensive description of the types and severities of deficiencies entitled "Dictionary of Deficiency Definitions" (March 8, 2000). The dictionary can be found at https://www.hud.gov/sites/documents/DOC_26281.PDF. Changes to the definitions were published in the Federal Register August 9, 2012 and a link to the HUD website is provided on the MSHDA Compliance website at http://www.michigan.gov/mshda/0,1607,7-141-8002_26576_26578-113476--,00.html.

MSHDA's physical inspectors use MSHDA-approved forms (i.e. Hazard Notice Form, etc.) and MSHDA's Physical Inspection software when conducting physical inspections and reporting physical inspection results.

Part 718 : Local Health, Safety, or Building Code Violations

The UPCS does not supersede or preempt state or local codes. At the time of physical inspections of buildings and units, the owner/management agent representative must provide to the inspector any state or local health, safety, or building code violations reports or notices that have been issued since the date of the last physical inspection. If violations have occurred, the inspector will review the reports or notices of violations and the corrective actions taken and then will inspect the areas to determine whether the deficiencies are corrected and the buildings and/or units are suitable for occupancy. This information will be documented in the physical inspection report.

State or local health, safety or building code violations must also be reported to MSHDA on the annual Owner's Certification of Continuing Program Compliance.

Part 719 : Physical Inspection Frequency

Depending on the project's funding source(s) as listed below, beginning January 24, 2015, all HOME projects will be inspected on a one or three-year cycle throughout the HOME affordability period and MSHDA's compliance period, if applicable. MSHDA reserves the right to conduct

inspections more frequently if MSHDA deems this necessary and appropriate based on the results of a previous inspection or for any other reason(s).

For all properties with HOME funds committed on/after 8/23/2013, the HOME Final Rule dated 07/24/2013, 24 CFR 92.504(d)(ii)(A), requires that the first physical inspection be conducted within 12 months of the project completion date and on-going inspections be conducted at least every three years thereafter throughout the affordability period.

For all pre-2013 rule "legacy" properties (HOME funds committed before 8/23/2013), beginning January 24, 2015, inspections will be conducted at least every three years.

- **HOME developments** (with no additional funding sources) - Physical inspections are conducted every three years.
- **Developments with multiple sources of funding** – Physical inspection frequency will be determined by the most restrictive program requirement.

Part 720 **Number of Units Inspected**

Listed below is the minimum percentage of units for each program type that typically will be inspected. MSHDA reserves the right to inspect a higher percentage of units if MSHDA deems this necessary based on the results of a previous inspection or for any other reason(s).

HOME Developments (as described in 24 CFR Part 92.504(d)(ii)(D))

- 20% of the HOME-assisted units in the development; or
- 100% of the HOME-assisted units if development has four or less HOME-assisted units.

Developments with Multiple Funding Sources –The most restrictive program requirement will determine the number of units to be inspected.

Units occupied by Housing Choice Voucher (HCV) participants are also subject to HOME physical inspections and may be included as part of the inspection sampling.

In general, the units to be inspected will be randomly selected by the inspector on the date of the inspection. However, MSHDA may designate specific units to inspect.

Part 721 **Scheduling and Preparing for Physical Inspections**

As a general rule, MSHDA or the physical inspection contractor will contact the management agent by telephone or email at least 30 calendar days prior to the physical inspection to arrange the physical inspection date and time. The inspection date and time will be confirmed in a written notice ("Scheduling Letter") sent to the development's owner/management agent and MSHDA Compliance Monitoring.

The scheduling letter also notifies the management agent/owner that a current Rent Roll Report (or similar report) and a Vacancy Report must be submitted to the physical inspection contractor

at least ten (10) days prior to the scheduled inspection, preferably by email. Providing this information before the inspection gives the contractor the ability to plan the file or unit sample, which saves valuable time on the day of the physical inspection.

The Rent Roll (or similar report) and Vacancy Report must include the information listed below.

Rent Roll for all units must include:

- Unit #
- Head of Household Name (first and last)
- Move-in Date
- Designation (Market Rate or Program/Funding Source)

Vacancy Report for all unoccupied units must include:

- Unit #
- Move-Out Date of Last Resident
- Number of Days Vacant (preferred but not mandatory)

Preparing for the Inspection

The management agent must notify all residents at least 24 hours prior to the date of the inspection that their unit may be inspected.

