



**TSAHC COMPLIANCE MANUAL FOR
QUALIFIED RESIDENTIAL RENTAL PROJECTS**
Multifamily Low Income Housing Financed with Tax-Exempt Bonds

TABLE OF CONTENTS

	<u>Page</u>
1. OVERVIEW	1
(1.1) Overview of this Compliance Manual	1
(1.2) Bond Financing Overview	2
A. Bond Financing Basics	2
B. Parties to a Bond Transaction	2
C. Bond Documents	3
2. COMPLIANCE REQUIREMENTS OF A QUALIFIED RESIDENTIAL RENTAL PROJECT	5
(2.1) General Discussion of Federal Income Tax Rules Governing Qualified Residential Rental Properties	5
(2.2) Summary of 2008 Federal Tax Law Changes & Impact on Regulatory Agreement	6
(2.3) Set-Aside Requirements	7
(2.4) Set-Aside/Low Income Requirement	14
(2.5) Determining Household Eligibility	15
A. Who is Considered A Household Member	16
B. Social Security Numbers	17
C. Employee Discount	18
D. Students	18
E. Required File Documents	19
F. Income Verification Process	19
G. Income Certifications	20
(2.6) Determining Annual Household Income	20
A. Types of Income and Calculation	20
B. Calculating Annual Household Income	20
Household Income is:	22
C. Calculating Year-to-Date (YTD) Wages	23
D. Example – Calculating Anticipated Raise	23
E. Self Employed Income Verification Requirements	24
F. Social Security/SSI Income Verification Requirements	25
G. Pensions, Veterans Benefits, Retirement and Other Periodic Income Verification Requirements	25
H. Annuity Income	25
I. Alimony or Child Support Income Verification Requirements	26
J. Public Assistance/Temporary Assistance for Needy Families (TANF)	27
K. Unemployment, Disability, Workers Compensation, Severance Pay	27
L. Military Pay Income	27
M. Monetary Gifts (Gift Income)	28
N. Certification of Zero Income	28
O. Certification of Zero Income	28

(2.7)	Calculating and Determining Income from Assets	28
A.	Background	28
B.	Types of Assets	29
C.	Trust Accounts	30
D.	Worksheets and Examples to Value Assets and Calculate Income	30
(2.8)	Maintaining Low Occupancy/Recertification	32
A.	Background	32
B.	Next Available Unit Documentation	33
C.	Family Size Increases	34
D.	Family Size Decreases	34
E.	Income Verifications	34
(2.9)	Rent and Lease Requirements	34
A.	Rent Restrictions	34
B.	Lease Requirements	35
C.	Fair Housing Compliance	36
D.	Owner/Management Responsibilities	37
3.	REGULATORY AGREEMENT, COMPLIANCE & SECURITY AGREEMENT AND ASSET OVERSIGHT AGREEMENT	37
(3.1)	Regulatory Agreement	37
(3.2)	Compliance & Security Agreement	38
(3.3)	Asset Oversight Agreement	38
4.	RESIDENT SERVICES	38
(4.1)	Background	38
(4.2)	Resident Services Reporting	39
5.	TSAHC COMPLIANCE PROCEDURES	39
(5.1)	The Benefits of a Successful Compliance Program	39
(5.2)	Statement of Work	40
(5.3)	TSAHC Compliance Reporting Timeline	41
(5.4)	Compliance Review Procedure	42
A.	Background	42
B.	Previous Compliance Reviews	43
C.	Leasing and Occupancy Review	43
D.	Resident Services Review	44
E.	General Management Practice Review	44
F.	Close Out Meeting	44
G.	Submitting Corrective Action	45
6.	PREPARING FOR AUDIT	45
(6.1)	Annual Audit	45
(6.2)	Desk Review	46
(6.3)	Initial Interview	46
(6.4)	File Review	46
(6.5)	Exit Interview	48
(6.6)	Final Report	48

7.	TRACKING AND MONITORING STATUS	48
	(7.1) Findings.....	48
	(7.2) Corrective Action.....	48
	(7.3) Observations	48
	(7.4) Responses.....	49
	(7.5) Extensions.....	49
8.	DEFAULT PROCEDURES/ENFORCEMENT AND OPPORTUNITY TO CURE.....	49
9.	RECORDS RETENTION.....	51
10.	TIPS FOR GETTING THROUGH A SUCCESSFUL FILE REVIEW.....	51
11.	NONDISCRIMINATION POLICY	53
12.	PRIVACY POLICY.....	53

Attachments for the TSAHC Compliance Manual

- Attachment 1: The Income Certification and Instructions
- Attachment 2: Military Basic Housing Memorandum
- Attachment 3: Approved Resident Services
- Attachment 4: Monthly Resident Service Reporting
- Attachment 5: Compliance Site Visit Notification Letter
- Attachment 6: Compliance Review Observation Report
- Attachment 7: Corrective Action Letter (Cover Letter)
- Attachment 8: Entrance Questionnaire
- Attachment 9: Compliance Spreadsheet (Tab 1- Property Detail)
- Attachment 10: Compliance Spreadsheet (Tab 2: Resident File Review)
- Attachment 11: Compliance Findings Closed Letter
- Attachment 12: Letter of Non-Response
- Attachment 13: Letter of Incomplete Response



**TSAHC COMPLIANCE MANUAL FOR
QUALIFIED RESIDENTIAL RENTAL PROJECTS**
Multifamily Low Income Housing Financed with Tax-Exempt Bonds

1. OVERVIEW

(1.1) Overview of this Compliance Manual

The purpose of this manual is to enhance compliance procedures as well as to provide guidance in the monitoring and on-going compliance requirements for qualified residential rental projects that are financed with tax-exempt bonds issued by The Texas State Affordable Housing Corporation (“TSAHC”). Additionally, it serves as a training tool for on-site management to establish a foundation for creating, implementing, and enforcing a successful compliance program.

Moreover, this manual can be used to act as a guide for borrowers/owners to help develop a compliance program that prevents deficiencies before they occur. Having strong compliance measures in place helps on-site staff understand the borrower’s commitment, as well as the responsibility to abide by the agreements the borrower has made in the initial application process. It also brings to light the serious nature of non-compliance and the measures that will be taken when non-compliance exists and corrective action is not implemented within a timely manner. A successful compliance program is only as good as the enforcement behind it.

Therefore, borrowers must be a major player when creating, implementing, and enforcing an effective compliance program. Implementing an effective compliance program provides management with the understanding that non-compliance is not an option for the borrower. It can also be seen as a safety measure for the on-site staff because of the many governing entities that must be considered in order to comply with the applicable federal, state and local laws that govern multifamily tax-exempt Bonds.

It is the sincere desire of TSAHC staff to communicate clear directives so that borrowers, management agents and on-site staff can maintain compliance with the tax-exempt bond requirements in connection with their work to offer affordable housing to the general public.

This manual provides guidance in the areas below:

- The Benefits of Successful Compliance
- Bond Review Process
- Compliance with federal income tax laws
- Determining Household Eligibility
- Calculating Household Income
- Annual Recertification Process
- Compliance Procedures
- Resident Services

(1.2) Bond Financing Overview

A. Bond Financing Basics

TSAHC is an issuer of tax-exempt bonds for qualified residential rental projects (also referred to herein as affordable housing and as described in more detail below). Generally, tax-exempt bonds are interest bearing promises to pay a specified sum of money to the bondholders. A third party, the Borrower, borrows the bond proceeds and uses such proceeds to acquire and/or rehabilitate the project. Issuers and Borrowers must establish procedures that ensure compliance with TSAHC requirements, state law, federal income tax requirements, etc.

Note that many, but not all (such as 501(c)(3) transactions), projects that are financed with tax-exempt bonds also receive tax credit financing. TSAHC only issues tax-exempt bonds and does not provide tax credits. The Texas Department of Housing and Community Affairs (“TDHCA”) is authorized to provide tax credits. A project that receives tax credits is subject to additional compliance and federal tax rules controlled by an additional tax credit regulatory agreement. TDHCA works with the Borrowers to create this second tax credit regulatory agreement, which is a form document promulgated by TDHCA. This manual does not discuss tax credits in detail.

The development of affordable housing is created through the utilization of tax-exempt bonds (and often tax credits) which can be a very effective financing tool for borrowers/developers. The following is a simple explanation of the terminology and mechanics used in the bond issuance process that will assist in the understanding of tax-exempt bonds.

B. Parties to a Bond Transaction:

Borrower – A for profit or non-profit entity (i.e., a 501(c)(3) organization) that is often a limited liability partnership or limited liability company which borrows the bond proceeds in order to own and operate an affordable housing project. A Borrower is also referred to herein as an “Owner”.

Bond Counsel – A nationally recognized law firm with expertise in municipal bond transactions advising the issuer and underwriter/bond purchaser of the legal aspects of the bond issue.

Bondholder - The owner of the Bond. The bondholder receives interest payments and a return of their principal.

Issuer – State or political subdivision or a legal entity acting as an instrument on behalf of a state or political subdivision which has the authority to issue tax-exempt bonds. For example, TSAHC is an issuer.

Trustee – Commercial bank protecting and representing the bondholders’ interest including the funds and security of the bonds. The Trustee performs various administrative duties with respect to the bonds.

Underwriter and/or Direct Bond Purchaser – An investment banking organization or other private company that helps to structure the bond issue to purchase and possibly resell the bonds.

