

CHAPTER 11 – LIHTC UNITS LAYERED WITH OTHER HOUSING PROGRAMS

Section 11A – LIHTC Units Layered with Housing Choice Vouchers

Part 1100 : HCV Program Description

Housing and Community Development Act of 1987; Quality Housing and Work Responsibility Act (Public Housing Reform Act) of 1998-

The Housing Choice Voucher (HCV) program is federally funded by the United States Department of Housing and Urban Development (HUD) and is the primary resource for providing rental assistance to very low and moderate income families. The HCV program includes MSHDA's Project-Based Voucher (PBV) program which provides assistance to very low income supportive housing populations (Special Needs, Homeless, Chronically Homeless, Youth Aging out of Foster Care and Domestic Violence Survivors). The program provides rental assistance for specific housing units that are determined to be decent, safe and sanitary through the Housing Quality Standards Inspection. The HCV program requires that an assisted family pay at least 30 percent of adjusted income for rent. Project-Based contracts are awarded to owners and developers of properties through an owner proposal selection process. MSHDA currently administers approximately 24,000 HCV.

Part 1101 : HCV Initial (Move-In) Certification Documents for LIHTC Units with Housing Choice Vouchers

Housing Choice Voucher (HCV) Program Description:

The initial eligibility (move-in) certification procedures and forms that are discussed in **Part 300** of this LIHTC Compliance Manual must be completed for ALL LIHTC households, including those that are Housing Choice Voucher (HCV) participants. These procedures and forms include all of the following:

- **MSHDA Checklist** identifying all income sources and assets (mandatory form)
- **Verification** of household income and assets included on the MSHDA Checklist form (MSHDA verification form is recommended, but not mandatory)
- **MSHDA Tenant Income Certification (TIC)** (mandatory form)

The owner/agent must determine the household's income in accordance with the Section 8 guidelines outlined in the latest version of the **HUD 4350.3 Handbook**. The household's income must meet LIHTC and HCV Regulations and the unit must be rent restricted in accordance with the LIHTC and HCV program regulations and the project's MSHDA Regulatory Agreement(s). Each household must be income-qualified, rent restricted, and must meet all applicable project requirements including **household composition and demographics** (such as age restrictions for elderly projects, supportive housing requirements, etc.), and the applicable student eligibility rules, if applicable, to be eligible to reside in a LIHTC/HCV unit.

Resident (Tenant) File Requirements:

The owner/management agent must create and maintain tenant files **for each unit** with the initial (move-in) certification, appropriate verification documents, and resident eligibility forms. The file must also contain an executed **Lease Agreement** including all household members.

Tenant Data Reporting Requirements:

The owner/management agent must enter the required household data into **MSHDA's Online Tenant Data Reporting System** (see **Part 700**).

Important: Substituting the HUD 50058 form for the third-party verifications as discussed in **Part 1102** **is NOT permissible for initial (move-in) certifications of LIHTC households**, including those that are HCV participants.

Part 1102 :: Recertification of LIHTC Units with :: HCV Participants

For households with HCV certifications completed entirely, or in part, using EIV data, see Part 1105 (Important EIV (Enterprise Income Verification) System Related Information).

The MSHDA Checklist and MSHDA Tenant Income Certification are mandatory forms and must be utilized for every LIHTC household's initial (move-in) certification and recertification including LIHTC units with HCV. It is not permissible for an owner/management agent to substitute the HUD 50058 form (completed by a Public Housing Authority) for the MSHDA Checklist or the MSHDA Tenant Income Certification (TIC) form.

The HUD 50058 form (prepared by a public housing agency) may be used for **recertification** of LIHTC income eligibility in lieu of the owner/manager obtaining third-party verification of income and assets. The 50058 form and the third-party income verification procedures, outlined in **Chapter 6** of this manual, may substitute for the verification forms and process when recertifying the eligibility of Housing Choice Voucher and Section 8 certificate voucher holders **for annual recertifications**. For households with HCV certifications completed entirely, or in part, using EIV data, see Part 1105 (Important EIV (Enterprise Income Verification) System Related Information).

The owner/agent must obtain the HUD 50058 form directly from the PHA. The form should be signed by the PHA, and by the resident (mandatory).

- The HUD 50058 form with supplemental asset calculation worksheet replaces only the items outlined in paragraph one above. No other substitution of forms or certification procedures will be permitted.
- All other initial certification and recertification procedures outlined in **Part 300** (General Overview of Tenant Certification Procedures), **Part 350** (Procedures for Recertification), and throughout this manual must be followed.
- All of the annual compliance certification requirements outlined in **Part 704** must be completed and submitted to MSHDA as described.
- **LIHTC Student rules** (discussed in **Part 508**), **and HUD HCV Voucher Student Rules are applicable** to units with LIHTC and HCV participants. Both **Student Certification forms** (discussed in **Part 528**) must be executed per the LIHTC and HCV program regulations.

- All other tax credit policies, procedures, and guidelines outlined in this manual and in federal and state regulations apply to LIHTC units with Housing Choice Voucher participants, except where specifically noted as not applicable in this LIHTC Compliance Manual. Applicable rules include (but are not limited to) the Next Available Unit Rule ([Part 806](#)), Transfer Rules ([Part 848](#)), and the Vacant Unit Rule ([Part 820](#)). Compliance processes that are applicable to HCV units include (but are not limited to) physical inspections ([Part 732](#)) and tenant file audits ([Part 708](#)).

Tenant File – Contents and Organization

- The Tenant File must contain a HUD 50058 and supplemental asset worksheet for the initial certification and an updated HUD 50058 and supplemental asset worksheet for every interim and annual recertification.
- Supporting documentation (which includes copies of third-party verifications) must be obtained if deemed necessary by MSHDA to clarify a tenant file audit finding.
- The Tenant/Unit File must contain all of the other documentation outlined in [Part 646](#), including, but not limited to, a MSHDA Checklist, lease agreement, and a Student Certification form.

Summary:

Projects using the HUD 50058 (or TRACS) form in lieu of obtaining third-party documentation and completing a full TIC for LIHTC purposes have the following requirements:

1. The tenant file must contain a HUD 50058 signed and dated by the resident (head of household) and a supplemental asset worksheet. The HUD 50058 (or TRACS form) as obtained from the PHA should contain a PHA signature, if possible. However, the owner/management agent must require the tenant(s) to sign and date the form when it is received by the project. The signed and dated copy must be placed in the tenant file.
2. The tenant file must contain an executed Authorization to Release Information form, as discussed in [Part 1104](#).
3. The tenant file must contain a current and fully executed lease agreement.
4. The tenant file must contain the required LIHTC and HCV Student Certification forms.

**Sample HUD 50058 form included in [Appendix I](#).*

Part 1103 : Determining Eligibility for LIHTC units Layered with HCV

When using the HUD forms to certify LIHTC eligibility, note the following:

- Tax credit income limits are based on the **gross annual income** of a household, not adjusted annual income.
- Use the line identifying the Total Tenant Payment to compare to the maximum allowable tax credit rent. Tax credit rent limits are based on the tenant-paid portion of the rent and tenant-paid utilities (the utility allowance) and do not include any subsidy payments.

- The street address and building identification number (BIN) of the building in which the unit is located must be written or typed at the top of each form.
- The AMGI level (such as 30% AMGI, 45% AMGI, etc.) that the household is being counted toward **must be indicated at the top of the form.**

Part 1104 : Authorization to Release HUD 50058 Form

To obtain the HUD 50058 form and worksheet from the Public Housing Commission (PHA), the owner/management agent and the tenant/prospective resident should complete an ***Authorization to Release Information for Section 8 Participants*** form for the interim or annual recertification. A copy of the form is available on the MSHDA website.

By executing the Release form, the tenant is certifying that its household income and composition has not changed since last reported to the PHA.

If the HUD 50058 or updates cannot be obtained by the owner/management agent or the tenant discontinues participation in the Section 8 program, all of the initial certification and/or interim and annual recertification procedures outlined in this manual must be followed.