Part 722 **Conducting Physical Inspections**

When the inspector arrives for the scheduled inspection, he/she must be provided with the following items:

- Site Map
- Current list of all units in the development with the unit numbers, number of bedrooms, and type of assistance (i.e. Section 8, HOME, etc.) clearly identified for each unit.
- Updates to the development's rent roll, if applicable.
- Updates to the development's vacancy report, if applicable.
- Copy of local code violations, if any such violations have been issued and
- Any other program-related documents, reports, etc. deemed necessary by MSHDA or the physical inspector, if requested.

It is required that an authorized representative of the owner/management agent (e.g. maintenance person) accompany the inspector during the inspection.

The inspection will include the outdoor grounds, parking lots, exteriors of buildings, building systems, common areas, and residential units. In addition, the inspector will review local health, safety or building code violations, if any, and review the Capital Needs Assessment (CNA) at MSHDA-financed developments, if applicable. The inspector will issue any necessary Hazard Notices.

During and at the conclusion of the physical inspection, if time permits, the inspector will verbally review and explain the physical inspection findings and results with the development's management agent representative or personnel. The inspector will prepare a Physical Inspection Report and send it to the owner/management agent.

Part 723 **EH&S Hazard Notices**

If life-threatening (Exigent Health and Safety or “EH&S”) deficiencies are discovered during the inspection, the inspector will issue a Hazard Notice to the owner/management agent at conclusion of the inspection. The inspector and the representative of the owner/management agent must both sign the Hazard Notice form. The inspector will send a copy of the Hazard Notice to MSHDA Compliance Monitoring.

EH&S deficiencies must be corrected as soon as possible, but no later than 24 hours after the conclusion of the inspection. The owner must also submit an Owner Certification and an Attachment A to the inspector and to MSHDA Compliance no later than three (3) business days after the date of the inspection. The Attachment A must include the corrective actions taken to resolve deficiencies and the date the corrective actions were taken. A sample copy of the Hazard Notice form is available on the MSHDA website.

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY NOTIFICATION OF EXIGENT HEALTH AND SAFETY HAZARDS		
Development Name:		Inspection Company:
MSHDA #:	LIHTC #:	Inspector Name:
Address:		Inspection Date:

During this inspection, the following items were observed and noted as EH&S hazards. The Authority requires all EH&S hazards be mitigated immediately (no later than 24 hours) and an Owner's Certification of Completion of Repairs and an Attachment A be completed and sent to the inspector, MSHDA Compliance (Fax 517-241-8471 or e-mail mshdacompli@michigan.gov – subject line PI EHS), and Asset Manager (if applicable) within 3 business days of the date of the inspection:

Item	Location of Deficiency (Unit #/Common Area/Building Address/ Grounds/System)	Description Of Health and Safety Hazards
1		
2		
3		

Part 724 **Physical Inspection Reports (PI)**

The inspector will prepare a cover letter (indicating the correction deadlines and other response instructions) and a Physical Inspection Report (PI) that provides the results of the physical inspection. The cover letter and PI will be mailed to the development’s owner/management agent within 30 calendar days after the date of the physical inspection, unless circumstances arise that increase this time frame. Copies of the cover letter and PI will be sent to MSHDA Compliance Monitoring.



Michigan State Housing Development Authority

Physical Inspection Report - Summary

Project Name: Example Property
 Address: 1111 Main Street
 City: Anywhere, MI 48888
 Inspection Date: _____
 Report Date: _____
 Inspection Company: <Company Name>
 Inspector Name: <Inspector Name>
 Inspection Type: **UPCS**

Ownership Entity: <Owner Name>
 Management Agent: <Management Agent>
 Resident Manager: _____

Funding Summary:	
Building Type:	
Funding Source	Number of Units
LIHTC	38
HOME	14
MSHDA BOND	
Section 8	
Section 236	
1602	
TCAP	

Name and Title of Inspection Attendees:

General Comments:

Buildings				Units						
	Total Bldgs	Bldgs. Vacant or Offline	% Vacant or Offline	Bldgs. Inspected	Total Units	Units Vacant or Offline	% Vacant or Offline	Vacant 30 days or more	Units to be Insp	Units Inspd
Total	2	0	0%	0	38	0	0%	0	8	0

Last Quarter Averages:

Monthly Turnover	Days Vacant/Unit	Unit Ready Time

Summary of Physical Inspection Deficiencies

	EH&S (Life-Threatening)	H&S	L1	L2	L3	M (MSHDA)	M H&S	Total
Site								
Building								
Units								
Total Items								
Correction Required								



Michigan State Housing Development Authority

Physical Inspection Report - Violations - Example Property - #0000

Type/Comments	Building	Unit	Item	Deficiency	Level	Home	LIHTC
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Part 725 :: Owner's Physical Inspection Response (PIR)

Name of Software Program: *Owner's Physical Inspection Certification System (OPIC)*

Response Deadlines

The owner/management agent must correct inspection deficiencies in a timely manner and submit to the inspector and MSHDA a complete, accurate and timely written response to the Physical Inspection Report. The Owner's physical inspection response (PIR) must be completed using MSHDA's **Owner's Physical Inspection Certification System (OPIC)** found at the MSHDA Compliance Portal website. Detailed information about OPIC is provided on the MSHDA website (www.michigan.gov/mshda, select "Property Managers" and then "Online Systems".) After entering the appropriate information, the OPIC system will produce two forms for submittal:

- (1) Owner's Certification of Completion of Repairs (Owner's Certification or OC) and
- (2) Attachment A - Owner's Report of Completion of Repairs and EH&S Items.

- **Owner's Certification of Completion of Repairs** - This form must be signed by the owner of the development or an authorized representative of the owner (i.e. member, partner, principal, management representative, etc.).

<Owner's Letterhead>

**OWNER'S CERTIFICATION OF COMPLETION OF REPAIRS
AND EXIGENT HEALTH AND SAFETY ITEMS**

[Name of Development Owner:] _____ (the "Development Owner"), the owner of [Development Name:] _____, located in [City:] _____, Michigan. MSHDA Number: _____ by and through its duly authorized representative identified below, hereby certifies the following:

1. All physical deficiencies identified in the inspection performed on _____ and listed in the physical inspection report have been corrected and all areas are now in compliance with the Uniform Physical Conditions Standards and MSHDA inspection requirements, or if any deficiencies have not yet been corrected, the planned corrective actions and planned correction dates are included in the attached report (Attachment A), which is incorporated herein as a part of this Certification.
2. The attached report (Attachment A) accurately identifies the repairs that have been made to correct the physical deficiencies, the location of those repairs, and the date(s) the repairs were made and/or the dangerous condition was eliminated.
3. To the best of undersigned's knowledge, the development is in compliance with all local building and safety codes.

- **Attachment A (Owner's Report of Completion of Repairs and EH&S Items)** - All deficiencies cited in the Physical Inspection Report must be addressed. The following information is required for **each** deficiency identified:

- (1) location (unit number and building address) of the deficiency;
- (2) description and level of the cited deficiency as reported in the PI;
- (3) date the deficiency was corrected (or anticipated date); and
- (4) description of the corrective actions taken (or actions to be taken).

- An original and the appropriate number of copies of the OC and Attachment A must be prepared.
 1. Original OC/Attachment A must be submitted to the MSHDA Compliance Monitoring
 2. One copy of the OC/Attachment A must be submitted to the physical inspection contractor

- It is not necessary to include backup documentation (i.e. work orders, receipts, purchase orders, photographs) with the PIR. However, such documentation must be submitted to MSHDA or the physical inspector upon request.
- Detailed instructions for completing the OC and Attachment A forms, as well as the latest versions of the forms are located on the MSHDA website (select “Property Managers”, then “Compliance for Rental Housing”, then “Forms”, and then “Physical Inspection Forms”).
- Each Owner’s Certification/Attachment A should include a submission number in the appropriate place at the top of the Attachment A form. The first submission should be labeled submission “#1”, the second submission, if needed due to an incomplete first submission would be labeled “#2” and so on. When all deficiencies have been corrected, the last submission should be labeled with the word “Final”. Each Attachment A form submitted must include correction dates and information for **all** inspection deficiencies cited in the Physical Inspection Report. Attachment A forms with only the most recently corrected violations are not acceptable. An Attachment A form submitted without the Owner’s Certification form is also not acceptable.