C. Bond Documents

The Bonds – Interest-bearing promises to pay a specified sum of money on a specific date to the bondholder. The Indenture contains the form of the bond. Bonds may be evidenced in a certificated form (physical bonds at all times) or in book-entry only form (one physical bond held by the Trustee with all trading and beneficial ownership of the Bond accomplished through an electronic securities depository such as DTC (defined below)). If the bonds are traded in electronic form, a Letter of Representations is executed by the Issuer, the Trustee and the Depository Trust Company (“DTC”) that sets forth the responsibilities of each with respect to the bonds. DTC provides an efficient and safe way for buyers and sellers of securities, such as bonds, to make their exchange and thus, clear and settle transactions. However, DTC does not monitor any transfer restrictions related to the bonds, therefore it may be preferable for certain unrated bond transactions to be issued in physical form only.

Trust Indenture – The contract between the bank, acting as Trustee for the bondholders and the issuer. It is an important document and includes the form of the bonds. The Trust Indenture does the following:

- Sets the terms and provisions of the bonds such as interest rates, maturities and redemption rights
- Sets forth the security for the bond, that may include a project mortgage and a gross revenue pledge
- Provides for procedures in the event of redemption and defeasance
- Establishes the funds and accounts and the flow of funds
- Provides for permitted investments of money held under the Trust Indenture
- Provides procedures for amending the Trust Indenture
- Provides for Trustees duties and rights
- Establishes events of default and remedies with respect to the bonds
- Provides and describes transfer restrictions on the bonds, if any

The terms of the Trust Indenture create certain responsibilities for the Issuer and Trustee.

The Issuer assures the following:

- It is duly authorized to issue the bonds and assist to preserve their existence
- Compliance with tax covenants relevant to the Issuer and to the Borrower to a limited extent
- Compliance with certain program “covenants”

The Trustee assures the following:

- Examines documents prepared by the Borrower to determine if the documents conform to the requirements of the Regulatory Agreement, Trust Indenture and/or Loan Agreement
- Notify the Issuer and the Borrower in writing if documents are not received according to the Regulatory Agreement
- Acts on behalf of the bondholders in the event of default

Financing Agreement or Loan Agreement – The generic name for the agreement in a conduit financing between the Issuer and the Borrower, then assigned from the Issuer to the Trustee in accordance with the granting clauses of the Trust Indenture (other than the reserved rights of the Issuer), pursuant to which the bond proceeds are lent to the Borrower and the Borrower promises to repay the principal of and interest on the bonds. The Financing/Loan Agreement includes the following:

- Terms and provisions for the loan of the bond proceeds to the borrower
- The agreement of the Borrower to repay the loan in amounts and at times sufficient to enable the bonds to be repaid
- Security for the Borrowers repayment obligations
- Borrowers representations and warranties
- Maintaining, operating and insuring the project
- Events of default by the Borrower and remedies
- Borrowers prepayment rights

Official Statement – A publicly filed document that contains the final terms of the bond and provides disclosure to prospective investors. The official statement (“OS”) is dated the sale date of the bonds. By law, the OS must contain any pertinent information that would allow an investor to make an informed decision of whether to purchase the bonds. Many private placement transactions with sophisticated private direct bond purchasers will not require an OS due to securities laws exemptions and the sophistication of the private direct bond purchaser.

Purchase Contract/Bond Purchase Agreement – Agreement between the Issuer and the Underwriter/Direct Bond Purchaser to sell and purchase the bonds at a specific purchase price. This contract also sets forth the terms and conditions whereby the Underwriter/Direct Bond Purchaser will purchase the bonds.

Regulatory Agreement and Declaration of Restrictive Covenants – Agreement that is recorded with the mortgage and contains certifications required to be made by the Issuer and the Borrower to ensure compliance with state law and federal tax law requirements.

Compliance and Security Agreement - Agreement between the Borrower and TSAHC that is recorded with the mortgage and contains additional representations and covenants with respect to the project.

Asset Oversight Agreement - Agreement between the Borrower and TSAHC pursuant to which an asset oversight agent assesses the property, personnel, procedures, compliance procedures and the operation of the facilities.

2. COMPLIANCE REQUIREMENTS OF A QUALIFIED RESIDENTIAL RENTAL PROJECT

(2.1) General Discussion of Federal Income Tax Rules Governing Qualified Residential Rental Properties

Under Section 142 of the Internal Revenue Code of 1986, as amended (the “Code”), tax-exempt bonds can be issued for qualified residential rental projects. As discussed above, TSAHC issues tax-exempt bonds for such projects. In order to qualify as a qualified residential rental project, the various Code requirements must be met. Below is a general discussion of the basic requirements. The Regulatory Agreement contains various provisions to assure that the federal income tax requirements are satisfied.

In order to qualify as a qualified residential rental project, the project must meet one of two tests (the “Set-Aside Requirement”):

- (1) *20-50 Test* - 20% or more of the residential units in the project must be occupied by individuals whose income is 50% or less of area median gross income (“AMGI”); or
- (2) *40-60 Test* - 40% or more of the residential units in the project must be occupied by individuals whose income is 60% or less of AMGI.

Note: If the borrower is a 501(c)(3) exempt organization, the qualified residential rental project must meet one of the above tests and must also satisfy the *75-80 Test* (i.e., 75% or more of the residential units in the project must be occupied by individuals whose income is 80% or less of AMGI. Note that units counted towards meeting the 20-50 Test or the 40-60 Test may also be counted towards meeting the 75-80 Test).

Note: Any project that receives low income housing tax credits may be subject to further set-aside restrictions that may include up to 100% of the units in such project.

The 20-50 Test or the 40-60 Test, whichever is elected, (and the 75-80 Test, if the borrower is a 501(c)(3) corporation) applies during the *qualified project period*, which begins on the first day on which 10% of the residential units in the project are occupied and ends on the latest of (i) the date which is 15 years after the first date on which 50% of the residential units are occupied, (ii) the 1st day on which no tax-exempt private activity bond issued with respect to the project is outstanding or (iii) the date on which any assistance provided under Section 8 of the United States Housing Act of 1937 (the “1937 Housing Act”) terminates. Please note the relevant Regulatory Agreement sets forth the actual qualified project period with respect to a particular project.

Both the 20-50 Test and the 40-60 Test (and the 75-80 Test) are based on percentages of AMGI, which is determined in a manner consistent with determinations of lower income families and AMGI under Section 8 of the 1937 Housing Act. Income levels are determined based on the number of household members.

See Section 2.6 of this manual for a detailed explanation of determining household eligibility, household income and calculating and determining income from assets for purposes of satisfying the 20-50 Test and the 40-60 Test. These chapters discuss, for example, that the total income of all household members is counted to determine whether the 20-50 Test or 40-60 Test is satisfied and that special rules apply to students, etc.

If a tenant's income meets the requirements to be considered a 'Qualified Tenant' at Initial Certification, but increases and exceeds such limits during the lease or upon Recertification, the tenant will continue to be considered a 'Qualified Tenant'. An exception to this rule occurs when 1) if upon recertification, the tenant's income exceeds 140% of the applicable income limit, and 2) if before the next Recertification, any residential unit in the same building (or in the same project if the project has only one building) of comparable or smaller size to that resident's unit is occupied by a new resident whose income exceeds the applicable limit (otherwise known as the *Next Available Unit Rule*). If both 1 and 2 occur, the tenant should not be counted as a Qualified Tenant until a comparable or smaller unit becomes available that could be rented to a person who would replace the tenant on the low-income roll.

(2.2) Summary of 2008 Federal Tax Law Changes & Impact on Regulatory Agreement

On July 30, 2008, the President signed the Housing Assistance Tax Act of 2008 (the "2008 Housing Act"), which contained various provisions affecting the affordable housing market. Below is a brief discussion of the changes relating to qualified residential rental projects.

- *Next Available Unit Rule* - under the 2008 Housing Act, the next available unit rule is applied on a building by building basis in the case of a bond financed project for which tax credits are allowed under Section 42 of the Code. Under prior law, the rule was applied on a project by project basis. See Section 4(b).
- *Students* - under the new law, an otherwise eligible unit occupied entirely by full-time students cannot be counted towards the set-aside requirement unless: units occupied by an individual (1) who is a student and receives assistance under Title IV of the Social Security Act (Aid and Services to Needy Families with Children and for Child Welfare Services), (2) who is enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar federal, state or local laws, (3) who is a student who was previously under the care and placement responsibility of a foster care program; (4) a single parent with children and neither the applicant/tenant nor the children are listed as dependents on anyone else's tax return; or (5) someone who is not a full-time student living in the household.
 - Under prior law, an otherwise eligible residential unit would not be counted toward the set-aside requirement if all the occupants were students, unless the students were entitled to file a joint tax return.

- *Exception from Recertification Requirement* - under the new law, the requirement to obtain an annual recertification of income from tenants is waived to the extent that the project is 100% occupied by tenants who meet either the 20-50 Test or the 40-60 Test. See Section 4(c).

On April 17, 2008, pursuant to TSAHC Resolution 09-01, the Board of Directors of TSAHC approved the ability of the President of TSAHC or Executive Vice President of TSAHC to provide a waiver of the enforcement of certain provisions in formerly recorded Regulatory Agreement that are inconsistent with current state and federal law (primarily with respect to the 2008 Housing Act). Therefore, please be on notice that for TSAHC purposes only, the provisions of Section 2.2 of this Compliance Manual may prevail over conflicting provisions in a particular Regulatory Agreement that was recorded prior to the enactment of the 2008 Housing Act if a “letter of waiver approval” has been executed by the President or Executive Vice President of TSAHC with respect to such provision.

(2.3) Set-Aside Requirements

As discussed above, Section 142(d) of the Code provides that a project must meet either the 20-50 Test or the 40-60 Test in order to be a qualified residential rental project.