<p style="font-size: small;">LIHTC 045 Rev. 06/04</p> <p style="text-align: center;">Michigan State Housing Development Authority (MSHDA) LOW INCOME HOUSING TAX CREDIT PROGRAM</p> <p style="text-align: center;">AUTHORIZATION TO RELEASE INFORMATION FOR SECTION 8 PARTICIPANTS</p> <p>Housing Agency (HA) Official:</p> <p style="font-size: x-small;">The household indicated below is a current or prospective resident of the below-referenced Low Income Housing Tax Credit (LIHTC) development and has indicated that it is a participant in the Section 8 program. In order to be eligible for residence in a LIHTC unit, the household's certified income cannot exceed the applicable maximum income allowable for the county in which it will reside. This income must be verified and certain documentation included in the tenant file. The household is requesting release of the following:</p> <p>(1) HUD-50058 - Tenant Data Summary (2) Income and Asset Worksheet (or comparable form used to calculate the amount of income and assets)</p> <hr/> <p>THIS SECTION TO BE COMPLETED BY PROJECT OWNER/MANAGEMENT AGENT</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Project Name:</td> <td style="width: 40%;">Bin #:</td> </tr> <tr> <td>City/Township:</td> <td>County:</td> </tr> </table> <p>Signature of Authorized Representative _____ Date _____</p> <p>Printed Name _____ Title _____ Company _____</p> <p style="font-size: x-small;">Please send a copy of the latest HUD 50058 and Worksheet to the following address within five working days:</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div> <p>If you have questions, contact _____ at _____ telephone # _____</p> <p>THIS SECTION TO BE COMPLETED BY THE HEAD OF HOUSEHOLD</p> <p>Name of Section 8 Certificate/Voucher Holder: _____</p> <p>Social Security Number: _____ Date of Birth: _____</p> <p>Present Address: _____</p> <p>Certificate/Voucher or Case Number: _____ Telephone: _____</p> <p style="text-align: right; font-size: x-small;">Auth to Release Page 1 of 2</p>	Project Name:	Bin #:	City/Township:	County:	<p style="font-size: x-small;">The Housing Agency (HA) from which I am presently receiving assistance is (check one box only): This form should be sent to the agency selected below:</p> <table style="width: 100%; font-size: x-small;"> <tr> <td style="vertical-align: top;"> <input type="checkbox"/> Allouez <input type="checkbox"/> Alma <input type="checkbox"/> Ann Arbor <input type="checkbox"/> Baldwin <input type="checkbox"/> Baraga <input type="checkbox"/> Bath <input type="checkbox"/> Battle Creek <input type="checkbox"/> Belding <input type="checkbox"/> Benton Harbor <input type="checkbox"/> Benton Township <input type="checkbox"/> Boyne City <input type="checkbox"/> Cadillac <input type="checkbox"/> Cheboygan <input type="checkbox"/> Clinton Township <input type="checkbox"/> Coldwater <input type="checkbox"/> Dearborn <input type="checkbox"/> Dearborn Heights <input type="checkbox"/> Detroit <input type="checkbox"/> Dowagiac <input type="checkbox"/> Eastpointe <input type="checkbox"/> Elk Rapids <input type="checkbox"/> Evart <input type="checkbox"/> Ferndale <input type="checkbox"/> Flint <input type="checkbox"/> Grand Ledge </td> <td style="vertical-align: top;"> <input type="checkbox"/> Grand Rapids <input type="checkbox"/> Grayling <input type="checkbox"/> Greenville <input type="checkbox"/> Inkster <input type="checkbox"/> Ionia <input type="checkbox"/> Iron County <input type="checkbox"/> Jackson <input type="checkbox"/> Kent County <input type="checkbox"/> Lansing <input type="checkbox"/> Lapeer <input type="checkbox"/> Lincoln Park <input type="checkbox"/> Livonia <input type="checkbox"/> Luce County <input type="checkbox"/> Madison Heights <input type="checkbox"/> Manistique <input type="checkbox"/> Marquette <input type="checkbox"/> Melvindale <input type="checkbox"/> Menominee <input type="checkbox"/> MSHDA (Existing Housing) <input type="checkbox"/> Munising <input type="checkbox"/> Muskegon <input type="checkbox"/> Muskegon Heights <input type="checkbox"/> Northville <input type="checkbox"/> Plymouth </td> <td style="vertical-align: top;"> <input type="checkbox"/> Pontiac <input type="checkbox"/> Port Huron <input type="checkbox"/> Pottsville <input type="checkbox"/> Redford Township <input type="checkbox"/> Reed City <input type="checkbox"/> River Rouge <input type="checkbox"/> Rockford <input type="checkbox"/> Roseville <input type="checkbox"/> Royal Oak <input type="checkbox"/> Saginaw <input type="checkbox"/> Sault Ste. Marie <input type="checkbox"/> St. Clair <input type="checkbox"/> St. Clair Shores <input type="checkbox"/> St. Louis <input type="checkbox"/> Schoolcraft County <input type="checkbox"/> Southington <input type="checkbox"/> Sterling Heights <input type="checkbox"/> Taylor <input type="checkbox"/> Traverse City <input type="checkbox"/> Wayne <input type="checkbox"/> Wayne County <input type="checkbox"/> Westland <input type="checkbox"/> Wyoming <input type="checkbox"/> Ypsilanti </td> </tr> </table> <p>AUTHORIZATION TO RELEASE INFORMATION</p> <p style="font-size: x-small;">I, the undersigned, authorize the HA to release to the owner/management agent of the above mentioned LIHTC project or MSHDA the following information or materials deemed necessary to complete my/our application for initial occupancy or continuation of eligibility to reside in a LIHTC unit:</p> <p>(1) HUD 50058 - Tenant Data Summary (2) MSHDA-1244 - Certification/Recertification Worksheet (or comparable form used by the HA to calculate income and asset amounts) (3) Supplemental back-up documentation (i.e. third party income and asset verifications), if needed, upon the HA's receipt of a separate written request from the project owner/management agent or MSHDA.</p> <p style="font-size: x-small;">By authorizing release of this documentation, I, the undersigned, am indicating that my household's status (including composition, employment source, and income and asset amounts), projected for the upcoming twelve months, has not changed since my most recent certification by the above-referenced Housing Agency.</p> <p>Signature of Section 8 Participant _____ Date _____</p> <p>Printed Name _____</p> <p style="text-align: right; font-size: x-small;">Auth to Release Page 2 of 2</p>	<input type="checkbox"/> Allouez <input type="checkbox"/> Alma <input type="checkbox"/> Ann Arbor <input type="checkbox"/> Baldwin <input type="checkbox"/> Baraga <input type="checkbox"/> Bath <input type="checkbox"/> Battle Creek <input type="checkbox"/> Belding <input type="checkbox"/> Benton Harbor <input type="checkbox"/> Benton Township <input type="checkbox"/> Boyne City <input type="checkbox"/> Cadillac <input type="checkbox"/> Cheboygan <input type="checkbox"/> Clinton Township <input type="checkbox"/> Coldwater <input type="checkbox"/> Dearborn <input type="checkbox"/> Dearborn Heights <input type="checkbox"/> Detroit <input type="checkbox"/> Dowagiac <input type="checkbox"/> Eastpointe <input type="checkbox"/> Elk Rapids <input type="checkbox"/> Evart <input type="checkbox"/> Ferndale <input type="checkbox"/> Flint <input type="checkbox"/> Grand Ledge	<input type="checkbox"/> Grand Rapids <input type="checkbox"/> Grayling <input type="checkbox"/> Greenville <input type="checkbox"/> Inkster <input type="checkbox"/> Ionia <input type="checkbox"/> Iron County <input type="checkbox"/> Jackson <input type="checkbox"/> Kent County <input type="checkbox"/> Lansing <input type="checkbox"/> Lapeer <input type="checkbox"/> Lincoln Park <input type="checkbox"/> Livonia <input type="checkbox"/> Luce County <input type="checkbox"/> Madison Heights <input type="checkbox"/> Manistique <input type="checkbox"/> Marquette <input type="checkbox"/> Melvindale <input type="checkbox"/> Menominee <input type="checkbox"/> MSHDA (Existing Housing) <input type="checkbox"/> Munising <input type="checkbox"/> Muskegon <input type="checkbox"/> Muskegon Heights <input type="checkbox"/> Northville <input type="checkbox"/> Plymouth	<input type="checkbox"/> Pontiac <input type="checkbox"/> Port Huron <input type="checkbox"/> Pottsville <input type="checkbox"/> Redford Township <input type="checkbox"/> Reed City <input type="checkbox"/> River Rouge <input type="checkbox"/> Rockford <input type="checkbox"/> Roseville <input type="checkbox"/> Royal Oak <input type="checkbox"/> Saginaw <input type="checkbox"/> Sault Ste. 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Note: Some PHAs charge a small fee for providing copies of the 50058 forms.

The LIHTC development owner/agent must comply with the PHA's requirements with regard to certification and recertification dates. Failure to comply with the HCV program certification, recertification, and lease requirements may be deemed discrimination against a HCV participant, which is impermissible for LIHTC projects. For LIHTC/HCV projects that utilize a software system to generate the TIC forms, it may be necessary to work with the software vendor to update or modify the software to comply with the HCV certification/recertification date requirements.

Certification and Recertification Dates

The Housing Choice Voucher Guidebook (7420.10g) and HUD Handbook 4350.3 contain the rules regarding income qualifications, recertification (reexamination), and rent change dates for participants. These dates might be based on any of the following:

- The anniversary date of the HAP contract; or
- Twelve (12) months from the date of initial verification.

Lease Dates for LIHTC/HCV Units:

The LIHTC/HCV project owner/agent must execute a lease (or lease addendum) that satisfies the HCV Program requirements. See examples below:

- (1) *Jill moved in to Happy Villas, an LIHTC project, on January 15, 2008. Her lease term at Happy Villas is from January 15, 2008 until January 14, 2009. She later applies for HCV assistance and is approved for it to begin on April 1, 2008. The HCV Program requires that a new lease be executed for Jill for April 1, 2008 to March 31, 2009. Happy Villas must execute a new lease (or lease addendum if acceptable to the HCV Program) with the appropriate lease terms. Further, Happy Villas must use a lease form that is acceptable to or required by the HCV Program.*
- (2) *George is a HCV participant and moves into Pleasant Village, a newly constructed LIHTC project, on January 15, 2008. Pleasant Village executes a lease with George with a term of January 15, 2008 through January 14, 2009. The HCV Program requires an inspection prior to the execution of an HCV lease and the inspection is not scheduled until February 1, 2008. After the inspection, HCV requires that George have a lease term of February 1, 2008 through January 31, 2009. Pleasant Village must execute a lease (or lease addendum if acceptable to the HCV Program) utilizing the required form in order to comply with the requirements of the HCV program.*

Part 1106	• EIV (Enterprise Income Verification System) • Important Information
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EIV information must be used per HCV regulations, but **cannot be used for the LIHTC program for any purpose**. As stated in the communication entitled “RHIIP Listserv #95 - EIV System Related Information” (see text below) that was issued by HUD on April 8, 2008, income and asset information obtained from the Enterprise Income Verification (EIV) system **CANNOT** be used to certify LIHTC eligibility. Until such time as the Department of Treasury/IRS obtains approval to utilize EIV data, LIHTC project owners/agents cannot use EIV data for LIHTC purposes. Therefore, the initial certification procedures (discussed in **Part 300**) and recertification procedures (discussed in **Part 348**), both of which include full third-party verification of all income and assets, as well as the MSHDA Checklist and MSHDA Tenant Income Certification (TIC) forms, must be completed by the owner/agent for all tenants in LIHTC units, including HCV and Section 8 participants. [Note: The option to use the HUD 50058 as discussed in **Part 1102** is not applicable if the source of the information contained on that form was EIV data.]

RHIIP (Rental Housing Integrity Improvement Project) Listserv #95 states the following:

SHARING OF EIV DATA WITH OTHER AGENCIES PROHIBITED

“Official use does not include O/As using the EIV data for certifying tenants under the Low Income Housing Tax Credit (LIHTC) or Rural Housing Services (RHS) Section 515 programs since neither the Internal Revenue Service (IRS) nor RHS are a party to the computer matching agreements the Department has with the Department of Health and Human Services (HHS) and with the Social Security Administration (SSA). The fact that there is financing through other federal agencies involved in a particular property under one of the authorized HUD programs does not permit that federal agency to use or view information from the EIV system for certifying tenants for their programs or for monitoring purposes”.

Part 1107	• LIHTC Units with HCV or Section 8 Project-Based Assistance – Additional Compliance Manual References
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In addition to the topics discussed in this Section of the Michigan LIHTC Compliance Manual, other discussions related to Section 8 and HCV participants are as follows:

- **Part 542** (Section 8 Participants – Discrimination is Prohibited)
- **Part 448** (Utility Allowances for HUD projects)
- **Part 476** (Section 8 / HCV / Rental Assistance)
- **Part 384** (Part II of the HUD Student Rule: Student Financial Assistance in Excess of Tuition)

Section 11B – LIHTC Units Layered with Project-Based Section 8 or Section 236 Assistance

This Section focuses qualifying residents of projects that have combined the LIHTC program with Project-Based Section 8 financing (sometimes referred to as “Core”, or traditional Section 8 properties) or LIHTC with Section 236 assistance. Unless otherwise specified in this Section, all LIHTC rules, regulations, policies and procedures apply to these projects. Section 8 and Section 236 projects that do not have LIHTC must follow all of the applicable guidelines outlined in the HUD 4350.3.