ATTACHMENT A

Owner’s Report of Completion of Repairs and Exigent Health & Safety Items
Owner’s Plan for Completion of Repairs
 (Itemized List of Corrective Actions Taken & Plan for Corrective Actions to be Taken)

Development Name: _____ Inspection Date: _____

MSHDA #: _____ Submission #: _____

Address: _____

Item	Location of Deficiency (Unit/Common Area/ Building Address/ Grounds/System)	Level (EHS, H/S, L3, L2, L1, or “M” for MSHDA)	Description of Deficiency	Corrective Actions Taken/or To Be Taken	Expected Completion Date	Completion Date	Meets UPCS/ MSHDA Standard (Yes or No)	CHECK IF HOME UNIT
1								<input type="checkbox"/>
2								<input type="checkbox"/>

- **Uncorrected Deficiencies** - It is possible that when the PIR is submitted, some of the items may be uncorrected because the correction deadline for some violations is six (6) months (i.e. MSHDA “M” items). If the PIR contains some uncorrected deficiencies, the following information is required for each item:
 - A description of corrective actions **to be** taken; and
 - The date corrective actions **will be** completed.

If some violations are “uncorrected” when the physical inspection response is submitted, upon correction of those violations, an additional Owner’s Certification/Attachment A must be submitted. The **Final** Owner’s Certification/Attachment A submitted must include the correction dates and the corrective actions taken for **every deficiency** cited on the physical inspection report. The Final OC/Attachment A must include the word “**Final**” in the submission number field of the Attachment A.

Part 726 **Corrective Action and Owner Response Dead-**
lines

The Physical Inspection Report lists the deficiencies and the severity level. The deadlines for correcting the deficiencies depend on the severity of the defect and are listed and described below. Owners/management agents should review the Physical Inspection Report and attached cover letter to determine the correction and response deadlines for their specific project.

Corrective Action and Owner/Management Response Deadlines		
PI Deficiency	Correction Deadlines	Response Deadlines (Owner Cert/Attach A)
EH&S <i>(Life-Threatening)</i>	Immediate/no later than 24 hours (after the inspection date)	No later than three (3) business days (after the <u>inspection</u> date)
H&S <i>(Non-Life Threatening), L3, L2, L1</i>	No later than 60 days after inspection report issued date (cover letter date)	No later than 60 Days after inspection report issued date (cover letter date)
M	No later than six (6) months after inspection report issued date (cover letter date)	First response – No later than 60 Days after report issued (cover letter date) – For each deficiency, include the planned completion date of the correction and a description of the planned corrective action; Second response – No later than six (6) months after report issued (cover letter date) – for each deficiency, include the actual dates corrections were completed and a description of the corrective action taken.

EH&S items (Exigent Health & Safety/Life Threatening): Must be corrected as soon as possible, but no later than 24 hours after the inspection. Using OPIC, an Owner’s Certification and Attachment A must be printed and submitted to the inspection contractor and to MSHDA no later than 3 business days after the Hazard Notice is issued. If a property is not available in the OPIC system within 24 hours, then the forms can manually be filled out until it is available in OPIC. Once the property is available in OPIC, it must then also be entered and included with future responses. See **Part 743** (Hazard Notices) for additional information.

“Level 1”, “Level 2”, Level 3” and Health & Safety items (Non Life-Threatening): Must be corrected no later than 60 days after the date the inspection report was issued (cover letter date). An Owner’s Certification and Attachment A must be submitted to the inspection contractor and to MSHDA no later than 60 days after the cover letter date.

“M” (MSHDA) Items: Must be corrected no later than six (6) months after the cover letter date. An Owner’s Certification and Attachment A must be submitted to the inspection contractor in a first response and a second response (if not all items were corrected in the first response), as discussed below:

- First response – No later than 60 days after the report is issued (inspection cover letter date). For each deficiency, include the date the development corrected the deficiency and a description of the corrective action taken or the anticipated correction date and a description of the planned corrective actions;
- Second response – No later than six (6) months after the report is issued (cover letter date). For each deficiency, include the actual dates corrections were completed and a description of the corrective action taken.