- Under the 20-50 Test residents whose income does not exceed 50% of AMGI are considered to be Very Low Income (VLI) residents.
- Under the 40-60 Test, residents whose income does not exceed 60% of AMGI are considered to be Very Low Income residents.
- If the borrower is a 501(c)(3) organization, the project must also meet the 75-80 Test, *i.e.*, 75% of the residents must have an income that does not exceed 80% of AMGI (this is inclusive of the 20-50 Test or 40-60 Test units discussed above; to the extent any residents are not also under one of the other tests, they are considered Low Income (LI) residents.

Example: The owner of a 200 unit development has applied for tax-exempt bond financing. At the time of application the owner has chosen the 20-50 Test. In order to be in compliance with this set-aside, at least 40 units ($40/200 = 20\%$) must be leased to residents meeting the 50% income requirements. If the 40-60 Test was chosen, the set aside would be at least 80 units ($80/200 = 40\%$) leased to residents meeting the 60% income requirements.

In addition, if the owner is a 501(c)(3) organization, at least 150 units ($150/200 = 75\%$) must be leased to residents meeting the 80% income requirements. These residents will be considered low income residents. The units that are leased to residents who meet the 50% (60%) income requirements for purposes of the 20-50 Test (40-60 Test) can also be counted towards meeting the 75-80 Test.

Owners have the option at initial application to choose a minimum set-aside of 20/50 or 40/60. The option chosen by the owner must be maintained throughout the qualified project period of the Regulatory Agreement and cannot be changed.

Below is a practical summary that attempts to guide you through determining whether a particular unit will be counted towards the applicable set-aside requirement based on various common factual scenarios. This guide is general in nature and does not address every possible situation and should be used in conjunction with this manual. Note that the Regulatory Agreement, Compliance and Security Agreement, and Asset Oversight Agreement for each project must also be reviewed in detail for specific compliance requirements of a particular project.

The following chart is meant to provide a quick guide to evaluating the various set-aside requirements.

Definitions for below chart:

- **AMGI** - Area Median Gross Income.
- **Down Unit** – A Vacant Unit that meets one or more of the following requirements: i) uninhabitable due to infestations, sewer backups, foundation and subfloor issues, missing drywall and carpets, missing cabinets and appliances, mold, significant water damage not caused by a natural disaster ii) uninhabitable and “not made ready” for over 180 calendar days. A Down Unit does not count as a set-aside unit during repairs. When the necessary repairs are completed, a Down Unit cannot be designated with the prior set-aside designation until it is occupied by a qualified household.
- **Down Unit from Natural Disaster** – A Down Unit due to a natural disaster as declared by the state or federal governments. A natural disaster includes flood, earthquake, landslide, blizzards, cyclonic storms, hurricanes, tornadoes, fire. A Down Unit from Natural Disaster is not included as a Set-Aside Unit while under repair. When the unit is repaired, a Down Unit can be designated with the prior Set-Aside Unit designation.
- **Income Certification** – The document each resident must complete upon Initial Certification and any Recertification (to the extent required) attached hereto as Attachment 1.
- **Initial Certification** – Initial Certification is completed prior to the “move-in” of a resident applicant. An Income Certification must be completed before any tenancy that is not considered a Market Unit.
- **Low Income Unit** - A unit that is counted towards the LI set-aside requirement in which the residents’ income do not exceed 80% of AMGI.
- **Market Unit** – A unit that is not subject to the 20-50 Test, 40-60 Test or 75-80 Test, as applicable, and does not require an Income Certification.
- **Qualifying Tenant** – A tenant that meets the 20-50 Test or 40-60 Test, as applicable, and for 501(c)(3) projects, that may meet the 75-80 Test to the extent the 20-30 Test or 40-60 Test, as applicable, have been satisfied.
- **Recertification** – Annual Income Certification to the extent required (this may be waived with projects that have a 100% Set-Aside requirement due to tax credits or otherwise). For a Recertification, an Income Certification is completed with Recertification box checked.
- **Set-Aside Units** – A Low Income Unit or Very Low Income Unit, as applicable.

- **Vacant Unit** – A unit that is uninhabited and in livable condition. A Vacant Unit becomes a Down Unit if the unit has not been made ready in 120 calendar days of a resident move-out. A Vacant Unit keeps the prior set-aside designation if made ready, but loses the set-aside designation if it becomes a Down Unit.
- **Very Low Income Unit** – A unit that is counted towards 20-50 Test or 40-60 Test set-aside.

<u>REGULAR QUALIFYING TENANTS</u>			
<u>CATEGORY</u>	<u>FACTS</u>	<u>OUTCOME</u>	<u>NOTES</u>
Income Certification at Initial Certification	Resident(s) in Unit A is a Qualifying Tenant	Unit A counts as a Low Income Unit and maybe also be a Very Low Income Unit, as applicable	See Sections 2.4 - 2.7 for discussion of determining income, etc.
	Resident(s) in Unit A is not a Qualifying Tenant	Unit A does not count as a Low Income Unit or a Very Low Income Unit	See Sections 2.4 - 2.7 for discussion of determining income, etc.
Income Certification at Recertification	Resident(s) in Unit B was a Qualifying Tenant at Initial Certification and continues to be a Qualifying Tenant at Recertification	Unit B continues to count as a Low Income Unit and/or a Very Low Income Unit, as applicable	
	Resident(s) in Unit B was not a Qualifying Tenant at Initial Certification, but becomes a Qualifying Tenant in the future	Unit B counts as a Low Income Unit and/or Very Low Income Unit, as applicable, when resident becomes an appropriate Qualifying Tenant	
	Resident(s) in Unit B was a Qualifying Tenant at Initial Certification but income increases (but not by more than 140% of AMGI) and is not a Qualifying Tenant at Recertification	Unit B continues to count as a Low Income Unit and/or Very Low Income Unit, as applicable, so long as tenancy continues (however, see exception below)	
Current Law (pursuant to 2008 Housing Act)	100% of the units in a project are housed with Qualifying Tenants pursuant to Initial Certifications	Recertification is not required for federal income tax purposes (but, may be required under the Regulatory Agreement, etc. unless waived)	See Section 2.2 Consider, the applicable provisions of the respective Regulatory Agreement.

<u>REGULAR QUALIFYING TENANTS</u>			
<u>CATEGORY</u>	<u>FACTS</u>	<u>OUTCOME</u>	<u>NOTES</u>
	Less than 100% of the units in a project are housed with Qualifying Tenants	Recertification is required for federal income tax purposes	See Section 2.2 Consider, the applicable provisions of the respective Regulatory Agreement.
Next Available Unit Rule	Exception - Resident(s) in Unit B was a Qualifying Tenant at Initial Certification and income exceeds AMGI by more than 140% at Recertification	If, before such resident's next Recertification, a unit (Unit C) in the same project* of comparable or smaller size to Unit B is occupied by a new resident who is not a Qualifying Tenant, Unit B does not count as a Low Income Unit and/or Very Low Income Unit, as applicable	See Sections 2.1 and 2.8 for a discussion of the next available unit rule. *Note: Under the 2008 Housing Act, this rule applies on a building-by-building basis instead of a project-by-project basis if tax credits under Code Section 42 are allowed with respect to the project. Consider, the applicable provisions of the respective Regulatory Agreement.
Next Available Unit Rule	Exception - Resident(s) in Unit B was a Qualifying Tenant at Initial Certification and income exceeds AMGI by more than 140% at Recertification	If, before such resident's next Recertification, a unit (Unit C) in the same project* of comparable or smaller size to Unit B is occupied by a new Qualifying Tenant, Unit B continues to count as a Low Income Unit or Very Low Income Unit, as applicable, so long as tenancy continues, but stops counting as a Low Income Unit or Very Low Income Unit, as applicable, when Unit C is occupied by the new Qualifying Tenant	See Sections 2.1 and 2.8 for a discussion of the next available unit rule. *Note: Under the 2008 Housing Act, this rule applies on a building-by-building basis instead of a project-by-project basis if tax credits under Code Section 42 are allowed with respect to the project. Consider, the applicable provisions of the respective Regulatory Agreement.

<u>REGULAR QUALIFYING TENANTS</u>			
<u>CATEGORY</u>	<u>FACTS</u>	<u>OUTCOME</u>	<u>NOTES</u>
Change in household members after Initial Certification or Recertification	Number of residents in a Low Income Unit or Very Low Income Unit, as applicable, increases after Initial Certification	The new resident(s) must complete the Initial Certification and the income must be combined with the other resident(s); the unit will continue to count as a Low Income Unit or Very Low Income Unit, as applicable, if they are Qualifying Tenants	See Section 2.8 for a discussion regarding a change in household
	Number of residents in a Low Income Unit or Very Low Income Unit decreases after Initial Certification	No changes until the next Recertification	See Section 2.8 for a discussion regarding a change in household
Vacant Units	Unit D is vacant, but previously housed a Qualifying Tenant	While vacant, Unit D continues to count as a Low Income Unit or Very Low Income Unit, as applicable, if the unit is in livable condition and made ready. Reclassify Unit D as necessary depending on Initial Certification of new tenant	
	Unit D is vacant, but previously housed non-Qualifying Tenants	While vacant, Unit D does not count as a Low Income Unit or Very low Income Unit, as applicable, while vacant; reclassify Unit D as necessary depending on Initial Certification of new tenant	
Damaged units due to natural disaster (fire, hurricane, etc.)	Unit F houses a Qualifying Tenant and is damaged by a Hurricane; Unit F cannot be occupied until repairs are made	Unit F should not be counted as an available unit for purposes of calculating the set-aside requirement while it is vacant and under repair	

REGULAR QUALIFYING TENANTS

<u>CATEGORY</u>	<u>FACTS</u>	<u>OUTCOME</u>	<u>NOTES</u>
	Unit F mentioned in the above row and which previously housed a Qualifying Tenant is repaired and available for occupancy	Unit F becomes an available unit for purposes of calculating the set-aside requirement and counts as a Low Income Unit or Very Low Income Unit, as applicable, while vacant; Unit F must be reclassified when rented depending on new resident's Initial Certification	
	Unit G houses a non-Qualifying Tenant and is damaged by a Hurricane; Unit G cannot be occupied until repairs are made	Unit G should not be counted as an available unit for purposes of calculating the set-aside requirement while it is vacant and under repair	
	Unit G mentioned in the above row and which previously housed a non-Qualifying Tenant is repaired and available for occupancy	Unit G becomes an available unit for purposes of calculating the set-aside requirement but does not count as a Low Income Unit or Very Low Income Unit, as applicable, while vacant; Unit G must be reclassified when rented depending on new resident's Initial Certification	
	A Qualifying Tenant in a Low Income Unit or Very Low Income Unit, as applicable, is displaced due to natural disaster and moves into a different unit within the project	Technically, a new Initial Certification is required	

<u>UNIT VACANT FOR OVER 120 DAYS</u>			
<u>CATEGORY</u>	<u>FACTS</u>	<u>OUTCOME</u>	<u>NOTES</u>
	Unit H is vacant and has been vacant for 180 calendar days.	TSAHC policy requires that personnel visit Unit H to determine whether it is “move in ready” and should be treated as a Low Income Unit or Very Low Income Unit, as applicable.	If Unit H is vacant for 6 months or more and is not “move in ready” upon inspection, then Unit H should not be considered in compliance and will be considered a Market Unit until a Qualifying Tenant occupies Unit H.

