

# CHAPTER 6 – PROCEDURES AND FORMS

## Section 6A - Procedures and Forms

### Part 600 : Overview of the Compliance Monitoring Process

This Chapter of the Manual outlines MSHDA's procedures for monitoring projects funded under the LIHTC Program to ensure compliance with federal and state laws, regulations, and policies. Compliance is solely the responsibility of the Owner and is necessary to claim tax credits and to avoid recapture of credits already claimed.

Monitoring is an ongoing activity that extends throughout the tax credit compliance period. MSHDA is required by law to conduct compliance monitoring and inform the IRS of noncompliance, or an Owner's failure to certify to compliance. MSHDA will report noncompliance to the IRS no later than 45 days after the period of time allowed for correction. Notification to the IRS by MSHDA is required whether or not the noncompliance has been corrected.

The compliance records and forms discussed in this Manual are as follows:

- Alphabetical List of Compliance Forms (Part 610)
- Owner Record Keeping and Record Retention Requirements (Parts 208 and 210)
- Tenant Eligibility Certification Forms (Part 612)
- Other Forms and Documents for Certifying Tenant Eligibility (Parts 644)

Major compliance monitoring activities include:

- On-line Reporting of Tenant Data (Part 700)
- Annual Owner Certifications (Part 704)
- Tenant File Audits (Part 708)
- Physical Inspections (Part 732)

### Part 602 : The Michigan LIHTC Compliance Manual

MSHDA makes this Manual available electronically to Owners/Managers of tax credit projects. The Manual describes the compliance procedures that the Owner and Management Agent must follow. Updates will be made available by MSHDA as changes to the law and/or procedures occur.

The Manual also contains the reporting and certification forms that must be utilized and submitted to MSHDA, sample tenant eligibility forms, Section 42 of the Code and final

compliance monitoring regulations as published in the Federal Register, and other pertinent IRS notices and rulings.

The Compliance Manual is available on-line, as discussed in **Part 202** (MSHDA Website).

---

**Part 604**    **Amendments to Compliance Monitoring Procedures**

---

MSHDA issues these compliance monitoring procedures and requirements pursuant to Treasury Regulations and in accordance with MSHDA policies. These provisions may be amended by MSHDA for purposes of conforming to Treasury Regulations and/or as may otherwise be appropriate, as determined by MSHDA, HUD or the IRS. In the event of any inconsistency or conflict between this Manual and the Regulations, the provisions set forth in the Regulations control.

---

**Part 606**    **Compliance Training Workshops**

---

LIHTC and HUD 4350.3 trainers conduct compliance training workshops in Michigan periodically each year. MSHDA strongly recommends that personnel who are directly involved in the ownership or management of a project attend a comprehensive LIHTC compliance training workshop either prior to or immediately after a project is placed in service. In addition, annual participation in a LIHTC update/refresher course is highly recommended. To successfully manage complex projects with multiple funding sources, additional specialized compliance training is essential.

Training workshops provide specific information on the following low-income tenant eligibility requirements:

Income and rent limits; definitions of income and assets; certification of tenant income and assets; verification of tenant income and assets; leases; student eligibility; reporting violations of the tax credit program; and other Owner responsibilities, including notifying MSHDA of any change in management or ownership of the project.

The workshops also cover MSHDA policies and procedures for compliance reporting, MSHDA policies and procedures for tenant file reviews and physical inspections, and equal housing opportunity and fair housing regulations and policies.

Links to workshop schedules for private training companies will soon be available on the MSHDA website under Compliance for Rental Housing subpage.

---

**Part 608**    **Pre-Occupancy Conferences**

---

A pre-occupancy conference is an informational meeting between MSHDA Compliance staff, MSHDA Asset Management staff, and development Owners and Managers to discuss compliance and asset management aspects of a new or upcoming project. Among the topics

that will be discussed (where applicable) are income and rent targeting, compliance procedures such as tenant file audits and physical inspections, owner certifications, and asset management topics, including weekly marketing reports, budgets, audits, premium management fee process, escrow draws, site visits, special escrows and special conditions (such as transportation services, food, recreational activities, amenities, etc.) required for a particular project.

Pre-occupancy conferences are available to all projects upon request. For some projects, a pre-occupancy conference may be deemed mandatory by MSHDA. Pre-occupancy conferences are strongly encouraged for projects managed by companies that are new or unfamiliar with Michigan requirements. Pre-occupancy conferences are also strongly encouraged for projects that have multiple MSHDA financing sources, such as a combination of tax-exempt bonds, LIHTC, and/or HOME funding. MSHDA strongly encourages persons (such as on-site leasing staff) who will be directly involved with screening and qualifying prospective tenants to attend these meetings.