Extension Requests – Six (6) Months or Less - All physical inspection deficiencies must be corrected by the deadlines specified in the inspection cover letter. If, due to extenuating circumstances, any corrections cannot be completed on time, the owner/management agent may submit a request for an extension and receive approval from the inspection contractor (if the request is received six (6) months or less from the cover letter date). Extension requests must be submitted on the MSHDA Extension Request form (on Owner/Management Agent letterhead) with all the required information. The form can be found on the MSHDA website (select “Property Managers”, then “Compliance for Rental Housing”, then “Forms”, and then “Physical inspection Forms”). All extension requests must contain the following:

- A description of the deficiency area for which an extension is being requested;
- The reason for the request;
- The required completion date (original date); and
- The requested completion date.

The owner/management agent will be notified in writing that the extension is either approved or not approved.

Extension Requests - Exceeding Six (6) Months –Inspection contractors may not approve any extension requests that exceed six (6) months. However, in certain extenuating circumstances, the MSHDA Asset Manager may approve an extension request for a MSHDA-financed project. Such requests must be submitted directly to the Asset Manager for approval, with a copy to the inspector and to MSHDA Compliance Monitoring.

Note: When the corrections are subsequently completed, a **Final** Owner’s Certification and Attachment A must be submitted including the “Date” all deficiencies were corrected and a description of all “Corrective Actions Taken”.

Part 727 : **Re-inspections**

Re-inspections may be performed at developments if deemed necessary by MSHDA. The re-inspection will include a review of all deficiencies noted during the last physical inspection to ensure the satisfactory completion of the work. MSHDA reserves the right to add additional inspection items or units under special conditions, if MSHDA deems this necessary and appropriate based on the results of the previous inspection or for any other reason(s).

Part 728 : **Follow-Up Inspections**

24 CFR 92.504(d)(1)(ii)(B)

HUD Applicability Chart – Category 2 – New project requirement applicable to new projects only (funds committed on or after August 23, 2013)*

HUD Requirement: PJs must conduct follow-up, on-site inspection to verify any deficiencies have been corrected within 12 months; PJs must establish guidelines for verification of all types of corrections and adopt inspection schedule accordingly.

***HUD will issue guidance with a new effective date for this provision.**

Part 729 :: Owner/Management Agent Failure to Respond

If the owner/management agent does not respond to a physical inspection deficiency within the required time period, the inspector will issue a nonresponse letter to the owner/management agent. Inspection deficiencies not corrected within the specified time frames will be deemed as noncompliance.

Part 730 :: Inspection Closeout

Upon receipt of the owner/management agent's response to the Physical Inspection Report, the inspector (MSHDA or an agent contracted by MSHDA) will review the documents and notify the owner/management agent in writing if the response and corrective actions are acceptable. If outstanding issues still exist, the inspector will notify the owner/management agent that corrective action is required and provide directions as to whom any documentation of subsequent corrective actions should be submitted. If the inspector determines that the Owner's certified response appropriately addresses the deficiencies, no additional follow-up is required by the owner/management agent.

Part 731 :: MSHDA Physical Inspection Follow-Up Actions

Survey - MSHDA conducts customer satisfaction surveys on an on-going basis to continuously evaluate contractor performance and to obtain valuable feedback on the physical inspection process. Survey forms are available on the MSHDA Compliance website or may be hand delivered at the completion of the inspection. MSHDA may also mail or fax a survey form to the on-site address and/or to the management agent's office.

Quality Assurance Review - MSHDA may conduct a quality assurance review of the contractor's inspection. This will consist of an on-site visit to the development by a MSHDA staff member. The MSHDA staff member will review the units inspected by the contractual agent to ascertain the completeness and accuracy of the inspection results reported to MSHDA by the agent.

Section 7E – Other Physical Condition-Related Topics

Part 732 : Capital Needs Assessment (CNA)

This Part applies only to the MSHDA-financed bond projects, including those that also have HOME.

Capital Needs Assessments (CNA) are conducted on certain MSHDA-financed developments and are updated periodically. A CNA is a description of the current and future physical and related financial needs of a multifamily development projected over the next 20 years. The current condition and future physical needs are established through a detailed physical inspection of the development. Projected financial needs to maintain the physical condition of the development are established through a detailed analysis of the financial history, current status including escrow balances and funding levels, and future needs based on results of the physical inspection.

A CNA review will be performed for each MSHDA-financed development during the physical inspection to confirm the status of work or items recommended or cited in the CNA as requiring repair or replacement. The inspector will report the status of the work or items recommended in the CNA in the Physical Inspection Report.