<u>STUDENTS AS TENANTS</u>			
<u>CATEGORY</u>	<u>FACTS</u>	<u>OUTCOME</u>	<u>NOTES</u>
Note - 2008 Housing Act clarified and expanded the rules with respect to students as tenants	Unit E is occupied by full-time students that are comprised entirely of single parents and their children and they are Qualifying Tenants	Unit E counts as a Low Income Unit or Very Low Income Unit, as applicable, so long as the single parents are not dependents of another individual and the children are not dependents of another individual other than their parents (Note - under pre-2008 Housing Act students had to be entitled to file a joint return in order for the unit to count as a Low Income Unit or Very Low Income Unit, as applicable)	See Section 2.5 for a discussion of the student rule.
	Unit E is occupied by full-time students that are comprised entirely of single parents and their children and they are non-Qualifying Tenants	Unit E does not count as a Low Income Unit or Very Low Income Unit, as applicable	See Section 2.5 for a discussion of the student rule.
	Unit E is occupied by full-time students who are married and file a joint return and they are Qualifying Tenants	Unit E counts as a Low Income Unit or Very Low Income Unit, as applicable	See Section 2.5 for a discussion of the student rule.

<u>STUDENTS AS TENANTS</u>			
<u>CATEGORY</u>	<u>FACTS</u>	<u>OUTCOME</u>	<u>NOTES</u>
	Unit E is occupied by full-time students who are married and file a joint return and they are non-Qualifying Tenants	Unit E does not count as a Low Income Unit or Very Low Income Unit, as applicable	See Section 2.5 for a discussion of the student rule.
	Unit E is occupied by a full-time student who is a Qualifying Tenant and who was either (i) previously under the care and placement responsibility of a foster care program, (ii) receives assistance under Title IV of the Social Security Act, (iii) is enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar federal, state or local laws, or (iv) someone who is not a full-time student living in the household	Unit E Counts as a Low Income Unit or Very Low Income Unit, as applicable, (Note - prior law did not address how students under (i), (ii), (iii) or (iv) would be treated. (The 2008 Housing Act provided rules to directly address this)	See Section 2.2 for more discussion of the 5 exceptions

(2.4) Set-Aside/Low Income Requirement

The total number of units rented to income eligible households plus the units held vacant by previous income eligible households must equal or exceed the Owner’s minimum set-aside commitment. Only those vacant units that were immediately previously rented to income qualified households may be counted toward the minimum set-aside commitment.

Quarterly reports must show rental information for the total number of units in the project, including information about units rented to low-income households to date and information about units currently vacant. Current vacant units must include household information as of the end of the reporting period.

Failure to meet the minimum set-aside requirement is a serious non-compliance issue and can render severe consequences to the owner. This may occur as a result of counting non-qualified vacant units toward set-asides; failing to meet the income set-asides by the end of the reporting period; failing to rent market rate and qualified units proportionately during initial lease-up (new construction only). Many non-compliance issues can be corrected. The TSAHC staff works in conjunction with the entities involved giving support to management and on-site staff as they

commit to maintain compliance or help them get back into compliance when outstanding violations exist. Although many issues of non-compliance can be corrected, certain uncorrected issues or recurrent issues of non-compliance can bring forth the following actions according to the Regulatory Agreement:

- Bonds losing tax-exempt status retroactively to the date of non-compliance.
- Bonds subject to early prepayment in full.
- Project loans declared in default and foreclosure proceedings initiated.
- Legal action initiated against non-complying properties/and or non-complying Owners barred from further financing with the Corporation. Owners will be responsible for all costs of such legal actions.

Affordable communities having layered financing will have different governing documents and in some cases different program requirements. It is in the best interest of the Owner/Management Agent that on-site staff is made aware of the different requirements in order to avoid “deficiencies or findings” that may occur due to lack of supervision or training in program requirements. On-site staff should be knowledgeable of the federal, state and local regulations and be provided on-going training in the areas of government regulations. It is equally important that staff is aware of the frequent changes in the Tax-Exempt Bond Program and that the implementation of any required changes are made in the proper time frame. During the property’s on-site review, TSAHC will use the most restrictive of the governing documents for compliance purposes. It is critical that management and on-site staff understand the documents and apply the most restrictive requirements to the property.

(2.5) Determining Household Eligibility

Determining eligibility is an essential part of meeting and maintaining set-aside requirements. In order to ensure that residents are properly qualified, it is critical that the application process is given the time necessary to evaluate and verify information provided by the household.

It is important that management give clear consideration and have sound practices in place when applicants are rejected. The policy should state the reason for the denial. The rejection letter stating the reason for denial must be a part of the applicant’s file as proof that the household was notified of the decision.

*****TSAHC TIPS*****

During a TSAHC site review, resident files with incomplete documentation will be considered in non-compliance because all household information must be provided for staff to determine if the applicant/resident is a qualified household.

All documents should be completed in black or blue ink only. White out is never acceptable.

Residents should thoroughly complete the forms required; staff shall not write on any of the documents. A clarification form or a communication form for making notes to the file must be used when making notes to information clarified.

When TSAHC conducts a Compliance File Review reference is taken from Chapter 5 of the 4350.3 in addition to the property's written rental criteria policy. It is important that the property has clearly defined policies to determine household eligibility and income verification procedures.

When determining the eligibility of a potential applicant it is important to have all documents completely filled out. There should not be any questions left unanswered on the application or any other document. If a question does not apply to the household, have the applicant/resident use N/A or NO on each line. For questions that the resident does not want to provide information on, have them state or have the property state would not disclose to indicate that the information was not overlooked. TSAHC must be able to determine that a household is actually program eligible.

The application is the most important tool for gathering household information to begin the qualification process. Information obtained from the household at the time he/she applies for occupancy is based on the current circumstances and any anticipated changes that will occur within the next 12 months. The application must gather pertinent information to properly determine a household's eligibility, especially the asset and student status information. If the standard application used does not contain the asset and student status information, a supplemental form that collects the asset and student status of the household must be used.

A. Who is Considered A Household Member

Household members consist of the following individuals:

- Head
- Spouse
- Co-Head
- Other Adult Dependents (including foster adult)
- Child under 18
- Full-time student over 18
- Foster child under 18

In determining household members, the owner must count the total income of all household members who will be living in the unit. The following individuals are to be included as household members:

- Children temporarily absent due to placement in a foster home
- Children in joint custody arrangements who are present in the household 50% or more of the time
- Children who are away at school but live with the family during recess
- Unborn children
- Temporarily absent family members who are still considered family members
- Family members in the hospital or rehabilitation facility for periods of limited or fixed duration
- Persons permanently confined to a hospital or nursing home
- Note the following:
 - The income for Live-In Aides and foster children/adults are **NOT** included when calculating household income.
 - Earned income of full-time students 18 years of age or older, who is not the head, co-head or spouse is excluded to the extent that it exceeds \$480.00.
 - Do not include the earned income of a child under the age of 18; however, you will count the **UNEARNED** income of the child under the age of 18, including the income generated from assets.

B. Social Security Numbers

We are generally asked many times about the requirements of a social security number when leasing apartments; therefore, we are providing this information as guidance only to help management in this area of concern when requesting Social Security Numbers from applicants/residents.

One key area that properties should have a clear policy on pertains to the Social Security Numbers of household members. The legal right to ask for Social Security Numbers to determine program eligibility is provided in Internal Revenue Code Section 42 and the Code of Federal Regulations 26 1.42. Consequently, applicants have a right not to provide his/her Social Security number; however, if it is not provided, the owner should have clear policies that address the consequences of not complying with the request. One good way to look at this policy is stated in Social Security's brochure: "If a business or other enterprise asks you for your Social Security number, you can refuse to give it to them. However, that may mean doing without the purchase or service for which your number was requested."

To address this issue, please refer to the Texas law, Privacy Policy and Destruction of Business Records. This law went into effect on September 1, 2005, requiring rental housing owners to adopt a privacy policy and make it available to all rental applicants from whom a Social Security number is requested. For further reading and clarification on what to include in the policy please refer to the most current TAA Redbook.