Pre-occupancy conferences should be conducted at least 30 days prior to the commencement of lease-up of a MSHDA-financed or LIHTC project. To request a pre-occupancy conference, the Owner/Management Agent should contact the MSHDA Asset Management Division (517-373-1983), or, for conventionally-financed LIHTC projects, the Compliance Monitoring Section (517-241-2560).

For related discussions, see [Part 652](#) (Soon-to-be Placed In Service Projects) and [Part 654](#) (Newly Placed in Service Projects).

---

## **Part 610    :: Alphabetical List of Forms and Documents**

---

An alphabetical list of all compliance-related forms and documents is contained within the Index of this Compliance Manual.

---

## **Part 612    :: Forms for Certifying Tenant Eligibility**

---

Sample and blank copies of each of the forms listed below are available on the MSHDA website, which is discussed in [Part 202](#).

- **Under \$5,000 Asset Certification form ([Part 322](#))** – This form must be completed by every household in which the members have a combined total of less than \$5,000 in assets and for which the value of those assets are not being verified by a third party. For more information about assets, see [Part 316](#).
- **Authorization to Release Information for Section 8 Participants (Form LIHTC 045)** – This form is used by an Owner to obtain income and asset documentation from a housing agency for current tenants or prospective residents who are participants in the Section 8 Program. For more information on qualifying Section 8 households for LIHTC units, see [Chapter 11](#).

- **Checklist – MSHDA Programs** – This form lists all of the sources of income and types of assets held by the applicant. See **Part 618** (Tenant Income Certification form).
- **Child Support Income** (**Part 380**)
- **HUD 50058 & HUD 50059 forms** (**Chapter 11**)
- **HUD 9887 and HUD 9887A forms** (**Part 634**)
- **Lease Agreement** (**Part 630**).
- **Other Forms and Documents** - For information about other forms and documents:
  - Social Security Card (**Part 638**)
  - Birth Certificate (**Part 636**)
  - Driver License/Photo ID (**Part 640**)
  - Citizenship Documentation (**Part 642**)
- **Rental Application** (**Part 614**)
- **Self-Certification of Income for 125% AMI and 150% AMI Tenants** (**Chapter 11**)
- **Student Eligibility Certification** – This form must be completed by every full-time student age 18 and over who is a member of a household residing in a LIHTC unit. This form must be completed for the initial certification and every recertification of the household. See **Part 528** for more information about students.
- **Tenant Income Certification (TIC)** – This form summarizes the household composition and income and asset amounts for a particular unit. See **Part 618**.
- **Third-Party Verification Forms for Income and Assets** (**Part 328**)
- **Zero Income Certification** – A form must be completed by every current and prospective tenant aged 18 and over and who, at initial certification or at recertification, claims to have no income. See **Part 372** (Certifying Tenants with Zero Income) for more information.

The compliance forms listed above may be recreated by computer so long as they duplicate exactly the MSHDA forms. For a related topic, see **Part 646** (Tenant/Unit File) and **Part 648** (Setting Up and Organizing the Tenant/Unit File).

---

## **Part 614**    **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, which is discussed in **Part 616**.

While MSHDA does not require the completion of a rental application or mandate the use of any particular application format for LIHTC 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 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. For additional information about students, see **Part 508** (Overview of Students).
- 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.

The information furnished on the application should be used as a tool to determine all sources of income, including total assets and income from assets. However, the Tenant Income Certification, the HUD 50058/50059 (discussed in **Chapter 11**), and the MSHDA Checklist (discussed in **Part 616**) are the only documents that are acceptable to MSHDA as certification for tenant eligibility.

For information about rental application fees, see **Part 432** (Additional Fees and Charges in LIHTC Projects).

---

**Part 616**    **Checklist**

---

After obtaining preliminary eligibility information on the rental application (discussed in **Part 614**), 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 sample copy of the MSHDA Checklist, which is the mandatory checklist for use for the LIHTC 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.

As discussed in **Part 346** (Signature Date on Certifications and Recertifications), 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 618    ::    Tenant Income Certification (TIC) form**


---

Once all income and asset information has been obtained and computed, the Owner/Management Agent must prepare a Tenant Income Certification (which is available on the MSHDA website) for each household. The TIC was formerly known as Certification of Tenant Eligibility (CTE). Michigan uses the TIC created by NCSHA Best Practices, along with a mandatory supplement. The TIC 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, as also stated in **Part 346** (Signature Date on Certifications and Recertifications).

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 tenant. If the TIC contains more than one correction or revision or is not fully legible, a new TIC must be completed and executed.