Part 1108 : Initial (Move-In) Certifications for LIHTC Units : with Project-Based Section 8 Assistance

The initial eligibility (move-in) certification procedures and forms that are discussed in **Part 300** of this LIHTC Compliance Manual must be completed for ALL LIHTC households, including those that are assisted with Project-Based Section 8, or Section 236 funding. These procedures and forms include all of the following:

- **MSHDA Checklist** identifying all income sources and assets (mandatory form)
- **Verification** of household income and assets included on the MSHDA Checklist form (MSHDA verification form is recommended, but not mandatory)
- **MSHDA Tenant Income Certification (TIC)** (mandatory form)

The owner/agent must determine the household’s income in accordance with the Section 8 guidelines outlined in the latest version of the **HUD 4350.3 Handbook**. The household’s income must meet LIHTC and HCV Regulations and the unit must be rent restricted in accordance with the LIHTC and HCV program regulations and the project’s MSHDA Regulatory Agreement(s). Each household must be income-qualified, rent restricted, and must meet all applicable project requirements including **household composition and demographics** (such as age restrictions for elderly projects, supportive housing requirements, etc.) and the applicable student eligibility rules, if applicable, to be eligible to reside in a LIHTC/HCV unit.

Resident (Tenant) File Requirements:

The owner/management agent must create and maintain tenant files **for each unit** with the initial (move-in) certification and appropriate verification documents and resident eligibility forms. The file must also contain an executed **Lease Agreement** including all household members.

Tenant Data Reporting Requirements:

The owner/management agent must also enter the required household data into **MSHDA’s Online Tenant Data Reporting System** (see **Part 700**).

Part 1109	: Recertifications for LIHTC Units with Project- : Based Section 8 or Section 236 Assistance
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This Part does not apply to households whose eligibility certification was completed entirely or in part using EIV data.

The **HUD 50059** can be used in conjunction with, but not in place of the mandatory MSHDA Checklist and Tenant Income Certification (TIC) forms. Other required documents, including third-party verification of income and assets, must be obtained and kept in the unit file.

The MSHDA Checklist and MSHDA Tenant Income Certification are mandatory forms and must be utilized for every initial (move-in) certification and recertification. It is not permissible for an owner/management agent to substitute the HUD 50059 form (completed by a Public Housing Authority) for the MSHDA Checklist or the MSHDA Tenant Income Certification (TIC) form.

As discussed in **Part 1102**, the HUD 50059 can be used in lieu of obtaining third party verifications if the HUD 50059 was obtained from a PHA. The information contained on the HUD 50059 must be transferred to a MSHDA Tenant Income Certification form. If the HUD 50059 form was prepared in-house (by the owner/management agent or the on-site leasing staff), copies of the appropriate third-party verifications and other back-up documentation must be contained in the tenant file.

Section 11C – LIHTC Layered with Bonds or Other MSHDA Direct Loans

Part 1110 : LIHTC Units with Tax-Exempt Bonds

The MSHDA Direct Loan Programs (also termed “Authority-Financed” or “MSHDA-Financed”) include programs financed by MSHDA using tax-exempt bonds. MSHDA Tax-Exempt bond programs include the following programs: One Percent (1%), 70/30, 80/20, TEAM, and HOME Team Advantage Program.

In addition to the MSHDA Direct Loan Programs listed above, most Pass-Through projects are also financed with tax-exempt bonds. While the Pass-Through Program is a Tax-Exempt bond program, and thus subject to regulations promulgated in IRC 142(d), it is not a MSHDA Direct Loan Program.

Compliance requirements for multi-family bond projects are outlined in Sections 103 and 142 of the Internal Revenue Code. MSHDA also has additional requirements for tax-exempt and taxable bond projects that are specified in the MSHDA Act (Public Act 346 of 1966 as amended), the Program Statement for each type of funding, the Mortgage Loan Commitment Report, Management Plan, and the Regulatory Agreement and MSHDA’s Multifamily Direct lending Parameters. Many of the MSHDA Direct Loan projects also have an allocation of tax credits, HOME funding, and/or a rent subsidy, and thus rules for those funding sources may also be applicable to the project.

Part 1111 : LIHTC Units with Taxable Bonds

The Taxable Bond Program was created in 1989 and is a MSHDA Direct Loan Program financed with taxable (instead of tax-exempt) bonds. The Taxable Bond Program is used in conjunction with the LIHTC program and a typical project limits household income for 20% of the units to 50% AMI (Area Median Income), with the household income of the remaining 80% of the units limited to 60% AMI. Loans made under this program typically have a 35-year maturity term.

Part 1112 : Program Compliance Requirements for LIHTC Units with MSHDA Direct Loans (Summary Only)

Program Compliance requirements for LIHTC units with MSHDA Direct Loan funding consist of the following:

- Tenant Eligibility Certification Process (see Chapter 3)
- Income limits and Rent Restrictions (see Chapter 4)

- Tenant Demographics and Household Composition (see Chapter 5)
- Compliance Procedures and Forms (see Chapter 6)
- Tenant Income and Rent Data Reporting via MSHDA's On-Line Tenant Data Reporting System (COL) (see Part 700)
- On-Site Tenant File Audits (see Chapter 7)
- On-Site Physical Inspections (see Chapter 7)

Students – Tax-Exempt projects must comply with the same student rules as LIHTC (discussed in **Part 508**). Taxable bond projects that have LIHTC must also comply with LIHTC student rules.

Part 1113 : Similar Program Compliance Requirements for : LIHTC Units with Tax-Exempt Bonds

This Part applies to MSHDA Direct Loan Programs that are financed with tax-exempt bonds only. It also applies to the Modified Pass-Through Program and the Pass-Through Bond Short-term Pilot Program, which are financed with tax-exempt bonds. This Part does not apply to the Taxable Bond Program.

The compliance rules and regulations for a multi-family bond project are similar to tax credit regulations. The primary **differences** are as follows:

- The Under \$5,000 Asset Certification form (**Part 324**), which can be used for LIHTC recertifications (but not for new move-ins or initial certifications), **cannot** be used in bond projects to verify assets under \$5,000.
- A letter from a public housing authority may not be used to establish the income eligibility of a household residing in a bond unit. The full eligibility certification (checklist, third-party income and asset verifications, TIC form, etc.) is required for all households, including those with housing choice vouchers and Section 8 assistance.
- The qualified project period begins on the first day 10% of the residential units are occupied.
- The Compliance Period generally ends the later of when the bonds or mortgage are paid off or the date specified in the Regulatory Agreement. The loan term for bonds projects is typically 30 years or more.
- MSHDA tax-exempt bond projects are not permitted to eliminate annual recertifications.
- Rental restrictions for MSHDA Direct Loan projects (including those financed with tax-exempt bonds) must be pre-approved by MSHDA's Asset Management Division. See **Part 436** for more information.
- The rent limit for some elderly projects financed with MSHDA Direct Loans is based on 1 person per bedroom (see **Part 424**).

**Part 1114 : Additional Requirements for LIHTC Units with
: MSHDA Direct Loans**

This Part applies to all MSHDA Direct Loan Programs, including those financed with tax-exempt bonds and taxable bonds. It does not apply to Pass-through projects.

The following is a summary of program compliance requirements for MSHDA Direct Loan projects (includes tax-exempt and taxable bond programs):

- MSHDA has adopted the Section 8 income definition (as outlined in the HUD Handbook 4350.3) for all of its direct loan programs, including tax-exempt bond projects and taxable bond projects.
- Pre-approval of rent is required – The amount of rent charged to tenants and any rent changes must be pre-approved by MSHDA's Asset Management Division prior to implementing (**See Part 436**).
- Pre-approval of special fees assessed to residents is required for MSHDA Direct Loan projects. Fees are discussed further in **Part 432**.
- Utility Allowances - In general, IRS regulations for bond projects do not specify rent restrictions or utility allowances. However, MSHDA-administered direct loan programs have rent restrictions and utility allowances requirements. Utility allowances for MSHDA Direct Loan Projects must be approved by MSHDA's Asset Management Division.
- Management Agents for Direct Loan projects must be pre-approved by the MSHDA's Asset Management Division. In addition, MSHDA has established requirements for the management agreement, management agent changes, and premium management fees,
- Ownership Changes / Selling Developments – Must be pre-approved by MSHDA.
- Physical Condition Standard - UPCS Plus (discussed in **Part 734**).

**Part 1115 : Asset Management Requirements for
: MSHDA Direct Loan Projects**

This Part applies to all MSHDA Direct Loan Programs, including those financed with tax-exempt bonds and taxable bonds (Section 8, Section 236, Tax-Exempt Bonds, Taxable Bonds, HOME, etc.).

Summary of MSHDA Direct Loan Project Requirements:

- Weekly Marketing Reports (for newly placed in service projects)
- Affirmative Fair Housing Marketing Plan
- Tenant Selection Criteria
- Waiting Lists
- Lease Agreements
- House Rules

- Pet Rules
- Annual Budget submissions
- Annual Utility Allowances
- Annual Owner's Certification of Continuing Program Compliance(LIHTC, HOME and Pass-through Projects)
- Ownership Changes/Development Sales
- Physical Condition Standards
- Record Retention requirements

For information about the topics discussed in this Part and other requirements for MSHDA Direct Loan Projects, the owner/agent should contact MSHDA's Asset Management Division at (517) 373-1973.

Section 11D – LIHTC Units Layered with Pass-Through Bond Financing

Part 1116 : LIHTC Units with Pass-Through Bonds

Section 44(c)-45 of the MSHDA Act, Public Acts 215 of 1984

The Pass-Through bond program was created with the enactment of Act 215 of Public Acts of 1984, which authorized the Authority to issue notes and bonds which are not general obligations of the Authority and which are not backed by the moral obligation of the State. The notes or bonds are “limited obligations” of the Authority with the security limited to the assets of the borrower, the project itself, and the credit enhancement arranged by the borrower. If the Authority determines that a loan proposed under this program is reasonably secure, PA 215 states that the review of the credit enhancement takes the place of the Authority’s normal underwriting and feasibility review. The program has been described as a “pass through program”.

“80/20 Pass-Through” projects are projects that were funded prior to the enactment of the Tax Reform Act of 1986, thus the minimum set-aside for these projects is 20% of the total units in the project restricted to persons with incomes at 80% of area median income or below (20% @ 80%). These projects are sometimes referred to as. Regular Pass-Through projects do not typically have LIHTC.

Annual Certification Requirements for LIHTC Projects with Pass-Through Funding

Pass-Through project owners must annually certify compliance with program regulations to MSHDA in accordance with Section 32(14) of the MSHDA Public Act.

Part 1117 : LIHTC Projects with Modified Pass-Through Bonds

Section 44c of P.A. 346 of 1966

The “Modified Pass Through” program uses state tax-exempt bond volume cap for the issuance of limited obligation bonds which are credit-enhanced by a third-party. The use of 4% Housing Tax Credit is required, and the underwriting standards of that program are applicable. The Modified Pass Through program is sometimes referred to as a “conduit” financing and is not a direct lending program. Section 44c of P.A. 346 of 1966, as amended, allows MSHDA to issue up to \$400 million of tax-exempt bonds to finance multifamily housing.