C. Employee Discount

The amount of an employee discount on qualified property or services provided by an employer is excludable from the employee's income. The exclusion is limited to: (1) for property, the employer's gross profit percentage, and (2) for services, 20% of the price at which the employer sells the services to nonemployee customers. Qualified property or services are property or services offered for sale to nonemployee customers in the ordinary course of a line of business of the employer. For the exclusion to apply, the employee must provide substantial services in the line of business of the employer in which the employer offers the property or services in questions to nonemployee customers. The exclusion does not apply to highly compensated employees if the qualified employee discounts are available on a discriminatory basis.

D. Students

For program purposes, a student is defined as an individual, who during each of 5 calendar months, is a full-time student at an educational organization as defined in Section 170(b)(1)(A)(ii) of the Code. Treasury Regulation 1.151-3(b) further provides that the five calendar months need not be consecutive. This definition of students includes full-time and part-time status.

Qualified students must have supporting documentation from the educational institution to verify whether the household is a part-time or full-time student. A student's school schedule or registration from the school is not supporting documentation.

Under prior law (before the 2008 Housing Act), qualified students can be counted towards the set aside requirement if they are married and entitled to file a joint income tax return.

Under current law (after the 2008 Housing Act), qualified students can be counted towards the set-aside requirement if one of the following exceptions is met:

- A student and receives assistance under Title IV of the Social Security Act (Aid and Services to Needy Families with Children and for Child Welfare Services).
- A student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar federal, state or local laws
- A student who was previously under the care and placement responsibility of a foster care program;
- A student who is a single parent with children and neither the applicant/tenant nor the children are listed as dependents on anyone else's tax return; or
- A student who is not a full-time student living in the household.

Review the Regulatory Agreement with respect to the particular Project, along with Resolution 09-01 (as described in Section 2.2), any "letter of waiver approval" pursuant to Resolution 09-01, and all supporting documentation, to determine whether prior law or current law applies with respect to the student rules discussed above.

E. Required File Documents

Each qualifying resident file should contain a copy of the documents listed below when determining eligibility (the receipt of below must occur within 120 days of Initial Certification or Recertification):

- Application that gathers all program required information, especially student status and assets
- Tenant Release and Consent-signed by all adult household members
- Employment/Income Verification for all adult household members (See Section 2.5, subsection F)
- Asset Certification
- Income Certification
- Student Eligibility (if applicable, must be documented)

Supporting documentation for the household depends on the information provided in the application. A list of several required supporting documents includes, but is not limited to the following:

- Child Support Documentation (when there are children in the household)
- Divorce Decree (if the head of household is divorced to ensure there are no assets and verify if there are children)
- Separation Documentation
- Income Tax Return for self-employed individuals (Schedule C)
- Telephone Clarification to support questionable documents

Resident files should be well documented and have supporting information to verify that households have submitted all income documentation to the property. Keep in mind that as the TSAHC staff reviews each file we have not directly spoken with the household; therefore, we are not aware of the information unless the file contains proper and explicit documentation.

If a household has a home mortgage on the credit report and has not disclosed the information, the on-site staff should immediately obtain the information and process it accordingly. (See the Asset Valuation Worksheet under Section 2.7(D) to determine asset value).

F. Income Verification Process

The Borrower shall make a “diligent and good-faith effort” to determine that the income information provided by the applicant/resident is accurate. Suggested methods of acceptable verification include:

- Pay stubs for the most recent one month period (Chapter 5, Section 1, paragraph 5-6D HUD 4350.3 require 4 to 6 pay check stubs)
- Income tax returns for the most recent two years
- Consumer credit search
- Income verification from the applicant/resident’s employer (Cannot be hand carried by the resident at any time)
- Social Security Verification Award Letter (copies of checks are not acceptable)

- If the applicant is unable to provide any of the above documents, another form of independent verification, as would, in the borrower’s reasonable opinion, comply with the “diligent and good faith” requirement would be acceptable.

G. Income Certifications

After all of the household information has been obtained, clarified and verified the information is recorded on the TSAHC Income Certification. (The use of the State’s Income Certification is acceptable for one portfolio.) All adults 18 and over, in addition to the property manager must sign and date the form to be in compliance. An unsigned Income Certification is non-compliant and will generate a finding. A copy of the Income Certification and the Instructions to complete are included as an attachment. (Attachment 1) Please ensure that staff is using the TSAHC Income Certification and not another agency form.

(2.6) Determining Annual Household Income

A. Types of Income and Calculation

Taken from Chapter 5 of the HUD 4350.3 Handbook

Household income is the gross (before any taxes or deductions) amount of anticipated earnings for the next 12 months or any of the following:

- Wages
- Salaries
- Overtime pay
- Commissions
- Tips
- Bonuses
- Other compensation of all household adults
- UNEARNED income of all members of the household (including minors under 18)
- Asset income from the sale of real property

B. Calculating Annual Household Income

Household Income is:

- Based on actual household size (all members do not have to be related)
- Based on anticipated income for the next 12 months
- Certified at initial occupancy and annually thereafter
- Based on income limits at the time of initial occupancy or recertification
- Based on household members added during the lease term

Only income qualified households may be counted in meeting the set-aside requirements. Households not meeting the income qualifications cannot be counted in the minimum set-aside.

Tax-exempt bond properties use the most current HUD approved income and rent limits to qualify eligible households. These limits are based upon the county's Area Median Gross Income (AMGI) and are posted annually as they are released by HUD. The rent and income limits are accessible on the TSAHC website.

According to Revision 2 of the HUD 4350.3 Handbook (effective June 29, 2007), when projecting the household's annual income use the current circumstances to anticipate income. The owner calculates projected annual income by annualizing *current* income. If information is available on changes expected to occur during the year, use that information to determine the total anticipated income from all known sources during the year. For example, if a verification source reports that a union contract calls for a 2% pay increase midway through the year, the owner may add the total income for the months before and the total for the months after the increase. (See the anticipated raise example below).

An owner may accept a tenant's notarized statement or signed affidavit regarding the validity of information submitted if the information cannot be verified by another acceptable verification method. TSAHC accepts Income verifications received from employers, if not on the income verification, on company letterhead. Handwritten verifications on small pieces of paper are not acceptable.

Use the chart below for assistance, when determining annual household employment income. Two calculations must be done if the year to date income is available on the employment verification. The highest annual income should be used on the Income Certification

Hourly by 2080

(Ex: John earns \$7.00 per hour and works 40 hours per week)

$$\$7.00 \times 2080 = \$14,560.00$$

(John's annual income on his Income Certification would be \$14,560)

Weekly by 52

(Ex: Mary Lou earns \$6.75 per hour and works 35 hours per week)

$$\$6.75 \times 35 \times 52 = \$12,285.00$$

(Mary Lou's annual income on her Income Certification would be \$12,285.00)

Bi-weekly by 26

(Ex: Taylor earns \$8.50 per hour and works 40 hours. Taylor has brought in 4-6 current consecutive check stubs to be used for income verification)

$$\$340.00 + \$380.00 + \$347.00 = \$1,067.00 / 3 = \$355.67 \times 26 = \$9,247.42$$

(Taylor's annual income on his Income Certification would be \$9,247.42)

Semi monthly by 24

(Ex: Martha Ray's employer has verified that she earns \$1,750.00 semi-monthly and is paid on the 1st and the 15th of each month)

$$\$1,750.00 \times 24 = \$42,000.00$$

(Martha Ray's annual income on her Income Certification would be \$42,000.00)

Monthly by 12

(Ex: Trey is employed is paid monthly. His gross monthly earnings have been verified as \$2,450.00)

$$\$2,450.00 \times 12 = \$29,400.00$$

(Trey's annual income on his Income Certification would be \$29,400.00)

C. Calculating Year-to-Date (YTD) Wages

If the applicant/tenant gets paid on a monthly or semi-monthly basis.

Monthly:

- Divide the YTD wages by the number of months worked and multiply by 12.

Semi-Monthly:

- Divide the YTD wages by the number of semi-monthly pay periods and multiply the results by 24.

Bi-Weekly:

- Divide the YTD wages by the number of weeks and multiply the results by 26.

Weekly:

- Divide the YTD wages by the number of weeks worked and multiply the results by 52.

Example: Jessica is unable to provide third-party verification through her current employer but she does have her most current paycheck stub. You use this information to qualify her in the month of May. According to her check stub her YTD wages as of April 30 is \$5,500.00. Her current employment began on January 25. Count the number of weeks between the two dates shown-January 25 through April 30 that equates to a total of 13 weeks. Divide the \$5,500.00 by 13 weeks, which equates to a total of \$423.08 per week. Multiply the \$423.08 by 52 for an annual income total of \$22,000.16.

This process can only be completed when the YTD period began has been verified by the employer.

For applicants/residents who will be receiving a raise within the next 12 months the raise must be factored into the income calculation to determine annual income:

D. Example – Calculating Anticipated Raise

February 1	= Certification effective date
\$7.50 per hour	= Current hourly rate
\$8.00	= New rate to be effective March 15
(40 hours per week x 52 weeks = 2080 hours per year)	

Calculate annual income as follows:	
February 1 through March 15 = 6 weeks	
6 weeks x 40 hours = 240 hours x \$7.50 =	\$ 1,800
March 16 through January 31 = 46 weeks	
46 weeks x 1840 hours x \$8.00 =	\$14,720

Total Annual Income	\$16,520

In the event the employer verifies a specific amount of tips, always use the employer verified amount.

Individuals receiving sporadic or seasonal wages would be calculated according to the number of months worked. Because of weather conditions a painter works 9 months out of a year and receives unemployment the remainder of the year, both incomes would be used in the calculation.