## 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(er) 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.

May 2010
Page 1 of 3



TENANT INCOME CERTIFICATION		Effective Date: _____				
<input type="checkbox"/> Initial Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Other		Move-in Date (MM/DD/YYYY)				
<b>PART I - DEVELOPMENT DATA</b>						
Property Name: _____		County: _____ BIN #: _____				
Address: _____		Unit Number: _____ # Bedrooms: _____				
<b>PART II. HOUSEHOLD COMPOSITION</b>						
HH Vbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	P/F Student (Y/N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						
<b>PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)</b>						
HH Vbr #	(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) \$		
<b>PART IV. INCOME FROM ASSETS</b>						
HH Vbr #	(F) Type of Asset	(G) OI	(H) Cash Value of Asset	(I) Annual Income from Asset		
TOTALS \$				\$		
Enter Column (H) Total				Passbook Rate		
If over \$5000				X 2.00% = (J) Imputed Income \$		
Enter the greater of the total of column I, or J, imputed income				HOUSING INCOME FROM ASSETS (K) \$		
(L) Total Annual Household Income from all Sources [Add (E) + (K)]				\$		
<b>HOUSEHOLD CERTIFICATION &amp; SIGNATURES</b>						
The information on this form will be used to determine maximum income eligibility. The data provided for each person(s) is for the purpose of acceptable verification of current and projected annual income. The undersigned hereby certifies that the information provided is true and accurate to the best of my knowledge and belief. Under penalties of perjury, I certify that the information presented in this Certification is true and accurate to the best of my knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease/lease agreement.						
Signature _____	(Date) _____	Signature _____	(Date) _____			
Signature _____	(Date) _____	Signature _____	(Date) _____			

May 2010 Page 2 of 3

<b>PART V. DETERMINATION OF INCOME ELIGIBILITY</b>		<b>RECERTIFICATION ONLY:</b>		
TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES From Item (L) on page 1	\$ _____	Household Meets Income Restriction #:	Current Income Limit: ± 140%	
Current Income Limit per Family Size:	\$ _____	<input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> _____ %	Household Income exceeds 140% at recertification: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Household Income at:	\$ _____	Household Size at Move-in:		
<b>PART VI. RENT</b>				
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:		
Maximum Rent Limit for this unit:	\$ _____	<input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> _____ %		
<b>PART VII. STUDENT STATUS</b>				
ARE ALL OCCUPANTS FULL-TIME STUDENTS? <input type="checkbox"/> yes <input type="checkbox"/> no	If yes, Enter student explanation* (see attach documentation)	Student explanation:		
		1. TANF assistance		
		2. Job Training Program		
		3. Single parent dependent child		
		4. Married/partnered		
		5. Foster Care		
<b>PART VIII. PROGRAM TYPE</b>				
Mark the program(s) listed below (a. through e.) for which the household's unit will be counted toward the property's occupancy requirements. Check each program marked indicate the household's income status as established by this certification/recertification.				
a. Title Credit <input type="checkbox"/>	b. HOME <input type="checkbox"/>	c. Title Example <input type="checkbox"/>	d. Title Bond <input type="checkbox"/>	e. (Name of Program) <input type="checkbox"/>
See Part V above.	Income Status: <input type="checkbox"/> ≤ 50% AVG/I <input type="checkbox"/> ≤ 60% AVG/I <input type="checkbox"/> ≤ 50% AVG/I <input type="checkbox"/> ≤ 60% AVG/I <input type="checkbox"/> OI**	Income Status: <input type="checkbox"/> ≤ 50% AVG/I <input type="checkbox"/> ≤ 60% AVG/I <input type="checkbox"/> ≤ 50% AVG/I <input type="checkbox"/> ≤ 60% AVG/I <input type="checkbox"/> OI**	Income Status: <input type="checkbox"/> ≤ 50% AVG/I <input type="checkbox"/> ≤ 60% AVG/I <input type="checkbox"/> ≤ 50% AVG/I <input type="checkbox"/> ≤ 60% AVG/I <input type="checkbox"/> OI**	Income Status: <input type="checkbox"/> ≤ 50% AVG/I <input type="checkbox"/> ≤ 60% AVG/I <input type="checkbox"/> ≤ 50% AVG/I <input type="checkbox"/> ≤ 60% AVG/I <input type="checkbox"/> OI**
* Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.				
<b>SIGNATURE OF OWNER REPRESENTATIVE</b>				
Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/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 620 Additional Forms for MSHDA Direct Loan Projects

This Part applies to MSHDA Direct Loan projects only.

- Pre-Application and Rental Application
- Security Deposit Letter
- Inventory Checklist
- Utility Data Release Authorization Form

For additional information about LIHTC projects that are MSHDA-financed, see [Chapter 11](#).



---

## Section 6B – Lease Agreements

---

---

### Part 622    Overview of Lease Agreements

---

All residents occupying tax credit units must be certified and under lease no later than the time of move-in. MSHDA does not require use of any particular lease form specifically for the LIHTC program. Leasing guidelines are listed below.