Part 733 : Casualty Losses

A unit must be suitable for occupancy in accordance with state or local codes. If the unit is not habitable (or if common space is unusable), the development is in noncompliance. A reasonable amount of time (up to 30 days) is permitted for a development to prepare (i.e. clean, paint, replace carpet, etc.) a newly vacated unit for re-occupancy. The reasonableness of the time period to repair damaged property depends on the extent of the damage. MSHDA will consider other factors such as the location of the property and the time of the year (weather).

If a residential unit, building or common space (such as a community room or leasing office) is anticipated to be uninhabitable (i.e. unavailable for occupancy) or unavailable for use by low-income tenants for more than 30 consecutive days for any reason, whether due to damage by a tenant, inability to obtain necessary replacement items (such as furnace or plumbing fixtures) in a timely manner, casualty (such as fire, flood, or other disaster), or any other reason, the owner must notify MSHDA in writing by completing a Notice of Building Casualty Loss or Damage form. The Casualty Loss form identifies the project name, building address, building identification number, unit numbers for all residential units impacted and a list of the common spaces impacted. The completed form must provide a description of the loss, identify any causes of the loss and indicate the estimated time for repair or replacement. It must also indicate the number of low-income households displaced by the event.

The Notice of Building Casualty Loss or Damage form is available on the MSHDA website and must be submitted to MSHDA within five (5) days of the loss. This notification requirement applies specifically to areas that are anticipated to be unavailable for occupancy or use by low-income tenants for more than 30 days. A unit that is anticipated to be unavailable for residential occupancy for less than 30 days does not need to be reported to MSHDA. (In the event the time period does extend to 30 days or beyond, MSHDA must be notified in writing.)

Part 734 **MSHDA Physical Inspection Waivers**

HOME developments are not eligible for a waiver of the MSHDA physical inspection that is available for certain Section 8, Section 236 or LIHTC developments.

Part 735 **Bed Bugs**

www.michigan.gov/bedbugs; HUD Inspector Notice No. 2010-01

Owners and managers are responsible for initiating and following procedures that remove bed bugs from the property and inhibit further infestation.

The MSHDA website provides information about protocol requirements to be utilized by physical inspectors who conduct inspections of MSHDA-financed and/or assisted developments. The inspection requirements are applicable to all developments in the MSHDA Compliance Monitoring portfolio, which includes LIHTC, Section 1602, TCAP, Section 8, Section 236, HOME, NSP, and bond funded projects. For comprehensive educational information regarding the identification, treatment and prevention of bed bugs, please review the Michigan Manual for the Prevention and Control of Bed Bugs and other information provided on the State of Michigan website at www.michigan.gov/bedbugs.

Part 736 **Lead-Based Paint**

Housing built before 1978 may contain lead-based paint. Lead from paint, chips and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, owners must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. All tenants renting pre-1978 units must receive a federally approved pamphlet on lead poisoning prevention entitled *“Protect Your Family from Lead in Your Home”*.

The HOME Program requires owners to take actions to reduce lead-based paint hazards in HOME-assisted units. Owners must comply with 24 CFR 35, the regulations implementing the Lead-Based Paint Poisoning Prevention Act along with requirements for dealing with lead-based paint found in the Uniform Physical Condition Standards (UPCS). Current Part 35 regulations require that all occupants receive and acknowledge notice of the possible presence of lead paint. The Lead-Based Paint Poisoning Prevention Act applies to all units in a property assisted with HOME funds, not only to HOME assisted units.

Effective October 4, 2011, the Environmental Protection Agency (EPA) revised various materials including the “Renovate Right” Brochure that must be provided to residents prior to many repairs that may disturb lead-based paint. The Brochure can be found at: <https://www.epa.gov/lead/renovate-right-important-lead-hazard-information-families-child-care-providers-and-schools>.

All of these changes are in addition to the requirement to distribute the booklet entitled “Protect Your Family from Lead in Your Home” from the EPA and HUD, and 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.