\$1,200 x 9 =	\$10,800
\$600 x 3 =	\$ 1,800

Total Annual Income	\$12,600

E. Self Employed Income Verification Requirements

Individuals who are self-employed must provide proof of income using the following documents:

Signed copy of the last 2 years of 1040 tax returns, including the attachments listed below:

- Schedule C for Small Business
- Schedule E for Rental Property Income
- Schedule F for Farm Income
- Copy of Corporate or Partnership tax return
- Audited or unaudited financial statement(s) of the business (including profit and loss statement)

If the only income that the individual receives is from self-employment, the net amount on Schedule C would be the same amount as the gross amount on page 1 of the 1040. Any other income shown on the tax return must have supporting documentation.

In the event an individual has not been employed long enough to have filed a tax return, a Self-Employed Affidavit must be used and a notarized statement from the individual that he/she agrees to provide the required documentation at the time of recertification.

Note that individuals earning over \$400.00 per year must file a tax return as an IRS requirement.

F. Social Security/SSI Income Verification Requirements

Social Security/SSI Recipients will need to have the most current Social Security Award letter as income verification. Each year the Administration publishes the Cost of Living Adjustment (COLA) indicating the cost of living raise that will be made to recipients of the program. This adjustment should be taken into consideration when qualifying new household or recertifying existing residents. This adjustment is used in the same way as the anticipated raise example.

If an agency is reducing a family's benefits to adjust for a prior overpayment (e.g., Social Security, SSI, TANF, or unemployment benefits), count the amount that is actually provided after the adjustment.

Count the gross amount, before deductions for Medicare, etc. of periodic Social Security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support.

Anyone that does not have a current copy of the Social Security Award Letter can call the Social Security Administration at 1-800-772-1213 to request a copy. The Administration generally mails out within one day of the request.

G. Pensions, Veterans Benefits, Retirement and Other Periodic Income Verification Requirements

Obtain a written copy of the monthly income received, or submit a copy of the appropriate income form for the following sources:

Income received from:

- Insurance policies
- Retirement funds
- Pensions
- Disability or Death benefits
- Other periodic payments of unearned income

H. Annuity Income

Annuities are contracts sold by insurance companies designed to provide payments in specified intervals. There are generally three types of annuities:

- Hybrid annuity or combination annuity-combines features of a fixed annuity with a variable annuity

- Deferred annuity-annuity that delays income payments until the holder chooses to receive them. An immediate annuity begins payments immediately upon purchase.
- Life annuity-pays out as long as the owner is alive.
 - Single life annuity-provides income to one person
 - Joint life annuity-issued to two individuals and payments continue in whole or in part as long as either individual is alive

Generally, a person who holds an annuity from which he or she is not yet receiving payments will also be earning income. In most instances, a fixed annuity will be earning interest at a specified fixed rate similar to interest earned by a CD. A variable annuity will earn or (lose) based on market fluctuations, as in a mutual fund.

Most annuities charge surrender or withdrawal fees. In addition, early withdrawal usually results in tax penalties.

Depending on the type of annuity and the current status of the annuity, the owner will need to ask different questions on the verification source, which will normally be the applicant or tenant's insurance broker.

The annuity is counted as an asset if the household has the right to withdraw from the annuity at any time, even though a penalty will incur. Obtain the cash value by subtracting the current value any fees/penalties for withdrawal of the entire balance. The actual income is the balance in the annuity times the percentage (fixed or variable) at which the annuity is expected to grow over the coming year. If the household does not have access to the entire investment amount, do not count as an asset.

The annuity is counted as income if the household receives regular payments from the annuity and this has been verified by the insurance company.

Obtain a copy of the residents benefit letter or the quarterly statement as verification.

I. Alimony or Child Support Income Verification Requirements

If child support or alimony is received by the household, you will need a copy of **ONE** of the following documents: (A child support document is required for each child in the household. Documents must include frequency and amount.)

- Copy of divorce decree or separation settlement stating the amount and type of support
- Statement from the Attorney General office showing amount ordered. The amount ordered must be counted regardless if payments are made or not unless there is reasonable effort made.
- Support letter from individual paying the support
- Copy of most current child support check stub
- Child Support Affidavit from household-whether receiving child support or not

J. Public Assistance/Temporary Assistance for Needy Families (TANF)

A household receiving Public Assistance or TANF, consideration is given to the gross amount received by the household when determining income:

- Obtain a copy of the statement with the monthly grant amount received
- The Public Assistance Verification form may be used in the same manner as the Employment Verification

DO NOT INCLUDE AMOUNTS RECEIVED FROM FOOD STAMPS WHEN CALCULATING INCOME

K. Unemployment, Disability, Workers Compensation, Severance Pay

Unearned income received in lieu of wages must be included when determining annual income. Unemployment income is calculated on a 12 month basis, even though the individual may be receiving it for less than 12 months. Worker's Compensation, Severance Pay and Disability are calculated as the written verification states. Supporting documentation must be provided by the issuing agency. Income verification forms for this type of income may be submitted to the agency.

- Obtain a copy of the Unemployment Verification showing frequency and amounts received
- Obtain a copy of the Employer Statement showing frequency and amounts received for Workers Compensation

L. Military Pay Income

To determine income for Active Duty and Reserves Military Personnel you must use the following entitlements:

- Base Pay
- Basic Allowance Quarters (BAQ)
- Basic Allowance for Subsistence (BAS—food)
- Variable Housing Allowance (VAH) based on zip code (Note: See the TDHCA Memorandum regarding an exception with respect to certain projects in certain counties – [Attachment 2](#))
- Family Separation Allowance (FSA)
- Clothing Allowance (CA)
- Foreign Duty Pay (FDP)

Special assignments such as:

- Sea Duty
- Flight Duty
- Submarine Duty
- Explosives
- Jumping

Do **NOT** include the following when determining military income for:

- Re-enlistment bonus (consider as an asset)
- Imminent danger (hazardous pay) defined as combat in a hostile fire zone

Supporting documentation required:

- Leave and Earnings Statement (L.E.S) add the clothing allowance when using this form
- Verify that all entitlements are listed on the L.E.S, if not you must verify income entitlements with the Base Finance Officer
- Verification of Military Pay Form

M. Monetary Gifts (Gift Income)

Any money received from persons outside of the household on a regular basis is considered income. This includes rent, utility payments and contributions for non-perishable items. This does not include groceries, although it may be a regular contribution. Verification can be completed using the following:

- Notarized statement or affidavit signed by the person providing the assistance
- Notarized statement of affidavit signed by the resident stating the purpose, frequency and value of the gifts.

N. Certification of Zero Income

For adult household members who do not have earnings of any type, the Certification of Zero Income must be used. When using this form it is important that staff interview the household to determine the answer to question number 3 on that form. The answer from question number 3 will sometimes generate undisclosed income. If income is disclosed, do not use the Certification of Zero Income but the appropriate form that is provided based on the household's answer.

O. Unemployment Affidavit

An Unemployment Affidavit must accompany resident files that receive Social Security Income, Unemployment Income, and Certification of Zero Income verifications. An Unemployment Affidavit must also be included if a Monetary Gift is the only source of income.

(2.7) Calculating and Determining Income from Assets

A. Background

Assets are defined as items of value that can be converted to cash. A savings account that earns interest is considered an asset; the interest is considered income and must be used when determining annual household income. Assets under \$5,000 can be self verified and any interest income stated by the household can be used. Assets over \$5,000 must be verified via third party and the income from the asset or the 2% imputed income (whichever is greater) must be used.

The withdrawal of cash or assets from an investment received as periodic payments should be counted as income. Lump sum receipts from pension and retirement funds are counted as assets. If benefits are received through periodic payments, do not count any remaining amounts in the account as an asset.

Some assets do not generate income such as non-interest bearing checking or savings accounts. Items such as cars, furniture, televisions among other personal items are not considered assets and not considered in determining asset income.

If the household's total cash value of the asset is \$5,000 or less the actual income is included in annual income. If the asset is under \$5,000 use the self affidavit to record the asset.

To determine the cash value of the asset, use the greater of the current HUD imputed interest income of the actual interest income whichever is greater. The HUD imputed interest rate is the 2% as shown on the Income Certification.

See an example of how to calculate income from assets below in Section 2.7(D).

B. Types of Assets

- Savings Accounts
- Checking Accounts
- Trust Accounts
- Stocks, Bonds, Certificates of Deposits (CD's),
- Money Market Funds
- Treasury Bills
- IRA's
- Keogh
- 401 (k)
- Rental Income
- Real Estate Owned
- Mortgage
- Deed of Trust
- Personal property held as an investment (jewelry, gems, coin or stamp collection, antique cars)

When calculating income from assets on Savings and Checking accounts:

- Savings accounts - use the current balance
- Checking accounts - use the average balance for the last six months

Obtain the following documents as verification:

- Account statements
- Passbooks
- Certificates of Deposit
- Verification forms
- Documents from the financial institution or broker

Assets disposed of for less than fair market value are counted for two years following the certification or recertification. The amount that is included is the difference of the cash value of the asset and the amount that was received in the selling of the asset. At the end of two years, the income assigned to the asset is no longer counted.

C. Trust Accounts

A trust is defined as an arrangement whereby money or property is owned and managed by one person(s) or organization for the benefit of another. There are two types of trusts revocable and irrevocable.

A revocable trust can be changed as often as the grantor chooses and has access to the trust at any time. Count this trust as an asset.

A non-revocable trust is under the control of another and is not counted as an asset because the individual does not have access to the trust.

D. Worksheets and Examples to Value Assets and Calculate Income

Asset Evaluation Worksheet *For Real Estate Owned or Disposed of	
Assets must be included for 2 years after the sale or disposition of the property.	
Property Name: _____	Unit #: _____
Applicant/Resident Name: _____	
➤ Current Value of Real Estate	_____
➤ Minus mortgage owed	_____
➤ Minus any second mortgage/deed of trust	_____
➤ Minus 10% (10% is example only) of selling cost (cost to dispose) based upon value	_____
➤ Minus any other costs (attach documentation - includes costs involved in the sale of property)	_____
➤ Value amount of asset	_____

If property is rented, and a mortgage is still owed on the property, the income is the difference between the rental payment and the mortgage payment. A copy of the resident's current signed tax return including all schedules and a copy of the rental agreement is needed as supporting documentation.