Some Pass-Through projects are financed with tax-exempt bonds. While the Pass-Through Program is a tax-exempt bond program and thus subject to regulations promulgated in IRC 142(d), it is not a MSHDA Direct Loan Program. Tax credit projects financed under the Modified Pass-through program must also follow the LIHTC regulations in addition to tax-exempt bond regulations.

The Annual Certification requirements that are discussed for Pass-Through projects in **Part 1116** also apply to Modified Pass-Through projects.

**Part 1118 : LIHTC Projects with Modified Pass-Through
: Bonds or Short Term Bonds (Pilot Program)**

MSHDA created the Pass-Through Short Term Bond Pilot Program in 2012, which is sometimes referred to as the Modified Pass-Through Program. The Short Term Bond Pass-Through Pilot Program Statement, however, modified the Modified Pass-Through Program to provide bond volume cap for funding that utilizes the pass-through bonds to finance the construction of the projects.

These projects are required to maintain income and rent restrictions targeting either:

- (i) 40% of the units for households whose income is at or below 60% of area median income, or
- (ii) 20% of the units for households whose income is at or below 50% of area median income.

The income and rent restrictions must remain in place for the longer of the “qualified project period” of the bonds, as defined in the Internal Revenue Code, or the extended use period of the LIHTC.

**Part 1119 : Compliance Requirements for LIHTC Projects
: with Pass-Through Bonds**

LIHTC Projects with Bond and MSHDA-Direct Loan financing have similar compliance requirements as those financed with Pass-Through with exceptions as noted in [Part 1113](#) and [Part 1114](#) and [Part 1115](#).

Students – Pass-through projects that are financed with tax-exempt bonds must comply with the same student rules as LIHTC (discussed in [Part 508](#)).

Section 11E – LIHTC Projects Layered with Rural Housing Funds

This Section of the Michigan LIHTC Compliance Manual is intended only to provide a general overview of federal and state laws as they apply to LIHTC projects that have RHS financing. It is not intended as a complete guide for Rural Development projects. Owners and managers of Rural Housing projects should consult with their legal counsel to determine which federal and state laws, including Fair Housing laws, are applicable to their particular Rural Development projects and how best to comply with those laws.

Part 1120 : Program Description

7 CFR Part 3560; Handbook HB-2-3560; www.rd.usda.gov

The United States Department of Agriculture (USDA) Rural Development (RD) administers several Multi-Family housing programs. The purpose of the Multi-Family Housing programs is to provide adequate, affordable, decent, safe, and sanitary rental units for very low-, low-, and moderate-income households in rural areas. USDA also offers rental assistance to help eligible rural residents with their monthly rental costs.

Part 1121 : Initial (Move-In) Certifications for LIHTC Units : with Rural Housing Financing

The initial (move-in) certification procedures and forms discussed in **Part 300** of this LIHTC Compliance Manual must be completed for all LIHTC households including those that are assisted with Rural Housing Services (RHS) funding. These procedures and forms include, but are not limited to the following:

- **MSHDA Checklist** identifying all income sources and assets (mandatory form)
- **Verification** of household income and assets included on the MSHDA Checklist form (MSHDA verification form is recommended, but not mandatory)
- **MSHDA Tenant Income Certification (TIC)** (mandatory form)

RHS requires completion of the RD 3560-8 form, however, it is NOT permissible to substitute this form for the MSHDA Checklist, or the MSHDA TIC form for the initial (move-in) certification (or recertification) of LIHTC households.

The owner/agent must determine the household's income in accordance with RHS regulations and the HCV guidelines outlined in the latest version of the **HUD 4350.3 Handbook**. The household's income must meet both LIHTC and RHS Regulations and units must be rent restricted in accordance with both the LIHTC and RHS program regulations, and the project's

MSHDA Regulatory Agreement(s). Each household must be income-qualified, rent restricted, and must meet all applicable project requirements including **household composition and demographics** (such as age restrictions for elderly projects, supportive housing requirements, etc.) and the applicable student eligibility rules, if applicable, to be eligible to reside in a LIHTC/RHS unit.

Resident (Tenant) File Requirements:

The owner/management agent must create and maintain tenant files **for each unit** with the initial (move-in) certification forms and the appropriate verification documents and resident eligibility forms. The file must also contain an executed **Lease Agreement** including all household members.

Tenant Data Reporting Requirements:

The owner/management agent must also enter the required household data into **MSHDA's Online Tenant Data Reporting System** (see **Part 700**).

**Part 1122 : Qualifying Households in LIHTC Projects with
: Rural Housing Financing**

An owner/management agent of a project financed by the Rural Housing Services (RHS) must utilize the RHS Tenant Certification (RD 3560-8, formerly RD 1944-8) form to document eligibility for all households. All LIHTC households must also complete a MSHDA Checklist, and Tenant Income Certification (TIC) form.

The substitution of RD 3560-8 will be valid only with the following attachments / modifications:

- 1) A worksheet calculating net family assets, detailing:
 - For each type of asset, the following information:
 - Type of asset (cash, real estate property, stocks, etc.)
 - Cash value of the asset
 - Actual yearly income from the asset
 - The combined total cash value of all assets
 - The combined total actual yearly income from all assets.
 - For households with assets with a total cash value exceeding \$5,000, the imputed income from assets is based on the HUD approved passbook rate
- 2) The following information written or typed at the top of the RD 3560-8:
 - The number of bedrooms in the unit;
 - The street address and BIN number of the building in which the unit is located
 - The AMGI percent level that the household is being counted toward; and
 - The date the tenant moved in to the particular unit

The RD 3560-8 is required by Rural Housing Services, but this form and RHS procedure does not replace MSHDA's form requirements and procedures. It is not permissible to substitute RD forms for the MSHDA Checklist or TIC form.

- The MSHDA Checklist form is a mandatory form and must be completed. All other initial certification and recertification procedures outlined in **Parts 300 and 350** and throughout this manual must be followed.
- Third-party verification of all income and assets is required.
- All annual certification requirements (outlined in **Part 704**) apply.
- All other tax credit policies and guidelines outlined in this manual and in federal and state regulations apply to RHS projects.
- A Student Eligibility Certification form must be completed.

RHS Tenant Certification Form (RD 3560-8)

USDA-RURAL HOUSING SERVICE TENANT CERTIFICATION									
Form RD 3560-8 (Rev. 08-11)					Form Approved OMB No. 0575-0110				
1. Effective Date MM DD YY		2. Project Name		3. Borrower ID and Project Number	4. Unit Type		5. Unit Number		
<p>WARNING STATEMENT: Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."</p> <p>STATEMENT REQUIRED BY THE PRIVACY ACT: Title V of the Housing Act of 1949 authorizes RHS to collect the information on this form. Your disclosure of the information is voluntary. However, failure to disclose certain information may delay the processing of your eligibility or rejection. RHS will not deny eligibility if you refuse to disclose your Social Security Number.</p> <p>This information is collected principally to determine eligibility for occupancy and to determine your tenant contribution for rent. However, the information collected may be related to appropriate Federal, State and Local Agencies, credit bureaus and servicing agencies when relevant to civil, criminal or regulatory proceedings or to enforce regulations by manual or automated verification procedures.</p> <p>Report any monetary agency up to the nearest dollar at .60 and above.</p>									
<p>HOUSEHOLD INFORMATION</p> <p>6. Tenant Subsidy Code (enter code)</p> <p>7. Social Security No.</p> <p>8. Household Member Name (Last, First and Middle Initial)</p> <p>9. Sex 10. Date of Birth MM DD YY</p> <p>11. Race 12. Education</p> <p>13. Marital Status (Check one)</p> <p>14. Elderly, Disabled or Handicapped (Check one)</p> <p>15. New Family Assets (NOTE: If Line 15 is less than \$5,000, enter zero on Line 16)</p> <p>16. Income from Assets (Bank Passbook Savings Rate *) x Line 15</p> <p>17. Income from Assets</p>									
<p>PART III-ASSET INCOME</p> <p>18. Income</p> <p>19. Adjustments to Income</p> <p>20. Adjusted Annual Income (Line 18, minus Line 19)</p>									
<p>PART IV-INCOME CALCULATIONS</p> <p>21. Number of Household Members</p> <p>22. Current Eligibility Income Level (Enter Code)</p> <p>23. Date of Initial Project Entry MM DD YY</p> <p>24. Eligibility Income Level at Initial Project Entry (Enter Code)</p>									
<p>PART V-CERTIFICATION BY TENANT</p> <p>I certify and acknowledge that I, the Agency, provide the information on this form for my benefit based on information or financial information provided to this tenant certification. I will not release the Agency for the unauthorized amount. If I do not, the Agency may use all remedies available to collect it, including those under the Debt Collection Act to recover on the Federal debt directly from me. In accordance with the requirements of the Privacy Act of 1974, which protects my confidential records from unauthorized release, I authorize the Agency to release information collected on this form to appropriate Agencies for income verification purposes.</p> <p>a. Date: MM DD YY</p> <p>b. Tenant Signature</p> <p>c. Date: MM DD YY</p> <p>d. Co-Tenant Signature</p>									
<p>PART VII- PRELIMINARY CALCULATIONS</p> <p>25. Adjusted Monthly Income (Line 20 ÷ 12)</p> <p>26. Monthly Income (Line 18 ÷ 12)</p> <p>27. Designated Monthly Welfare Shelter Payment</p> <p>28. Highest of Line 25 b., Line 26 b., or Line 27</p> <p>29. Gross Basic Rent</p> <p>a. Basic Rent</p> <p>b. Utility Allowance</p> <p>c. (Line 29 a. + Line 29 b.)</p> <p>30. Gross Net Rate Rent</p> <p>a. Net Rate Rent</p> <p>b. Utility Allowance</p> <p>c. (Line 30 a. + Line 30 b.)</p>									
<p>PART VIII-DETERMINING GROSS TENANT CONTRIBUTION (GTC)</p> <p>Decisions (check one)</p> <p>A. If tenant receives rental assistance (RA) enter Line 28 on Line 31 below. If Line 28 exceeds Line 29, c., go to Decision B since this Tenant will not receive RA.</p> <p>B. If tenant does not receive RA and this project receives Plan I Interest Credit, enter the greater of Line 28 or Line 29, c., (but not to exceed Line 30, c.) on Line 31 below.</p> <p>C. If tenant does not receive RA and this project is a Plan I, Full Profit or Labor Housing project complete Lines C.1, thru C.3, and enter Line C.3 on Line 31.</p> <p>1. Enter Line 30, c.</p> <p>2. Add Plan I surcharge (if any)</p> <p>3. Total (enter on Line 31)</p>									
<p>PART IX-DETERMINING NET TENANT CONTRIBUTION (NTC)</p> <p>31. GTC (From PART VIII)</p> <p>32. Utility Allowance (Line 29 b. or Line 30 b.)</p> <p>33. Final NTC (Line 31 minus Line 32)</p> <p>(Amount Tenant pays Borrower for rent. If Line 33 is negative, Borrower pays the difference to Tenant for utilities.)</p>									
<p>PART X-CERTIFICATION BY BORROWER</p> <p>I certify that the information on this form has been verified as required by federal law and the tenant household</p> <p>is eligible to live in the unit, or has been granted ineligible occupancy by RHS.</p> <p>a. Date Signed MM DD YY</p> <p>b. Signature of Borrower or Borrower's Representative</p>									

Part 1123 : RHS Income Limits, Rent Restrictions, and Utility Allowances

Tax credit income limits are based on a household's **gross annual income**, not adjusted annual income. Use line 18F from the RD 3560-8 to compare to the appropriate area median gross income limit as adjusted for household size.