- A. At a minimum, the lease should include (but is not limited to):
  - 1. The legal name of all parties to the agreement and all other occupants.
  - 2. A description of the unit to be rented.
  - 3. The date the lease becomes effective.
  - 4. The term of the lease.
  - 5. The rental amount and other charges (i.e. carport, pet fee, etc.).
  - 6. The use of the premises.
  - 7. The rights and obligations of the parties, including the obligation of the tenant to certify annual (or more frequently as required) income as defined herein.
  - 8. Language that addresses income increases and decreases, utility allowance increases/decreases, family composition change or any other change and its impact on the tenant's rent.
  
- B. Rents on the LIHTC Units may not exceed the amounts allowed by Section 42 of the Code.
  
- C. There must be an initial lease term of at least six months on all tax credit units (except for housing for the homeless and single room occupancy). The six-month requirement may include free rental periods of one month or less. Succeeding leases are not subject to a minimum lease period. For a related discussion, see **Part 866** (Units Must be for Non-Transient Use).

For acquisition/rehabilitation projects, if existing tenants do not have at least six months remaining on a lease, a lease addendum extending the term to six months must be executed. Lease terms are discussed in greater detail in **Part 628**.
  
- D. It is important that the lease reflect the correct date of move-in or the date the tenant takes possession of the unit.
  
- E. The lease should include a clause obligating adults to inform the Owner/Management Agent immediately upon becoming a full-time student, and not wait until a recertification is due.
  
- F. Good Cause Terminations and Evictions are discussed in **Part 626**. The Good Cause requirement applies throughout the entire life of the LIHTC project, including during the initial 15 year compliance year and throughout the remainder of the extended use period.
  
- G. Co-signers and Guarantors – Discussed in **Part 632**.

- H. Subleasing and assignments are not permitted in LIHTC units.
- I. LIHTC leases must comply with Michigan Landlord Tenant Law and other applicable laws. For a related discussion, see [Part 570](#) (Michigan Landlord Tenant Law).

---

**Part 624    :: Recommended Lease Clauses and Addenda**

---

A list of recommended clauses and addenda is as follows:

- Tenant must provide Owner/Management Agent with all information needed for LIHTC compliance monitoring purposes. This includes annual income and asset certifications signed by the tenant, income tax returns, and W-2 statements from employers.
- The lease should give the Owner or Manager the right to terminate the lease if a tenant refuses to provide LIHTC certification information or who provides false information.
- The lease should require each tenant to sign a tenant income certification each year that identifies the household, its size, and total income.
- The lease should contain a provision that requires tenants to immediately notify management of any change in student status.
- The lease should require annual recertification by tenants as to their income and student status, and make continued occupancy contingent upon continued eligibility.
- The lease should differentiate between the base monthly rent charged for the tax credit unit and additional charges for optional amenities and services.
- The lease should prohibit the assignment or subletting of the LIHTC unit.
- The lease should explain that the landlord is permitted to evict or refuse to renew the tenants' leases only if there is Good Cause. A sample lease addendum for Good Cause Evictions is available on the MSHDA website. For additional information about Good Cause, see [Part 626](#).

---

**Part 626    :: Good Cause Requirement**

---

*IRS Revenue Ruling 2004-82, IRS Revenue Procedure 2005-37, IRC Section 42(h)(6)(E)(ii)*

**Important:** The Good Cause requirement applies throughout the entire life of the LIHTC project, including the initial 15 year compliance period and throughout the extended use period.

In accordance with the safe harbor provisions of IRS Revenue Procedure 2005-37, Owners/Management Agents are prohibited from evicting a tenant or terminating the tenancy (including non-renewal of an expiring lease agreement) of an existing tenant of any low-income unit other than for good cause. [Further, Owners/Managers are prohibited from increasing the

gross rent with respect to any low-income unit except as permitted by Section 42 of the Internal Revenue Code of 1986, as amended ("Section 42").] Under the interpretation of Section 42(h)(6)(B)(i) described in Q&A-5 of Rev. Rule 2004-82, 2004-35 I.R.B. 350, these prohibitions are applicable throughout the entire extended use period, and not just during the three-year period following a foreclosure or deed in lieu of foreclosure, as might be provided in your Low Income Housing Tax Credit Regulatory Agreement.

As part of the annual certification under Treasury Reg. 1.42-5(c)(1)(xi), during the initial compliance period and the extended use period, Owners/Managers must certify for the preceding 12-month period that no tenants in low-income units were evicted or had their tenancies terminated other than for good cause, and that no tenants had an increase in the gross rent of a low-income unit not otherwise permitted under Section 42. This certification is made via the Owner's Certification of Compliance, which is discussed in [Part 706](#) and available on the MSHDA website.