Also note the following:

- As discussed in **Part 501**, lead-based paint information and records for each HOME-assisted household must be kept at least three years. HOME regulations require that notification concerning lead-based paint must be contained in the original tenant lease. The owner must keep lead-based paint records, tests, etc. for the life of the development since this project-level information must be made available to each tenant for the life of the HOME property.
- As also discussed in **Part 703**, the owner must certify annually that all tenants have signed the "Lead Based Paint" form and have been given a copy (*This requirement applies to projects built or under construction during or before January 1, 1978*).
- As also discussed in **Part 703**, the owner must certify annually that he/she has incorporated ongoing lead-based paint maintenance activities into regular building operations, such as a visual inspection of lead-based paint annually and at unit turnover; repair of all unstable paint; and repair of encapsulated or enclosed areas that are changed (*This requirement applies to projects built or under construction during or before January 1, 1978*).

Section 7F Financial Reviews and Asset Management

24 CFR 92.504(d)(2)

MSHDA Asset Management conducts annual financial and management reviews of HOME-assisted projects. Information regarding the Asset Management policies, procedures and Budget Guide are on the MSHDA Asset Management website at the following location:

<https://www.michigan.gov/mshda/rental/property-managers/management-agents/am-policies-and-forms>

Chapter 8 HOME Special Rules

Part 801 :: Unit Transfers

There is technically no such thing as a unit transfer in the HOME Program. “Transfers” from one HOME unit to another HOME unit require an initial eligibility certification. All households must meet all HOME requirements, including income eligibility, at the time of “transfer”. All applications*, verifications, and certification procedures must be completed for the transferring tenants, including the execution of new income and asset verifications to determine continued eligibility for a HOME unit.

An initial certification to determine HOME eligibility is required when a household physically moves from one HOME unit (address) to another HOME unit (address). An initial eligibility certification is also required when a non-HOME household is re-designated as a HOME household, whether in the same physical unit (address) or in a new unit (address).

*Applications include the income and asset checklist, HOME student forms, etc. Management company tools such as the rental application, credit checks, landlord history, etc. are not mandated as part of the HOME initial eligibility determination.

Part 802 :: Common Area Unit

24 CFR 92.210

After project completion, the number of units designated as HOME-assisted may be reduced only in accordance with 24 CFR 92.210.

Part 92.210 applies to troubled rental housing properties in which the operating costs significantly exceed the property’s operating revenue. For such properties, the participating jurisdiction (MSHDA) may take the following action subject to HUD approval: approve the conversion of a HOME-assisted unit to an on-site manager’s (non-assisted unit) if there is a need to do so for the stability of the property and if the project contains more than the minimum number of units required to be designated as HOME–assisted.

Part 803 :: Single Room Occupancy

24 CFR 92.252(c)

Single Room Occupancy (SRO)

Single room occupancy (SRO) housing is housing (consisting of single room dwelling units) that is the primary residence of the occupant or occupants. The unit must contain either food prepa-

ration or sanitary facilities (and may contain both) if the project consists of new construction, conversion of nonresidential space or reconstruction. For acquisition or rehabilitation of an existing residential structure or hotel, neither food preparation nor sanitary facilities are required in the unit. If the units do not contain sanitary facilities, the building must contain sanitary facilities that are shared by tenants. A project's designation as an SRO cannot be inconsistent with the building's zoning and building code classification.

SRO rent limits:

- For SRO units that have both sanitary and food preparation facilities, the maximum HOME rent is based on the zero-bedroom fair market rent.
- For SRO units that have no sanitary or food preparation facilities or only one of the two, the maximum HOME rent is based on 75 percent of the zero-bedroom fair market rent.

Chapter 9 Noncompliance and Building Dispositions

Part 901 :: Noncompliance and Building Dispositions in :: HOME projects

Noncompliance issues will be communicated with the owner and/or management agent in writing and must be corrected within the period stated by MSHDA. Failure to satisfactorily correct or resolve noncompliance may result in recapture of HOME program funds and may affect the ability to participate in future MSHDA program opportunities. In addition, properties in noncompliance status may not be approved for rent increases, management fee increases, replacement reserve withdrawals, etc. until such time as the noncompliance is corrected. Non-compliant properties that also contain LIHTC may be reported to the IRS.

Part 902 :: Transfer of Ownership

All transfers of ownership of HOME projects including sales, leases, mergers and ownership entity changes must be pre-approved by MSHDA Asset Management. MSHDA Compliance must be notified of approved ownership transfers. A “Notice of Change in Ownership” must be completed and sent by email to mshdacompli@michigan.gov or by mail:

MSHDA, Compliance Monitoring
735 E Michigan Ave, P.O. Box 30044
Lansing, MI 48909