Tax credit rents are based on the tenant-paid portion of the rent and tenant-paid utilities and do not include any subsidy payments.

from Part 446	Utility Allowances for LIHTC Projects with RHS Funding (Method #1)
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This method is available only to LIHTC projects with RHS-funding.

RHS-Assisted Buildings: If a project, building, or unit receives assistance from RHS, such as a mortgage or Section 515 financing, the building is considered an RHS-assisted building. The applicable utility allowance for all rent-restricted units in the RHS-assisted building is the RHS utility allowance. The owner/agent must contact Rural Housing to obtain the annual utility allowances for each unit type (i.e. 1 bedroom, 2 bedroom, etc.).

The applicable utility allowance for all rent-restricted units in the building is the current RHS utility allowance, regardless of whether or not the building also receives other state or federal assistance.

Tenants receiving RHS Rental Assistance – If any household receives RHS rental assistance payments, the owner/agent must utilize the applicable RHS utility allowance for the entire building, including any units occupied by residents receiving HUD rental assistance payments and including tenants in the building who do not receive RHS rental assistance.

from Part 478	RHS Rental Assistance and Rent Overages
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IRC Section 42(g)(2)(B)(iv)

Owners/managers of LIHTC projects with RHS assistance must be aware that the rules for RHS (formerly called Farmers Home) and those of the LIHTC Program differ somewhat. Those differences could result in calculating proper RHS rents but incorrect LIHTC rents. The following example appeared in a USDA memorandum dated July 21, 1995:

In a project where the tax credit rent is equal to or greater than the basic rent, a previously eligible tenant's household income increases beyond the tax credit rent. In this case, the tenant may or may not have previously received rental assistance or Section 8. EXAMPLE: One bedroom apartment: Basic rent - \$250. Tax Credit Rent \$300. Only one co-tenant works. Household pays \$200/month and rental assistance pays \$50. Household is both RHS and LIHTC eligible. Second co-tenant goes to work causing the household rent to go to \$350.

The new rent level exceeds both basic and tax credit rent. Overage is \$100 due. Tax Credit rent limitations require that the owner charge tenants no more than \$300, which causes a shortage of \$50 per month in overage due RHS. The owner is therefore accountable for this shortage if the project was placed in service prior to January 1, 1991. For projects placed in service on or after January 1, 1991, the owner is allowed to collect the overage due from the tenant to the extent such that the owner pays an equivalent amount to RHS under Section 515. The tenant cannot be required to move based on tax credit ineligibility.

Part 1124 : Effective Date of LIHTC Units with RHS Certifications

LIHTC Projects with Rural Development financing may use the certification effective date in accordance with the rules for the Rural Development program, which state, in part, the following:

- *“The effective date of an initial or updated tenant certification form will always be a first day of the month.”* [HB-2-3560 (02-24-05, p. 6-38)]
- *“The effective date of the tenant’s recertification is the first day of the month following the expiration of the current certification.”* [HB-2-3560 (02-24-05, p. 6-37)]
- *“In order for a certification to be valid, it must be signed and dated by all parties on or before the effective date and maintained in the tenant file.”* [HB-2-3560 (02-24-05, p. 6-39).]

Part 1125 : Compare/Contrast RHS and LIHTC Program Compliance Regulations

- Handbooks - RHS uses its eligibility handbook (Handbook 3560) while LIHTC, Bonds, and HOME use the HUD 4350.3 Guidebook. Handbook 3560 is similar to the 4350.3. RD uses the same guidelines as HUD 4350.3 for the definition of income (24 CFR 5.609) and assets (24 CFR 5.611).
- Interim Certifications - RHS requires interim certifications while LIHTC, Bonds, and HOME do not. RHS considers interims as annual recertifications due to the required full verifications (third-party). A RD interim changes the annual certification due date.
- Students - RD uses the HUD Student Rule. Households residing in LIHTC units that have RHS funding must comply with both the HUD Student Rule and the LIHTC Student Rule.

Part 1126 :: Student Rules – LIHTC and RHS

LIHTC Student Rules (discussed in **Part 508**) are applicable to RHS tenants that are residing in LIHTC units. The LIHTC Student Eligibility Certification form must be completed.

RD Student Rule – RHS uses the HUD Section 8 Rule for determining student eligibility and student household income.

RD projects that have LIHTC must comply with both the LIHTC student rule and the HUD Section 8 student rule.

**Part 1127 :: Physical Condition Standards and Inspections of
LIHTC Projects with RHS**

**from :: Physical Inspections of Rural Development
Part 768 :: Projects**

RHS projects, including those with LIHTC, must comply with the RHS physical inspection standards and guidelines. The RHS inspection report is used by MSHDA to satisfy LIHTC physical inspection requirements. MSHDA reserves the right to inspect RHS developments with LIHTC due to changes in RHS policy, or for any reason.

All other tax credit rules, regulations, policies and guidelines, outlined in this manual and in federal and state regulations, apply to RHS projects, unless specifically indicated.

For additional information about Rural Housing Services projects, see the United States Department of Agriculture (USDA) websites and www.rurdev.usda.gov/RHS.

Section 11F – Section 1602 Program

Part 1128 : Section 1602 Program Description

The 1602 Program is also known as the 9% Tax Credit Exchange Program (TCEP)

Under Section 1602 of the American Recovery and Reinvestment Act of 2009 (“Section 1602”), State housing credit agencies are eligible to receive Section 1602 Grants to States for Low-income Housing Projects in Lieu of Low-income Housing Credits under Section 42 of the Internal Revenue Code (the Code) for 2009. Section 1602 appropriated funds for grants to states to finance construction or acquisition and rehabilitation of qualified low-income buildings for low-income. The Department of Treasury awarded Section 1602 grants to State housing credit agencies in an amount equal to their low-income housing grant election amount. The funds were used to facilitate the production of projects that were awarded low-income housing tax credits in “fiscal years” 2007, 2008 and 2009, which could not be completed because they could not obtain equity funding.

The Michigan State Housing Development Authority (MSHDA) performs asset management and monitors program compliance for projects developed using 1602 funds.

For additional information about the 1602 Program, see the following:

- U.S. Department of Treasury’s American Recovery and Reinvestment website at <http://www.treasury.gov/recovery/LIH-grants.shtml>.
- MSHDA website at www.michigan.gov/mshda.

Part 1129 : Section 1602 Program Compliance Monitoring

1602 Program Compliance regulations are similar to LIHTC Program Compliance regulations. Developments utilizing 1602 funds are required to comply with all requirements of Section 42 of the Code, which includes, but is not limited to, reporting requirements, income eligibility and rent restrictions, LIHTC student rules, etc. Income and rent restrictions and compliance monitoring activities are the same for 1602 funded projects as they are for all LIHTC projects. The project owner/agent shall not refuse to lease a 1602 unit to a voucher or certificate eligible under Section 8 of the United States Housing Act of 1937 solely because of the prospective household’s status as a voucher recipient.

- 1) Summary of program compliance requirements under MSHDA Asset Management Policies:
- 2) Section 1602 projects must have a written, MSHDA pre-approved Tenant Selection Plan before lease-up.
- 3) Preference for Occupancy – The MSHDA Regulatory Agreement may allow a preference. For example, the agreement may state that among low income or moderate in-

come persons, preference shall be given to the elderly, and persons displaced by urban renewal, slum clearance, or other governmental action, etc.

- 4) Lease Requirements – As stated in the MSHDA Regulatory Agreement
- 5) Property Sales and/or Transfers of Ownership – Per the MSHDA Regulatory Agreement, MSHDA pre-approval of a property sale or transfer of ownership is required.
- 6) Affirmative Fair Housing Marketing Plan (AFHMP) – Per MSHDA Regulatory Agreement requirements, an AFHM Plan is required.
- 7) Students – Section 1602 projects must comply with the LIHTC Student Rule (see **Part 508**). Section 1602 projects that have HOME or other HUD financing may also be required to comply with the HUD Student Rule (see **Part 530**).

Part 1130 Section 1602 Program – Funding Documents

Owners and managers of Section 1602 projects should consult and thoroughly review each of the project's Regulatory Agreements, Mortgage Documents, and other applicable documents for information about 1602/Tax Credit Exchange Program (CEP) Program and project-specific requirements, including (but not limited to) the following topics:

- (1) Occupancy Qualifications based on Income
- (2) Rental Restrictions
- (3) Agreements & Covenants Running with the Land
 - To enforce the 1602 requirements throughout the Compliance Period, a restrictive covenant (Land Use Restriction Agreement (“LURA”) and/or Regulatory Agreement) will be filed with the Recorder of Deeds in the county in which the development is located. This is also termed an “extended low-income housing commitment”, which is binding on the Owner and all successors in interest to the building in the Project.
- (4) Asset Management, including fees and budget requirements
- (5) Program Income
- (6) Recapture and other consequences of noncompliance

Part 1131 Section 1602 Program – Compliance Period

Developments utilizing 1602 funds are subject to a minimum compliance period of 30 years.

Waiver of Opt Out of the Program – 1602 funded projects are prohibited from participating in the Qualified Contract process set forth in the Internal Revenue Code.

Section 11G – Tax Credit Assistance Program (TCAP)

Part 1132	⋮ Tax Credit Assistance Program (TCAP) Program Description
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The American Recovery and Reinvestment Act (ARRA) of 2009, PL 111-5 was signed into law on February 17, 2009. ARRA appropriated \$2.25 billion under the HOME Investment Partnerships (HOME) Program for a grant program to provide funds for capital investments in Low-Income Housing Tax Credit (LIHTC) projects.

For additional information about the TCAP Program, see the following:

- The official HUD TCAP Page - <http://portal.hud.gov/portal/page/portal/HUD/recovery>
- MSHDA website at www.michigan.gov/mshda, then type “TCAP” in the search box.

Part 1133	⋮ TCAP – Program Compliance Requirements
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Awards of ARRA resources were subject to the following program compliance terms and conditions:

1. Projects will be held to all commitments made in their original LIHTC application, unless a change was otherwise approved by MSHDA.
2. Projects are subject to LIHTC regulations, including but not limited to, income limits, rent restrictions, tenant eligibility certification procedures, physical inspections, file audits, annual compliance certifications, student restrictions, etc. as required under IRC Section 42 and its implementing regulations.
 - Students - TCAP projects must comply with the LIHTC student rule (**Part 508**). TCAP projects that have HOME or other HUD financing may also be required to comply with the HUD Student Rule (**Part 530**).