What is Good Cause? – The lease addendum discussed below provides a detailed discussion of good cause. If in dispute, the final determination regarding whether a particular incident(s) or alleged violation constitutes good cause for eviction or non-renewal of an expiring lease agreement will be made in a judicial setting. The MSHDA Office of Compliance Monitoring does not make determinations as to whether an incident or alleged lease violation constitutes good cause.

Lease Addendum - An optional addendum may be used to incorporate the prohibition against evictions without good cause. The lease addendum can also be accessed on the MSHDA website ([www.michigan.gov/mshda](http://www.michigan.gov/mshda), select "Property Managers", then "Compliance for Rental Housing", and then "Leases").

For related discussions, see [Part 570](#) (Michigan Landlord Tenant Law) and [Part 904](#) (The Three-Year Tenant Protection Period).

---

## **Part 628**    **Lease Terms and Effective Dates**

---

It is important that the lease reflect the correct date of move-in or the date the tenant takes possession of the unit. Ideally, the certification year for the household begins on the date the tenant takes possession of the unit. It is recommended that the lease be signed by all household members on the date the household takes possession or in as close proximity to that date as possible.

There must be an initial lease term of at least six months on all tax credit units (except for housing for the homeless and single room occupancy). The six-month requirement may include free rental periods of one month or less. Succeeding leases are not subject to a minimum lease period. For a related discussion, see [Part 866](#) (Units Must be for Non-Transient Use).

Existing tenants in acquisition/rehabilitation projects must have at least six months remaining on their leases at the time the household's initial LIHTC eligibility certification. If less than six months remain, then a new lease or lease addendum must be executed, with a term totaling at least six months. If another government housing program, such as Section 8 or Section 236, to which the project is subject does not permit lease addendums, then it may be necessary for the

Owner to delay claiming tax credits on some units until the minimum six month lease term requirement can be satisfied.

For related discussions, see [Section 3D](#) (Certification Effective Dates) and [Chapter 11](#) (Dates for Housing Choice Voucher Certifications).

---

**Part 630    :: Lease Agreement - Other Housing Programs**

---

Sample Leases for the MSHDA Direct Loan Programs have been created. These lease agreements are provided as samples only and are not mandatory for use. These sample leases will be available on MSHDA's website (see [Part 202](#)) in the near future.

Lease agreements for Section 8 and Section 236 projects must be in accordance with the requirements outlined in HUD 4350.3. Section 8 and Section 236 Lease Agreements are available on the MSHDA Compliance website.

The standard leases for the Rural Development, Housing Choice Voucher and Section 8 Programs are permissible for LIHTC residents. For additional information, see [Chapter 11](#) (Qualifying Tenants in Projects with Rural Development Financing), [Chapter 11](#) (Qualifying Housing Choice Voucher Participants), and [Chapter 11](#) (Qualifying Section 8 Project-Based Tenants for LIHTC Units).

---

**Part 632    :: Co-signers and Guarantors**

---

It is permissible to have a co-signer/guarantor on the lease agreement for prospective tenants who have inadequate income or poor credit. A co-signor/guarantor is an individual will not reside in the unit, but who is signing the lease solely to guarantee payment of the rent in the event the tenant defaults. The income of a co-signer or guarantor is not included as part of household income for purposes of determining LIHTC eligibility. The amount of the rent being guaranteed by the co-signer/guarantor does not have to be added to the household's income. However, gift income contributed by a non-resident on a regular basis to subsidize a tenant's rent must be included as part of household income for purposes of determining LIHTC eligibility. The incomes of all persons residing in the unit or having occupancy rights to the unit must be included as part of household income.

For example:

*Mary has applied to lease a LIHTC unit that has a rent amount of \$400.00 per month. Because she has poor credit, the Owner/Management is requiring that she have a guarantor in order to qualify to rent the unit. Richard, who will not reside with Mary in the unit, has agreed to guarantee her rent payment in the event she defaults. Richard will pay all or a portion of the monthly rent only if Mary is unable to make the rent payment herself, but, otherwise, he will not be making any regular cash contributions to Mary. Since Richard will not be residing in the unit, will not be making any regular monetary contributions to Mary and will not be paying any of Mary's household bills (such as utilities) or living expenses on a regular basis, no income from Richard needs to be*

*added to Mary's household income for LIHTC purposes. Further, the amount of rent (\$400.00) being guaranteed by Richard is not counted as part of Mary's household income because that \$400.00 amount is not anticipated to be contributed to or paid on behalf of Mary's household by Richard on a regular, recurring basis.*

Similarly, it is permissible for a **social service or charitable organization or a non-profit entity** to sign a LIHTC lease as a co-obligator or guarantor for a developmentally-disabled or special needs individual. However, it is not permissible for such an organization to be the primary lessee (leaseholder) of a LIHTC unit. LIHTC requirements mandate that the tenant be under lease and income-qualified (as well as meet any other applicable LIHTC requirements, such as student status). The individual actually occupying the unit must sign and be legally bound by the lease agreement and be certified as LIHTC eligible. (It is permissible to allow a court-recognized guardian or holder of a power of attorney to sign the lease or certification paperwork if the resident is unable to sign.)