If the property was sold on contract, obtain a copy of the contract and determine whether there is a mortgage; if so, what is the interest rate. This information helps to determine which method will be used for calculating income. The easiest method is to obtain a copy of the federal tax return with all schedules.

If the property is currently listed for sale, obtain a copy of the listing agreement. If the sale is pending, obtain a copy of the Real Estate Settlement Procedures Act (RESPA) that will reflect the net proceeds from the sale. If the property has recently closed, request the HUD-1 Settlement Statement which shows the cash value received.

***Example - Calculate Income from Assets**

To calculate income from assets use the following method:

- Cash value equals the market value **minus** the following:
 - Penalties for early withdrawal (before maturity)
 - Broker/legal fees assessed to sell or convert the asset to cash
 - Settlement costs for real estate transactions

Examples of determining the cash value of an asset:

Home valued at \$100,000 with a **mortgage** of \$60,000. The cost to dispose the asset is \$10,000.

\$100,000	home value
\$ 60,000	less mortgage
<u>\$ 10,000</u>	<u>less cost to dispose</u>
\$ 30,000	CASH VALUE

In the event of a divorce the asset will be divided by 2 with each spouse getting an equal share. Therefore, in the example above, the value for one person would be \$15,000 and not the \$30,000.

Certificate of Deposit having a market value of \$10,000 earning 4% interest. The owner will be charged an early withdrawal penalty of 3 months of interest- ($\$10,000 \times 4\% = 400.00 / 12 = 33.33$) 33.33×3 months of interest = 99.99. The cash value would then be \$10,000 minus the \$99.99 or 3 months of interest = **\$9,900.01**

Documentation must be provided by the household when determining the cash values of assets over \$5,000.

Income from employment of children (including foster children) under the age of 18 years is not included in determining household income. Also, earnings in excess of \$480 for each full-time

student 18 years or older (excluding head of household and spouse) is not included in determining household income.

(2.8) Maintaining Low Occupancy/Recertification

A. Background

Generally, the Owner's Regulatory Agreement requires that annual Recertification's are completed at least annually or on a 12 month basis. In the event Recertification's are not completed within the 12 month cycle the unit is now in non-compliance and must be converted to a Market Unit until the household complies with the Recertification requirements. If such household complies with the Recertification requirements, the unit is then treated as its previous designation as a Low Income Unit or a Very Low Income Unit.

Note: Under the 2008 Housing Act, annual Recertifications are not required to the extent that a project is 100% occupied by tenants who meet either the 20-50 Test or the 40-60 Test; however, TSAHC policy will require these Recertifications to be completed unless a "letter of waiver approval" under Resolution 09-01 is included in the file for such project.

Annual Recertifications can be performed retroactively, if the supporting documentation clearly demonstrates that the household was eligible from the time of move-in. Retroactive Recertifications can be accepted, provided the documents clearly indicate the sources of income and assets that were in place at the time the Recertification should have been completed using the income limits in effect on that date. In spite of the retroactive Recertification all forms are dated using the current date.

Recertification notices can be sent to residents 120 days in advance. A copy of the notice must be maintained in the resident file to demonstrate that the resident has been notified within the prescribed time frame. TSAHC will monitor to verify that notices are being sent to residents in a timely manner. After proper notification has been sent to the resident, failure to respond by the resident within the time frame provided is a program violation and places the unit in non-compliance.

Therefore it is critical that new applicants are made aware of the annual Recertification requirement at the initial move-in. In the event the lease does not spell out the Recertification requirements, a lease addendum must be used with a stated provision for failure to comply with the requirement of the program can lead to an eviction. Please be aware of any "letter of waiver approval" with respect to any particular project as to the Recertification requirements.

Households planning to move out of the property before the current Recertification expires can do so without having to recertify and will not be in non-compliance. However, households who give a 30 day notice and fail to move out at the scheduled time or chose to stay beyond the intended move out date must recertify promptly to avoid losing the low income status of the unit. A copy of the notice to vacate must be submitted to TSAHC prior to the next applicable reporting period.

Income Certifications must be completed before the resident initially occupies the unit. The Income Certificate is valid for a period no longer than one year from the effective date. The first

reminder for a household’s annual Recertification may be sent 120 days before the prior certification expires with reminder notices sent every 30 days. If a household is not recertified within the appropriate time period it will be considered a Market Rate Unit and cannot be counted in the low income set-asides until a recertification has been completed. If the household does not recertify and chooses to move out before a Recertification is completed, the unit will remain a Market Rate Unit until a Qualified Tenant has moved into that unit.

Once a resident qualifies as a Qualifying Tenant, the household can continue to occupy the same unit unless during recertification his or her adjusted gross income exceeds 140% of the current applicable income limit for an affordable resident of the same family size. If the resident no longer qualifies as a LI resident, the next available unit of comparable or smaller size must be rented to (or held vacant and available for occupancy by a LI resident to maintain the set-aside requirements).

B. Next Available Unit Documentation

When a household’s income exceeds 140% of AMGI, the Next Available Unit Rule becomes effective, and the over income unit (the “OI unit”) and the unit that replaces the OI unit (the “Replacement Unit”) must be tracked for verification purposes. Below is the information that should be documented to track the units. A copy of the form should be placed in each residents file, the OI unit and the Replacement Unit. The following information can be used to create a tracking chart for your particular property:

Over Income Unit	
• Resident name	• Unit Number
• Number of persons in household	• Unit size (sq ft)
• Date of Move In	• Income at Move In
• Date Recertified	• Recertified Income
• Current Income Limit	• 140% of Income Limit
• Date of Move Out (if applicable)	• Time of Move Out
• Rent at Recertification	• Rent after Recertification
• Reason for Recertification	

Next Unit Leased	
• Resident Name	• Unit Number
• Number of persons in household	• Unit Size (sq ft)
• Date of Move In	• Income at Move In
• Time of Move In	• Current Income Limit

C. Family Size Increases

When the size of a household increases after the initial certification the new family member's income must be verified via third party and an Income Certification completed. After the income of the new family member has been verified, it may be added to the existing household's Income Certification. The existing Income Certification is signed and dated by the new household member, using the current date. **DO NOT BACK DATE ANY FORMS.** The existing household member's income does not need to be verified until the household's next annual certification. The household's effective date does not change.

D. Family Size Decreases

If the household size decreases, it is not necessary to make any changes until the next annual recertification. The decrease will not trigger the Next Available Unit Rule, unless at recertification the household income exceeds 140% of the income limit. At that time, the unit is subject to the Next Available Unit Rule.

E. Income Verifications

Verifications are valid for 120 days from the date of indicated on the verification unless it the verification is a Social Security statement.

The household is considered to be income eligible so long as the income does not exceed the 140% income limit. In the event the income exceeds the 140% income limit, the Next Available Unit Rule will apply. When the Next Available Unit Rule is triggered, the household information must be tracked for audit purposes. The over-income household, as well as the replacement household must have supporting documentation in the file to show that this rule has not been violated. The household's new income must be reflected on the current Unit Status Report for on-line reporting. Failure to update the Unit Status Report is non-compliance and does constitute a finding.

It is highly recommended that Management implement procedures to ensure that changes in household composition are reported promptly and handled consistently.

(2.9) Rent and Lease Requirements

A. Rent Restrictions

Unless otherwise provided in a particular Compliance Agreement or Regulatory Agreement, the Borrower generally shall not, during the longer period of the qualified project period or the period during which the tax-exempt bonds remains outstanding, charge rents for VLI units or LI units in amounts exceeding those consented to in writing by TSAHC. As a general rule, the maximum rents charged for such units in any given year shall not exceed 30% of the income for a family whose income (a) with respect to VLI Units, equals 50% or 60%, as applicable, of the Median Gross Income for the area and (b) with respect to LI Units, equals 80% of the Median Gross Income for the area as determined by the United States Department of Housing and Urban Development. * Please note that the particular provisions of any relevant Compliance Agreement

or Regulatory Agreement would prevail over this Section and therefore such documents need to be reviewed in their entirety.

For 501(c)(3) transactions for which TSAHC issued tax-exempt bonds prior to 2004, pursuant to the respective loan agreement, rents for VLI units and LI units cannot be raised more than five percent (5%) from the current rent or the Consumer Price Index, whichever is higher. Owners requesting a rent increase greater than the 5% must provide written consent to TSAHC. If TSAHC does not respond within 10 days of the receipt of the notice, the property can increase the rent to the amount stated in the notice. This restriction may or may not apply in any future 501(c)(3) bond transactions completed by TSAHC, therefore, the same requirement regarding the review of the relevant Compliance Agreements or Regulatory Agreements mentioned above applies for all 501(c)(3) transactions as well.

B. Lease Requirements

Each lease or rental agreement that the property uses must contain provisions(s) that inform the resident that the Borrower has relied on Income Certification and supporting documents provided by the applicant/resident that establish their eligibility for residency as VLI residents or LI residents. A statement must also be present that informs the applicant/resident that any material misstatement in such certification (whether intentional or not) may be cause for immediate termination of the lease. The lease must also inform the resident that their residency is also subject to annual recertification. Lease agreements must be a minimum of six (6) months to be in compliance with the program requirements.

The set-aside units must be evenly distributed throughout the property and among all the different unit types. No more than 60% of the set-aside units may consist of one unit type and no less than 20% of the set-aside units may consist of any particular unit type.