As stated previously, the compliance monitoring requirements for TCAP projects are primarily the same as the LIHTC program, with the following differences:

- Michigan TCAP projects must have a written MSHDA-approved Tenant Selection Plan. Tenant Selection Plans are highly recommended for LIHTC projects (as a best practice) but are not mandatory.
- TCAP funds meet the definition of “federal financing”, while housing tax credits are not considered to be federal funds. Therefore, the impact and requirements of the Fair Housing, Anti-Discrimination, Reasonable Accommodations, and other federal laws discussed in **Part 566** may differ accordingly.

Part 1134 :: TCAP Income Limits, Rent Restrictions, & Utility Allowances

Income Limits – All TCAP Projects use the income limits for Multifamily Tax Subsidy Projects (MTSP) and National Nonmetropolitan Median Income (for projects located in rural areas, as discussed in [Part 410](#)).

Maximum Gross Rent – TCAP projects use the LIHTC income and rent limits.

- 1) TCAP project rent limits are based on the number of bedrooms in the unit, as discussed in [Part 426](#).
- 2) TCAP projects use an “eligible cost” calculation, which is similar to that of “eligible basis” for LIHTC projects. The limits on additional fees charged to tenants for TCAP Projects are the same as for LIHTC projects (See [Part 432](#)).

Utility Allowances

A utility allowance must be included as part of gross rent for TCAP projects. TCAP projects follow the same utility allowance requirements as for LIHTC (See [Part 438](#)).

Part 1135 :: TCAP – Federal Fund Requirements

TCAP funds are federal financial assistance which is subject to the following requirements applicable to such funds.

- Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100 Regulations at 24 CFR Part 107 (Equal Opportunity in Housing).
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR Part 1.
- The Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146 “Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance.”
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8 “Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development.”
- The Lead-Based Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992 and implementing regulations at 24 CFR Part 35 are applicable to housing that receives Federal assistance.
- National Environmental Policy Act
- The Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq., as implemented at 24 CFR Part 21 “Government-Wide Requirements for Drug-Free Workplace (Grants”).)
- Affirmatively Furthering Fair Housing - Each TCAP project must have a current affirmative fair housing marketing plan. Each project owner will be required to follow its plan when marketing TCAP units. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market to the available

housing without regard to race, color, national origin, sex, religion, familial status, or disability.

Part 1136 TCAP – Funding Documents

Owners and managers of TCAP projects should consult and thoroughly review the project's Regulatory Agreement, Mortgage Documents, and other applicable documents for information about TCAP Program and project-specific requirements, including (but not limited to) the following topics:

- Occupancy Qualifications based on Income Limits
- Rent Restrictions
- Regulatory Agreement requirements (Covenants Running with the Land)
- Asset Management policies apply (including fees and budget requirements)
- Program Income
- Recapture and other consequences of noncompliance

Section 11H – Neighborhood Stabilization Program (NSP)

Part 1137 :: NSP Program Overview

The Neighborhood Stabilization Program (NSP) was established for the purpose of stabilizing communities that have suffered from foreclosures and abandonment. Through the purchase and redevelopment of foreclosed and abandoned homes and residential properties, the goal of the program is being realized. Initially authorized and funded by Congress in The Housing and Economic Recovery Act of 2008, the program was continued through the Wall Street Reform and Consumer Protection Act of 2010.

Eligible Uses - NSP funds may be used for activities which include, but are not limited to:

- Establish financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties;
- Purchase and rehabilitate homes and residential properties abandoned or foreclosed;
- Establish land banks for foreclosed homes;
- Demolish blighted structures;
- Redevelop demolished or vacant properties

NSP1: NSP funds authorized under Division B, Title III of the Housing and Economic Recovery Act (HERA) of 2008, which provides grants to all states and selected local governments on a formula basis.

NSP2: NSP funds authorized under the American Recovery and Reinvestment Act (the Recovery Act) of 2009, provides grants to states, local governments, nonprofits, and a consortium of nonprofit entities on a competitive basis. The Recovery Act also authorized HUD to establish NSP-TA, a \$50 million allocation made available to national and local technical assistance providers to support NSP grantees.

NSP3: NSP funds authorized under the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) of 2010, provides a third round of neighborhood stabilization grants to all states and select governments on a formula basis.

Part 1138 :: Affordability Period for NSP Projects

NSP projects have a MSHDA **Regulatory Agreement** (also known as the land use restriction agreement (LURA), or deed restriction) that specifies the project's affordability period (compliance period) in accordance with NSP regulations and MSHDA requirements.

NSP-assisted units have rent and occupancy restrictions depending on the average amount of NSP funds invested per unit and length of affordability as set forth in the Affordability Chart below. Throughout the affordability period, the NSP-assisted housing must be occupied by in-

come-eligible households. Affordability restrictions commence on the effective date of the Certificate of Occupancy or the rehabilitation completion date, whichever is earliest. Project owners must comply with NSP rent restrictions throughout the affordability period, regardless of whether or not there is a transfer of ownership.

NSP Affordability Period Chart

NSP Assistance Per Unit	Minimum Period of Affordability in Years
Under \$15,000	5
\$15,000 - \$40,000	10
Over \$40,000	15
New Construction	20
Refinancing of a rehabilitation rental project	15 years

All MSHDA NSP projects have either a 15 or a 20 year Affordability Period.

Part 1139 :: NSP Program Resident Eligibility Requirements

Determination of Household Income

- The Part 5 annual income (Section 8) method, as detailed in the HUD Handbook 4350.3, is the only method that is permitted for determining annual gross income.
- The Census Long Form and the IRS 1040 adjusted gross income definition are not used for Michigan NSP projects.

Procedures for Determining Tenant Eligibility

- The initial certification and recertification procedures outlined in **Part 300** (General Overview of Tenant Certification Procedures) and **Part 350** (Procedures for Recertification) of this Compliance Manual are applicable to NSP projects.
- MSHDA requires full annual recertifications, including third party verification of all income and assets, for all NSP households.

Students

- The NSP program does not have a student eligibility requirement. Student requirements will be based on the requirements mandated by other sources of funding i.e. LIHTC (see **Part 508**), HOME (see **Part 530**), etc.

Part 1140 :: NSP Income Limits – Section 8 Limits

NSP-funded rental projects must use Section 8 Income Limits. All NSP-funded projects must meet a national objective of providing housing to households with low/moderate/middle income, defined as **120% or less of area median income (AMI)**, at initial occupancy. In addition, 25% of NSP assisted units funded by MSHDA must be reserved for households at or below **50% AMI**. **Section 8 Income Limits** at initial occupancy. The agreement between MSHDA and the sub-

recipient/developer will specify the number of units required to be set aside for households at 120% and at 50% AMI Section 8 Income Limits.

- In general, NSP1 projects must be rent and income restricted under 50% AMI Section 8 Income Limits, unless otherwise indicated in the MSHDA NSP Regulatory Agreement.
- NSP2 and NSP3 projects are, in general, rent and income restricted at 120% AMI Section 8 Income or below, unless otherwise indicated in the MSHDA NSP Regulatory Agreement.

NSP projects that have other government funding, such as LIHTC or HOME, may be required to comply with additional or lower AMI levels mandated by those programs.

The method recognized by MSHDA for calculating eligible income under the NSP program is known as the “Part 5” annual income method, which is also used in HUD’s Section 8 and HOME programs.

Over-Income Unit Rule and Vacant Unit Rules for NSP Projects

As of this time, there are no over-income requirements similar to the LIHTC program’s Next Available Unit Rule or the LIHTC program’s Vacant Unit Rule that are mandated for MSHDA NSP projects. An NSP household that is initially qualified as a 50% AMI household remains qualified at that AMI-income level despite a subsequent change or increase in its annual income. NSP projects are encouraged to lease any available or vacant unit to a household at or below 50% AMI in situations in which another NSP unit is currently occupied by a household whose income has increased to an amount substantially over the 50% AMI level. NSP projects must continuously ensure that the project has the mandated number of NSP-eligible households occupying its units. Annual eligibility recertifications, including full third party verification of income and assets, are required for all NSP households.

Part 1141 :: NSP Rent Restrictions and Utility Allowances

The rent restrictions for NSP-funded projects vary based on funding source(s). This differs from the NSP income limits, which are always based on Section 8 limits. The required rent limit for a project is indicated in the NSP Regulatory Agreement. Possible rent designations for NSP units are as follows:

- Low HOME
- High HOME
- 50% Multifamily Tax Subsidy Project (MTSP)
- 60% MTSP
- 100% Section 8 (no Utility Allowance)
- 100% MTSP (no Utility Allowance)
- 120% Section 8
- 120% MTSP

Housing Choice Vouchers

NSP-funded rental units may be occupied by households with a Housing Choice Voucher, also known as a Section 8 certificate. However, the rents must remain in compliance with NSP requirements and MSHDA NSP staff must approve initial rents and on-going rent changes. This means, for example, that the rent for a unit designated for occupancy by a very-low income household, shall not be set at, and the owner shall not collect, the “Fair Market Rent” which HUD has published for the location. MSHDA will monitor NSP rents on a regular basis, and will report approved NSP rents to the appropriate field office.

Utility Allowances

The maximum allowable rent for NSP units must include an allowance for utilities, unless otherwise specified in the MSHDA Regulatory Agreement. In general, NSP projects restricted to 100% AMI typically do not have a utility allowance. All other AMI rent levels will have a utility allowance requirement. If required, utility allowances must be pre-approved by MSHDA’s Asset Management Division for each NSP project.

Part 1142 : Monitoring Compliance of the NSP Program

NSP is a component of the Community Development Block Grant (CDBG) Program. The CDBG regulatory structure is the platform used to implement NSP and the HOME program and provides a safe harbor for NSP affordability requirements.