Subletting of LIHTC units is not permissible.

For a related topic, see **Part 420** (Minimum Incomes). Other related topics include **Part 538** (Persons with Special Needs / Developmentally Disabled) and **Part 546** (Transient Persons).

---

## Section 6C – Other Documents and Forms

---

---

### Part 634     : Consent to Release Information / HUD 9887

---

A Release of Information Consent Form should be signed by each adult member of the household. The 9887 form is required only for programs covered by HUD. The form should reflect the HUD field office information on the left side and an "X" on the right side, unless MSHDA is the owner or contract administrator. When the form is used for HUD properties, it must be completed correctly. Completing the form incorrectly may be reported as non-compliance.

Use of a consent form for the LIHTC program is encouraged. However, MSHDA does not mandate use of HUD 9887 or any other particular consent form for the LIHTC program. Prior to using HUD 9887 or 9887A for the LIHTC program or for any other program than those covered by HUD, the Owner/Management Agent should review the form to determine if it is satisfactory for the particular project. The HUD 9887 contains language, such as references to HUD regulations, field offices, and public housing authorities (PHA), which may not be applicable to all projects. Instead of using a separate consent form, it is permissible to incorporate language indicating the tenant's consent as part of the verification form itself. Specifically, it is acceptable to include consent/authorization language just above the section of the verification form where the tenant signs and dates.

A copy of the HUD 9887 (Notice and Consent to Release Information) is available on the MSHDA website as a sample.

For a similar topic, see [Chapter 11](#) (Authorization to Release HUD 50058 Form).

---

### Part 636     : Birth Certificates

---

Birth certificates are one type of documentation that can be used, if needed, for verification of age, family type and membership, or citizenship. MSHDA does not require that copies of birth certificates be obtained for tenants in LIHTC units. While MSHDA does not require birth certificates for all tenants, the Owner/Manager may require them as part of its own policies and procedures.

The requirements for birth certificates for tenants in Section 8, Section 236, and other HUD-regulated programs are discussed in the HUD 4350.3. For a related discussion, see [Part 702](#) (HUD's Required Tax Credit Data Collection). For a discussion related to documenting age, see [Part 536](#) (Elderly Projects – Unique Aspects).

---

**Part 638    Social Security Cards and Numbers / Alien  
Registration Numbers**

---

The head(s) of household must disclose social security numbers or alien registration numbers as part of the certification process. The head of household/spouse/co-head must disclose social security numbers for all family members. MSHDA does not require that copies of social security cards be made and kept in the tenant/unit file, but the Owner/Management Agent must verify that the social security numbers provided are accurate.

If no social security number has been assigned to or obtained by the head(s) of household (including those persons who are not U.S. citizens), the applicant must sign a certification stating that he/she has not been assigned a social security number. MSHDA does not require that applicants and household members obtain social security cards and/or alien registration numbers as a prerequisite to residing in a LIHTC unit. The Owner/Management Agent should be aware of the requirements of other government programs regarding social security numbers and alien registration numbers.

For a related discussion, see [Part 544](#) (Citizenship/Residency Requirements).

---

**Part 640    Drivers Licenses and Pictures of Tenants**

---

Driver's licenses are one type of documentation that can be used, if needed, for verification of address, age, or family membership. MSHDA recommends, but does not require, that copies of driver's licenses, state issued photo-identification cards, and/or pictures be obtained for all occupants in LIHTC, Bonds, Pass-Through, and HOME Programs.

---

**Part 642    Citizenship Documentation**

---

For information about citizenship requirements for LIHTC projects, see [Part 544](#). The requirements for citizenship documentation for tenants in Section 8, Section 236, and other HUD Programs are discussed in the HUD 4350.3 (latest version).

---

**Part 644    Other Forms**

---

- IRS 8609 (Low-Income Housing Credit Allocation) – See [Part 112](#).
- IRS 8823, Report of Noncompliance – See [Part 1000](#).
- HUD 50058 – See [Part 1100](#).
- HUD 50059 – See [Part 1100](#).
- RD 1944-8 (Tenant Certification) – See [Part 1118](#).

Acceptable methods of verifying age are discussed in [Part 636](#) (Birth Certificates) and [Part 536](#) (Elderly Projects – Unique Aspects). An alphabetical list of all compliance-related forms and documents is contained within the Index of this Compliance Manual.