- Tenant File Audits are conducted at least once every 36 months. At least 20% of the tenant files will be selected for audit.
- Physical Condition Standards and Inspections – NSP projects must be maintained in accordance with UPCS standards. Physical Inspections are conducted at least once every 36 months. At least 20% of the units will be randomly selected for inspection.
- Tenant Data Reporting – Tenant data must be entered into MSHDA’s On-Line Tenant Data Reporting System known as Certification on Line (COL) **(See Part 700)**.
- Annual Owner Compliance Certifications – On an annual basis and due by March 1 of each calendar year, every NSP project must submit the items listed below to MSHDA. Each of these forms is available on the MSHDA website and are discussed further in **Part 1143**.
 - Annual Owner Certification of Continuing Program Compliance form
 - A Resident Fees form
 - Utility Allowance Documentation form
 - Notice of Change in Management form (if applicable)
 - Notice of Change in Ownership form (if applicable)
 - NSP Rent and Occupancy Report

<p>Vacant Units</p> <p>8. If a HOME unit in the project 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.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>Physical Condition</p> <p>9. Each unit and building in the project is, as of date of execution of this certification and for the entire period covered by this certification, suitable for occupancy taking into account State and local codes, ordinances, requirements and HUD's Uniform Physical Condition Standards (UPCS).</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, state nature of violation and describe any corrective action that has been taken or is planned: _____</p> <p>Lead-based Paint</p> <p>10. All tenants have signed the "Lead Based Paint" form and have been given a copy.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No, due to the following exemption(s): <input type="checkbox"/> None of the buildings or portions of the buildings in the development were constructed prior to January 1, 1978. (See 35.86 "Target Housing".) <input type="checkbox"/> All buildings on the property have been certified Lead-based paint free and appropriate test reports and certification have been or will be provided to MSHDA. <input type="checkbox"/> All units are 0-bedroom units (See 35.86 "Target Housing" and "0-bedroom dwelling"). <input type="checkbox"/> This is a HUD Elderly development and no child of less than 6 years of age resides or is expected to reside in any unit. <input type="checkbox"/> The development is designated exclusively for persons with disabilities and no child of less than 6 years of age resides or is expected to reside in any unit. <input type="checkbox"/> Other reason as follows: _____</p> <p>(For the above exemptions please see Title 24: Housing and Urban Development, PART 35 -- LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES 35.82 "Scope and Applicability" and 35.86 Definitions, "Housing for the Elderly", "Target housing", and "0-bedroom dwelling".)</p> <p>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.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain if different from the reason(s) given in Item 10 above: _____</p> <p>General Public Use and non-Transient Use</p> <p>12. All HOME units in the project are and have been for use by the general public and used on a non-transient basis.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain and/or describe the project's target population: _____</p> <p style="font-size: small; margin-top: 20px;">HOME and/or NSP Annual Owner Certification Michigan State Housing Development Authority</p>	<p>Comparable Basis – Tenant Facilities</p> <p>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 in the project are provided on a comparable basis to all tenants (including HOME-assisted and non-HOME-assisted) in the development.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>Lease Agreement</p> <p>14. The lease term for all HOME-assisted units is at least one year and each lease contains all of the provisions required by the HOME Program, and does not include any prohibited provisions.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>Tenant Selection Criteria</p> <p>15. The owner/management has adopted and utilizes written tenant selection policies that:</p> <ul style="list-style-type: none"> • 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 rejections. <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>Supportive Housing Services / Special Needs</p> <p>16. All required special needs units designated in the HOME Regulatory Agreement (or similar document) have been rented to tenants with special needs.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____ <input type="checkbox"/> Not Applicable.</p> <p>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 stipulated in the HOME Regulatory Agreement (or similar document), these supportive services were made available by contract with a local service provider.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____ <input type="checkbox"/> Not Applicable.</p> <p>Evictions</p> <p>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.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p style="font-size: small; margin-top: 20px;">HOME and/or NSP Annual Owner Certification Michigan State Housing Development Authority</p>
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<p>Discrimination Against Section 8/Housing Choice Vouchers</p> <p>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.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>Affirmative Fair Housing Marketing Plan</p> <p>20. An up-to-date Affirmative Fair Housing Marketing Plan (AFHMP) is on file (and available for viewing by interested parties) at the development.</p> <p><input type="checkbox"/> Yes. Indicate the date of the last up-date: _____ <input type="checkbox"/> No. If no, explain: _____</p> <p>21. The AFHMP has been reviewed by the Owner and has been found to be effective in soliciting persons.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>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.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>Fair Housing and Reasonable Accommodations / Handicap-Accessibility</p> <p>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:</p> <ul style="list-style-type: none"> • 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; and • Section 3 of the Housing and Urban Development Act of 1968. <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>24. The project has complied with the Violence Against Women Act (VAWA), which provides protections for residents and applicants who are victims of domestic violence, dating violence or stalking, and any other situation or incidence mandated by VAWA. Compliance requirements mandated by VAWA include, but are not limited to, honoring civil protection orders, eviction protection and bifurcation of lease when necessary.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. Explain: _____</p> <p>Change in Management/Ownership</p> <p>25. There has been no change in the management of the project during this Certification Period.</p> <p><input type="checkbox"/> Yes, no change. <input type="checkbox"/> No (There has been a change). If "No", a Notice of Change in Management Agent form must be completed and submitted to MSHDA with this Annual Certification form.</p> <p>26. There has been no change in the ownership of the project during this Certification Period.</p> <p><input type="checkbox"/> Yes, no change. <input type="checkbox"/> No (There has been a change). If no, the owner must complete the Notice of Change in Ownership form and submitted it to MSHDA with this HOME Annual Certification form.</p> <p style="font-size: small; margin-top: 20px;">HOME and/or NSP Annual Owner Certification Michigan State Housing Development Authority</p>	<p>Record Keeping</p> <p>27. The Owner is maintaining 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 certifications are retained in the file until the household vacates a unit.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. Describe: _____</p> <p>28. 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 31 of the reporting year.</p> <p><input type="checkbox"/> Yes. <input type="checkbox"/> No. If no, explain: _____</p> <p>Other Compliance Requirements</p> <p>29. Does the project have any other government funding and/or income, rent or leasing restrictions, other than the MSHDA HOME funds and its requirements?</p> <p><input type="checkbox"/> No. <input type="checkbox"/> Yes. Describe: _____</p> <p>Note: Failure to complete this form in its entirety will result in noncompliance with HOME program requirements.</p> <p>The undersigned, having entered into a loan or grant agreement pursuant to the applicable provisions of the "HOME Investment Partnership Act" ("HOME"), does hereby certify that the housing project is in continuing compliance with the HOME Regulatory Agreement (or similar document) and any other applicable compliance requirements. This Certification and any attachments are made UNDER PENALTY OF PERJURY.</p> <p>(Ownership Entity)</p> <p>Signature By: _____</p> <p>Printed Name: _____ (Name of Authorized Representative of Ownership Entity*)</p> <p>Title: _____ Date: _____</p> <p>* No individual other than an owner or general partner of the project is permitted to sign this form, unless authorized by the owner (documentation of owner authorization must be attached).</p> <p style="font-size: small; margin-top: 20px;">HOME and/or NSP Annual Owner Certification Michigan State Housing Development Authority</p>
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NSP funds are federal financial assistance and are therefore subject to the federal requirements. Project owners agree to comply with all of these federal requirements when signing the NSP Award Agreement and/or Loan Agreement, as well as through submission of the Annual Rental Compliance Report (see Section 4 of this manual).

- Office of Management and Budget Circular A-133. The project owner agrees to obtain an annual audit in accordance with OMB Circular A-133 within 9 months of the end of the Project audit period. A copy of the report of such audit shall be supplied to MSHDA on an annual basis.
- Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR Part 100 and the regulations at 24 CFR Part 107 (Equal Opportunity in Housing). "Prohibits discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin."
- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR Part 1. "Nondiscrimination on the grounds of race, color, or national origin in HUD programs or activities receiving federal financial assistance."
- Title VIII of the Civil Rights Act of 1968 (FHA). "Nondiscrimination in housing on grounds of race, color, national origin, religion, sex, familial status, and handicap."
- The Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146. "Nondiscrimination on the basis of age in programs or activities receiving federal financial assistance."
- Elliott Larsen Civil Rights Act - Prohibits employers consisting of one or more employees, both public and private, employment agencies and 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.
- Affirmatively Furthering Fair Housing - Project owners must establish and follow an affirmative fair housing marketing plan when marketing units, utilizing the Affirmative Fair Housing Marketing Plan (HUD-935.2). Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.

- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (“Section 504”) and implementing regulations at 24 CFR Part 8 - “Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development.”
- Section 109 of Title I of the Housing and Community Development Act of 1974; Architectural Barriers Act of 1968; and 24 CFR Part 100, Subpart D - Accessibility design and construction requirements of the Fair Housing Act.
- Tenant Rights, Relocation, and Uniform Relocation Act and Real Property Acquisition Policies Act (URA). [49 CFR Part 24 and HUD Handbook 1378]
- Limited English Proficiency - NSP Grantees must “take reasonable steps” to ensure that limited English proficiency (“LEP”) persons have meaningful access to programs services and information funded through their NSP Grant. “Taking reasonable steps” includes, but is not limited to the following:

The Grantee must ensure that program information is available in the appropriate languages for the geographic area served by the jurisdiction by complying at all times with the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons published in the January 22, 2007 Federal Register.

- Equal Access to Housing Regardless of Sexual Orientation (HUD 2012 Final Rule) - 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.
- Discrimination Against Section 8 and Housing Choice Voucher participants is prohibited.

This Michigan HOME Compliance Manual is intended only to provide a general overview of federal and state laws that may be applicable to NSP projects. This list of applicable federal and state laws may not be complete. Owners and managers of NSP projects should consult with their legal counsel to determine which federal and state laws, including Fair Housing laws, are applicable to their particular NSP 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 1145 : NSP Tenant Selection and Affirmative Fair Housing Marketing Plans

Tenant Selection Plan - identifies the property owner's plan for qualification of tenants, income eligibility and certification procedures, and maintenance of waiting list.

Affirmative Fair Housing Marketing Plan – identifies planned efforts of the owner to market units to residents “least likely to apply”, including minorities, families, and persons with disabilities.

These plans must be completed and submitted to the MSHDA Asset Management Division for pre-approval prior to leasing NSP units.

*Tenant Selection Plans for MSHDA HOME and NSP 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
- 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 newborns.

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 accessed 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 to transfer for below reasons
- Family Size
- Change in Family Composition
- Deeper Subsidy (applicable if not 100% section 8)
- Medical Reason(s)
- 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 NSP program does not have a student eligibility requirement. Student requirements will be based on the requirements mandated by other sources of funding; i.e. LIHTC, HOME, etc.

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 (except Eligibility of Students)*

Part 1146 : Record Retention for NSP Projects

NSP Grantees are responsible for retention of the following records for a minimum of five (5) years from the date of the grant close-out following of the NSP Project.

- financial
- supporting documents
- statistics
- environmental reviews
- other records pertaining to the project

Section 11I – Preservation Projects

Part 1147 : Preservation Projects – Certifying Initial : LIHTC Eligibility

This Part discusses the procedures for certifying the LIHTC-eligibility of tenants residing in existing HUD Section 8, Section 236, and Rural Housing (RHS) Preservation projects that become newly placed in service as LIHTC projects. [This Part provides supplemental information specific to preservation projects, which is in addition to the guidelines for determining the first year of the credit period for projects with multiple government housing financing programs as discussed in Part 142 (First Year of the Credit Period – Multiple Government Programs). Other related topics are the guidelines for determining the placed in service date, which are discussed in Part 134 (Placing an LIHTC Building in Service), and the guidelines for determining the First Credit Year, which are discussed in Part 140 (First Year of Credit Period – Acquisition / Rehabilitation Projects).]

Sometimes existing housing developments financed under a government program are re-financed to preserve their affordability by adding an allocation of tax credits to the existing government funding (such as HUD Section 8, Section 236, or RD). In these situations, there may be current residents that live at the site who already have a schedule for their annual recertification pursuant to the other government housing program. However, to meet the LIHTC initial eligibility certification requirements, the owner/management agent must perform a special certification to ascertain LIHTC-eligibility. If the last certification was completed less than 120 days prior to the desired date of initial LIHTC, the third-party verifications may be used to determine LIHTC eligibility. If the most recent certification was completed more than 120 days prior to the desired LIHTC eligibility date, then a separate Tenant Income Certification and new third-party verifications are required to determine LIHTC eligibility. This certification must be completed in accordance with the requirements discussed in Part 300 (General Overview of Tenant Certification Procedures), including the completion of a Tenant Income Certification (TIC) form, checklist, third-party verification of income and assets, and a Student Certification form. For example:

ABC Apartments was constructed in 1983 as a HUD Section 8 project. The Smith household moved into ABC Apartments on October 1, 1995 and continues to reside there. In accordance with HUD Section 8 program requirements, the household's annual recertification date is October 1 of each year, with the most recent recertification completed on October 1, 2008.

ABC Apartments received an allocation of tax credits and will be placed in service as an LIHTC project in May 2009. In order to be able to claim tax credits on the unit that the Smith household resides in, the Smith household must be certified as LIHTC eligible within 120 days of the LIHTC placed in service date (May 2009). The household's most recent Section 8 certification completed on October 1, 2008 and no interim recertification for Section 8 has been triggered (i.e., no change in household composition or income). However, it has been more than 120 days since the last Section 8 certification was completed, the October 2008 certification will not satisfy LIHTC requirements. Therefore, the

owner/management agent must complete a separate, full Tenant Income Certification with new third-party verifications (in accordance with the guidelines outlined in [Part 300](#)) to meet LIHTC requirements.

Note the following:

- 1) Follow regular schedule thereafter - When adding LIHTC to a property, MSHDA does not require a change in the certification schedule or reporting requirements for other government housing programs. After an initial eligibility certification for LIHTC purposes is completed, the household's annual certification requirements can remain the same as it was under the RHS, Section 8, or Section 236 program. LIHTC requires only that a household be recertified at least once during every 12 months period. As discussed in [Part 360](#) (Interim Recertifications), the LIHTC program does not require interim certifications.
 - a. *In the example above, the Smith household's October 2009 Section 8 certification will meet the LIHTC requirement that households be recertified at least annually. MSHDA does not require that a separate LIHTC annual recertification be completed in May 2010.*
- 2) Alternative - As an alternative to completing the May 2009 LIHTC certification, the owner can elect to not claim tax credits on the unit until October 1, 2009 when the regularly scheduled Section 8 certification is conducted.
- 3) Lease Term – There must be at least six months remaining on the lease at the time the household is certified as LIHTC eligible. If less than six months remain on the lease on the effective date of the household's initial LIHTC eligibility certification, it may be necessary to execute a lease addendum to cover the six month LIHTC requirement. If the other government program, such as Section 8 or Section 236, 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. Leases are discussed in [Part 628](#).
- 4) Housing Choice Voucher participants – Follow the certification guidelines discussed in [Section 11A](#) (Qualifying HCV and Section 8 Participants), [Parts 1101 – 1109](#).
- 5) Placed in Service Requirements – For information about soon-to-be-placed in service projects, see [Part 652](#). For information about newly placed in service projects, see [Part 654](#).
- 6) Second Allocations of Tax Credits – Discussed in [Chapter 1](#).

For related topics, see the following:

[Part 346](#) (Move-in Dates and Effective Dates of Initial Certifications)

[Part 350](#) (Signature Dates on Initial Certifications and Recertifications)

Section 236 projects which have undergone preservation and/or decoupling are still required to meet the Section 236 Program requirements. For information about Section 236 Preservation, see HUD's website for the most current regulations, policies, and procedures.

For a related discussion about new, second allocations of LIHTC, see Chapter 1.

Section 11J - 125% AMGI and 150% AMGI Residents

Part 1149 : Tenants Occupying 125% AMGI and 150% AMGI Units

MSHDA Act 125.1444 and 125.1444(c)

This Part applies only to certain bond projects and certain Pass-Through projects. This Part does not apply to LIHTC units since units designated as "LIHTC-eligible" must be income and rent restricted at less than 60% AMGI (or lower depending on the requirements for the particular LIHTC project). Some LIHTC projects that are combined with certain tax-exempt financing and that have an applicable fraction of less than 100% may, however, contain some non-LIHTC designated units that are occupied by persons at 80% AMGI, 125% AMGI, or 150% AMGI.

Some MSHDA-administered housing programs require that a certain portion of the units be occupied by persons at 125% Area Median Gross Income (AMGI) and/or 150% AMGI or by elderly persons (regardless of income level). These MSHDA-administered programs include the 70/30 Tax-Exempt Bond program, the TEAM program, and the Pass-Through Program. The Regulatory Agreement will indicate if targeting persons at 125% AMGI and/or 150% AMGI is required.

Following is a generalized overview of the minimum income targeting requirements of projects that are required to target persons at 125% AMGI and/or 150% AMGI:

MSHDA Direct Loan Projects (MSHDA Act 125.1444)

1. Financed May 1, 1984 - November 1, 1987
 - A. Located in a Non-distressed Area
 - At least 20% @ 80% AMGI
 - At least 60% @ 125% AMGI
 - Not more than 20% unrestricted.
 - B. Located in an Eligible Distressed Area
 - At least 20% @ 80% AMGI
 - At least 60% @ 150% AMGI
 - No more than 20% unrestricted
2. Financed November 1, 1987 and thereafter
 - A. Located in a Non-distressed Area
 - Minimum set-side of 20% @ 50% or 40% @ 60%
 - B. Located in an Eligible Distressed Area
 - Minimum set-aside of 20% @ 50% or 40% @ 60%

Pass-Through Projects (MSHDA Act 125.1444(c))

1. Financed on May 1, 1984 – November 1, 1987, located in a non-distressed area
 - At least 20% @ 80% AMGI
 - 15% or more @ 125% AMGI or to the elderly
 - 15% or more @ 150% AMGI or to the elderly
2. Financed November 1, 1987 and thereafter
 - 20% @ 80%, 80% unrestricted
 - No 125% AMGI or 150% AMGI requirement

**Part 1150 : Certifying Resident Eligibility for
125% AMGI and 150% AMGI Units**

The household incomes of tenants occupying these units can be self-certified by the tenant. A copy of the **Self-certification Form for 125% AMGI and 150% AMGI** is available on the MSHDA website. Forms such as the MSHDA Checklist and the Tenant Income Certification (TIC) form are not required for these tenants. The components of income must be in accordance with HUD Handbook 4350.3, however, third-party verification of the income and asset amounts is not required for tenants occupying units at 125% AMGI and 150% AMGI.

Also note the following:

- Per MSHDA Act 125.1444(e) [M.S.A. 16.114(44(e))], the household income of tenants occupying units at 125% and 150% are certified at the time of initial occupancy only and do not need to be recertified annually, unless required in the loan documents, regulatory agreement, or commitment report created for the particular project.
- The income limits for 125% AMGI and 150% AMGI are based on the MSHDA-generated figures based on the mathematical calculation of 50% AMGI (see Part 400).
- Household information for these tenants must be entered into the MSHDA On-Line Tenant Data Reporting System, Certification on Line (COL)
- These units are subject to tenant file audits and physical inspections (Chapter 7).
- All other laws, such as fair housing and ADA, must be complied with for these units.
- Units are not restricted as to the amount of rent that can be charged to these households, however, rents may be restricted in the MSHDA-approved budget.

INCOME CERTIFICATION	
Information regarding income is being collected by the Michigan State Housing Development Authority pursuant to Act 346 of 1966 as amended to preserve the tax-exempt status of the obligations issued to finance the mortgage loan for	
<hr/>	
(Development Name)	
I certify that my gross income does not exceed \$_____ per year. This information is true and complete to the best of my knowledge and belief. I understand that if I furnish false or incomplete information, I am in violation of my lease.	
<hr/>	<hr/>
Applicant/Tenant	Date

**Part 1151 : Determining Income Limits for 125% AMGI and
: 150% AMGI**

This Part applies only to certain bond projects and certain Pass-Through projects. This Part does not apply to LIHTC units since units designated as "LIHTC-eligible" must be income and rent restricted at less than 60% AMGI (or lower depending on the requirements for the particular LIHTC project). Some LIHTC projects that are combined with certain tax-exempt financing and that have an applicable fraction of less than 100% may, however, contain some non-LIHTC designated units that are occupied by persons at 125% AMGI, or 150% AMGI.

The 125% AMGI and 150% AMGI limits are not adjusted for family size (unless otherwise specified in the loan document, regulatory agreement, or commitment report that was executed for the particular project). All households, regardless of the number of members residing in the unit, must have incomes that are at or below the 4-person income limit at 125% AMGI or 150% AMGI at the time of move-in. Once a household is deemed eligible at move-in, increases in income amount do not impact eligibility.

Section 11K – 80% AMGI Residents

Part 1152 : 80% AMGI Income Limit

This Part applies only to certain MSHDA bond-financed projects and Pass-Through projects. This Part does not apply to LIHTC units since units designated as “LIHTC-eligible” must be income and rent restricted at less than 60% AMGI (or lower depending on the requirements for the particular LIHTC project). Some LIHTC projects that are combined with certain tax-exempt financing and that have an applicable fraction of less than 100% may, however, contain some non-LIHTC designated units that are occupied by persons at 80% AMGI.

Tax-Exempt Projects

Some tax-exempt projects that were/are not subject to the Tax Reform Act of 1986 may contain an income targeting requirement of 80% AMGI. Authority-financed tax-exempt projects use the MSHDA-generated figures (as discussed in [Part 400](#)) for 80% AMGI. Note the following:

- Full income certifications, including third-party verification of all income and assets, are required and must be conducted in accordance with Chapter 5 of the HUD 4530.3 Rev. 1 (or latest revision) for households occupying units at 80% AMGI.
- All pertinent forms discussed in [Part 612](#) must be completed for these residents.
- Annual recertifications, including third-party verifications, are required for all 80% AMGI tenants.
- If the project is a tax-exempt bond financed development, rules such as the Vacant Unit Rule (see [Part 820](#)) and the Next Available Unit Rule (see [Part 806](#)) are applicable to these units.

Section 236 projects:

Section 236 projects use the 80% AMGI (“low-income”) figure as calculated by HUD. Also note the following:

- Tenants in a unit assisted by a Section 236 contract must be below the annual income limit as defined and determined by HUD. The actual HUD Section 236 income limit is 80% of the area median income with adjustments for family size. The regulations at 24 CFR 236.2 and in HUD Handbook 4350.3 (latest revision) specifically indicate what items are considered income and what items are not considered income.
- Tenants occupying units at 80% AMGI must be recertified at least annually [24 CFR §236.80].

Section 11L – HOME Program

MSHDA has published a separate HOME Compliance Manual. The HOME Compliance Manual is available on the MSHDA website.