---

## Section 6D – Tenant Files

---

---

### Part 646 : The Tenant / Unit File

---

A separate tenant file must be created and maintained for each household in the project. The documentation that should be contained in the Tenant/Unit File is listed below. **Part 648** of this Compliance Manual discusses the preferred organization of the tenant/unit file.

- A. Initial Rental Application and All Interim and Annual Recertification Applications. See **Part 614** for information.
- B. Tenant Income Certification. See **Part 618**.
- C. Each adult member must complete a Checklist – MSHDA Programs (which identifies all income and assets) and sign and date it. See **Part 616** for more information.
- D. Third Party Verifications of Income and Assets. See **Part 328**.
- E. Lease Agreement and Addenda. See **Part 622**.
- F. Other Documents. This section includes, but is not limited to, any contract for optional items that the tenant pays for if not contained in the lease, such as garage or underground parking if not in base rent, and pets, etc.; documentation as to the change in the number of occupants, and income and asset certification if an additional adult moves into the unit.
- G. Applicable Housing and Financing Requirements Specific to this Unit. If other housing or financing programs govern the development, the applicable documentation reflecting compliance with its requirements should also be in the resident's file. These programs may include: Section 8, Section 236, HOME Investment Partnership, Tax Exempt Bond Financing, HUD or Rural Housing and Community Development Services (Farmer's Homes Administration).
- H. The social security number for the head(s) of household and all family members. See **Part 638** (Social Security Cards / Alien Registration Numbers) for additional information.
- I. A Consent to Release of Information Form for and signed by each adult member of the household. See **Part 634** (Consent to Release Information).
- J. Student Eligibility Certification. See **Part 528** (Student Eligibility Certification Form).
- K. If a project was funded under the Elderly Statutory Set-Aside, documentation that the tenant/household is eligible as an elderly person. See **Part 532** (LIHTC Projects for the Elderly) for information.

Note: the Status of Resident Occupancy (SRO) form is no longer used by MSHDA. All information previously contained on the SRO is now included on the TIC and the MSHDA Addendum to the TIC.



---

**Part 648    ::    Setting Up and Organizing the Tenant / Unit File**

---

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 compartments of the folder, all eligibility certification paperwork should be organized in the following manner:
  - A. A Tenant Income Certification (TIC) form or a HUD 50058 or HUD 50059 with the appropriate backup documentation or RHS 1944-8 form;
  - B. A 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 checklist for adult household member #2, etc., if applicable, followed by third party verifications;
  - E. A copy of the Asset Certification if applicable;
  - F. A copy of the Student Eligibility Certification, if applicable; and
  - G. 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-date. If the project has multiple income set-aside levels (see [Part 818](#) for more information) or different program types, such as HOME and MSHDA Tax-Exempt Bonds, the program type(s) that each household is qualified under should also be listed on the label or the files can be color-coded.

For a related discussion, see [Part 210](#) (LIHTC Record Retention Requirement for Owners).

---

## Section 6E - Fees

---

---

### Part 650 Compliance Monitoring Fees

---

*This Part applies to LIHTC projects only.*

All projects were required to pay either a lump sum up front fee for compliance monitoring or are paying annual compliance monitoring fees, as described below. Fees are subject to change.

#### **A. Lump Sum Fee**

1. All units for which an allocation of credit was made after December 31, 1992 but prior to January 1, 1997 paid the sum of \$125.00 per low-income unit, which will cover the entire monitoring period (with the exception of the physical inspection fee). All units allocated credit on or after January 1, 1997 before December 31, 2000 paid the sum of \$175.00 per low-income unit, which covers the entire monitoring period (with the exception of the physical inspection fee and post-year 15 monitoring). This sum was paid (or is payable for projects not yet placed in service) prior to the issuance of the IRS Form 8609. If the fee is not submitted, the IRS Form 8609 will not be issued by MSHDA.
2. On January 1, 2001, the following compliance monitoring fees became effective: All units for which an allocation of credit was not made by December 31, 2000 must pay the sum of \$300 per low-income unit, which will cover the entire 15 year monitoring period, including the physical inspection fee. This sum is payable prior to the issuance of the IRS Form 8609. If the fee is not submitted, the IRS Form 8609 will not be issued by MSHDA. The fee for post-year 15 monitoring is not included as part of the lump sum fee.
3. Projects that received an allocation or reservation of tax credits on or after June 8, 2008 paid or will pay a lump sum fee of \$450.00 per low-income unit, which will cover the entire 15-year monitoring period, including the physical inspection fee. This sum is payable prior to the issuance of the IRS Form 8609. If the fee is not submitted, the IRS Form 8609 will not be issued by MSHDA. The fee for post-year 15 monitoring is not included as part of the lump sum fee. This fee may be subject to change upon publication of a new Qualified Allocation Plan.

#### **B. Annual Fee**

All units that received an allocation of credit prior to January 1, 1993, and all projects financed by MSHDA that elected to make annual payments in lieu of the lump sum payment described above must submit payment equal to \$15.00 per low-income unit on an annual basis for every year of the compliance period. The \$15.00 per unit monitoring fees must be submitted for every low-income unit for which credit was claimed in a particular year. The fee must be submitted to MSHDA by February 1 of

each year of the compliance period. Failure to submit the annual fee (for projects paying on an annual basis) will be considered an act of noncompliance.

The up-front lump sum fee or the per unit annual fee (whichever is applicable to the project) must be paid for the manager/employee-occupied unit(s) if this unit(s) is being counted as a “rental unit” for purposes of determining the low income occupancy percentage for the building. If the manager/employee-occupied unit(s) is being counted as “common space”, no monitoring fee is required for this unit(s). For more information on the manager’s unit, see [Part 856](#) (Common Area Residential Unit).

### **Other Fees**

- **Utility Allowance Review Fees** – Depending on the method used to calculate the utility allowance for the project, a fee may be required, as discussed in [Part 474](#) (Additional Notes about Utility Allowances).
- **Qualified Contract Application Fee** – For information about qualified contract fees, see [Part 906](#) (Qualified Contract).
- **Fees Charged to LIHTC Resident** - For information about fees charged by an Owner/Management Agent to residents of LIHTC units, see [Part 432](#) (Other Lease Fees and Charges to Residents of LIHTC Units).
- **File Audit Noncompliance Correction Fee** – See [Part 730](#).
- **No Show Fee for Tenant File Audits** – See [Part 730](#).
- **Physical Inspection Fees** - LIHTC projects must pay a fee for physical inspections. For information about physical inspection fees, see [Part 760](#) (Physical Inspection Fees).
- **No Show Fee for Physical Inspections** – See [Part 760](#).

---

## Section 6F – Soon-to-Be and Newly Placed in Service Projects

---

---

### Part 652 : : Soon-to-Be Placed in Service LIHTC Projects

---

Owners of projects which have received a new allocation of tax credit must submit written progress reports to the MSHDA's LIHTC Allocation Section on a quarterly basis to document the progress of the construction and/or rehabilitation of the project. The Quarterly Progress Report form can be obtained on the MSHDA website. (Go to [www.michigan.gov/mshda](http://www.michigan.gov/mshda), then select "Developers and Contractors", then select "Low Income Housing Tax Credit", then select "General LIHTC Forms", and then select "Quarterly Progress Report").

Owners/Management Agents who are unfamiliar with LIHTC rules and procedures or that have complex projects may request a **Pre-occupancy Conference** (which is discussed in [Part 608](#)).

---

### Part 654 : : Newly Placed in Service LIHTC Projects

---

Placed in service dates are discussed in [Part 134](#) (Placing a LIHTC Project in Service). New projects must submit a start-up package consisting of the following:

- 1) **Certificates of Occupancy** (discussed in [Part 134](#)) must be submitted as each building becomes available, but no more than five business days after the date of issuance.
- 2) A **Contact Information Form** (discussed in [Part 216](#)).
- 3) A **Development File** should be created. The Owner/Management Agent should gather important LIHTC and compliance-related documents, as discussed in [Part 214](#) (Development File for LIHTC Projects).
- 4) A **List of Unit Numbers form** must be completed. This form is completed for each building and indicates the address, unit numbers, and the number of bedrooms and square footage contained in each unit. The List of Unit Numbers form can be obtained on the MSHDA website.
- 5) If available, a few representative **photographs**, in jpeg format, of the completed project can be e-mailed to the Compliance Section at [mshdacompliance@michigan.gov](mailto:mshdacompliance@michigan.gov).
- 6) Some MSHDA bond financed projects may be required to submit **Weekly Marketing Reports** (discussed in [Chapter 11](#)).

In addition, other important start-up information for newly placed in service projects is:

- a) Set-up for **MSHDA's On-Line Tenant Data Reporting System** (discussed in [Part 700](#)).
- b) Lump Sum Compliance **Monitoring Fee** (discussed in [Part 650](#))

- c) With Annual Compliance Certifications (discussed in [Part 704](#)), the following must be submitted:
- First Year's 8609 Forms, with Part II completed (discussed in [Part 112](#)).
  - First Year Credit Statement, discussed in [Part 144](#).
  
  - Common Area Unit Designation Forms, discussed in [Part 862](#).
- d) Initial Tenant File Audit – [Part 712](#) (File Audit Frequency)
- e) Initial Physical Inspection – [Part 736](#) (Physical Inspection Frequency)