TSAHC uses the most current MSA rent schedule provided by HUD. The rents may not exceed 30% of the applicable Median Gross Income for the county or city in which the property is located. Utility allowances are not taken into account on TSAHC bond financed developments. Communities with project-based Section 8 (HAP Contracts) utility allowances and utility rates used must be current. The resident's gross rent and utility allowance added together must not exceed the maximum rent allowed by HUD. The housing subsidy is not taken into consideration when calculating a household's gross rent.

As indicated in the applicable Owner's Regulatory Agreement none of the residential units in the property will be utilized in the following manner at any time:

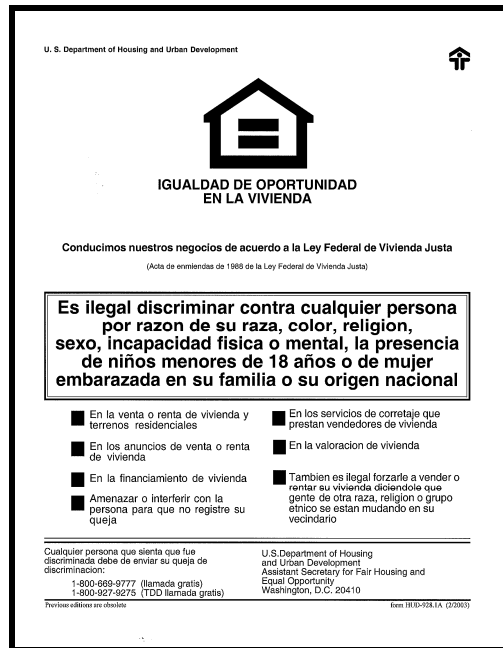
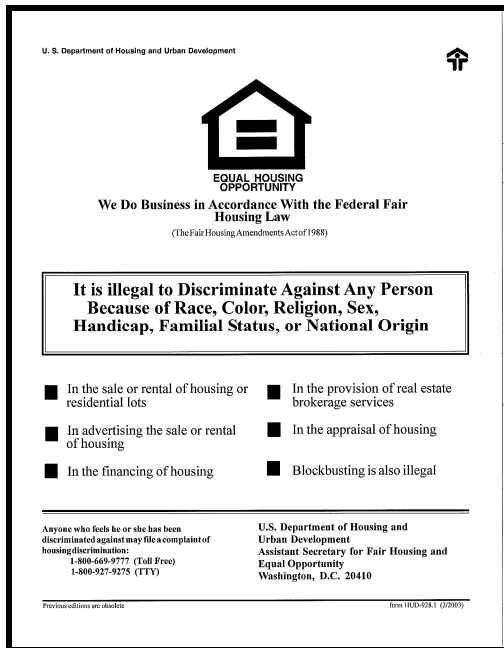
- On a transient basis
- Used as a hotel
- Used as a motel
- Used as a dormitory
- Used as a fraternity house
- Used as a sorority house
- Used as a rooming house
- Used as a nursing home/rest home

- Used as a sanitarium
- Used as a trailer court or park
- Rented for less than 30 days
- Owned by a Co-Op Housing Corporation

C. Fair Housing Compliance

All developments funded by TSAHC must follow the Fair Housing Act, Title VIII of the Civil Rights Act of 1968. Applicants cannot be discriminated against based on race, color, national origin, sex, age, disability, religion, or familial status. The Fair Housing poster is required to be displayed in a visible location in the leasing office for view by the general public. If a significant number of clients are Spanish speaking, it is strongly recommended that the Spanish version of the Fair Housing poster be visible, as well.

According to the Code of Federal Regulation, Title 24 Volume 1, Subpart C-Enforcement Sec. 110.30-Effect of failure to display poster: “Any person who claims to have been injured by a discriminatory housing practice may file a complaint with the Secretary pursuant to part 105 of this chapter. **A failure to display the fair housing poster as required by this part shall be deemed prima facie evidence of a discriminatory housing practice.**”



In addition to the Fair Housing Poster, the Fair Housing Logo must be made visible for the general public as well. This logo can be placed on the front or back door entrance, or any entrance or exit that the general public has access to. This logo can be accessed via the HUD website: www.hud.gov.



Apartment homes at all developments must be available for lease on a continuous basis to members of the general public, and no preference will be given to any particular class or group renting the units, except that units are required to be leased or rented to Low Income and Very Low Income residents. At no time will any portion of the property be exclusively reserved for use by a limited number of nonexempt persons in their trades or business.

Potential residents cannot be discriminated against based on his/her participation in the Section 8 program administered by (HUD) United States Department of Housing and Urban Development.

D. Owner/Management Responsibilities

The Owner is the responsible party for ensuring compliance with the applicable rules, regulations and policies that govern the program and shall make certain that all requirements are met on an on-going basis. Fair Housing training and Compliance training is highly recommended on a continuous basis because of the frequent program regulation changes. Additionally, the staff should be provided training in Section 504 Accessibility to effectively serve the physically challenged clientele. Owners must ensure compliance with the Regulatory Agreement, Compliance Agreement and Asset Oversight Agreement discussed in Chapter 3.

3. REGULATORY AGREEMENT, COMPLIANCE & SECURITY AGREEMENT AND ASSET OVERSIGHT AGREEMENT

(3.1) Regulatory Agreement

The Regulatory Agreement and Declaration of Restrictive Covenants (or document of a similar name and purpose, the “Regulatory Agreement”) is a critical part of the TSAHC Compliance Review process. The Regulatory Agreement is the primary document that assures compliance with the federal income tax laws (discussed in Chapter 2) and describes the set-aside requirements for each project. The Regulatory Agreement also serves to inform interested and involved parties of the rights and responsibilities associated with ownership and management of the multifamily asset in question. It is the primary document referenced within the Trust Indenture and Financing/Loan Agreement used for incorporating TSAHC’s “Reserved Rights” into Bond Document requirements. Please review each Regulatory Agreement related to each particular project for a full understanding of its requirements of each Borrower and project.

(3.2) Compliance & Security Agreement

When TSAHC issues tax-exempt bonds, the proceeds of which will be used to acquire, renovate construct or operate a low-income multi-family housing project, it also enters into a Compliance and Security Agreement (“Compliance Agreement”) with the Borrower of such proceeds. The Compliance Agreement contains covenants, reservations and restrictions that run with the property. Generally, the Compliance Agreement sets forth various rehabilitation standards, required resident services (discussed in Chapter 4), the replacement reserve fund for physical maintenance and repairs, management agreement restrictions and the Issuer’s role in compliance. The Compliance Agreement addresses both federal tax law requirements and certain state law requirements. Please review the particular Compliance Agreement for each project to fully understand the compliance requirements for each Borrower and project.

(3.3) Asset Oversight Agreement.

When TSAHC issues tax-exempt bonds, the proceeds of which will be used to acquire, renovate construct or operate a low-income multi-family housing project, it also enters into an Asset Oversight Agreement (“AOA”) with the Borrower of such proceeds. Generally, TSAHC is appointed as the initial asset oversight agent, which visits the property annually to review marketing plans, compliance and the operation of the facilities. Please review the particular AOA for each project to fully understand and determine the asset oversight requirements for each Borrower and project.

4. RESIDENT SERVICES

(4.1) Background

The Compliance Agreement and/or the Regulatory Agreement sets forth the Borrower’s agreement to provide resident services. Resident Services can be done monthly to meet the required number needed on a quarterly basis. It is encouraged that a variety of services are provided to reach all residents when creating a Resident Services Program. Resident Service Programs can be used as a marketing tool and the activities offered can provide support for each other. Residents can also benefit from the program by learning new skills and obtaining services that they may not have been able to receive. If activities do not receive any attendees, the Resident Services Program should be evaluated to ensure that activities continue to service the resident’s needs. A list of approved Resident Services can be found in Attachment 3.

Resident Service programs are an excellent marketing tool. However, residents are savvy enough to know when programs are genuine or just haphazardly rushed for the sake of providing “an activity.” When the services offered benefit an individual or a family the program will have positive outcome. Yet, when there are no attendees at activities sponsored by management, then it is time to evaluate the effort and money involved that produce no positive results. The services provided should be aggressively marketed by all staff members.

TSAHC provides some guidance in establishing programs that would enhance an effective Resident Service Program; in addition to an easy to access on-line reporting system. A list of approved Resident Services can be found on www.tsahc.org and in Attachment 3. In the event an

activity or area of interest is not mentioned in the list, you may contact TSAHC for further guidance. TSAHC recommends creating a Resident Services plan annually and seeking to network with various community agencies or partnering with community organizations to provide needed services prove beneficial results when consistency is maintained.

(4.2) Resident Services Reporting: Owners are required to report **monthly** and **annually** the activities provided for the reporting period.

The **monthly** Resident Services Activities Report is to be completed through TSAHC's on-line reporting system and reflects previous month activities due by the 10th of the following month. See Attachment 4.

5. TSAHC COMPLIANCE PROCEDURES

(5.1) The Benefits of a Successful Compliance Program

Now that all of the important documents have been signed and the Bond Deal has closed, the compliance monitoring process begins to ensure commitments made by the Owner in the initial application process are in place.

A well thought out compliance program should take into account a systematic approach that make certain management adheres to the applicable laws and standards of a government regulated program. A successful compliance program generally includes:

- Policies and procedures for compliance standards
- Oversight from upper management with corrective action standards in place
- Monthly and annual reporting submitted to the governing entity within the prescribed time frame
- Staff internal audits and on-going monitoring with enforcement from management for areas of non-compliance
- Education/training
- Employee screening for qualified/trustworthy employees
- Prevention to reduce deficiencies before they become problems

Prevention is the key reason for having an effective compliance program in place. It is a proactive approach; however, it does not totally eliminate errors from occurring. It can be used as a measuring tool to evaluate procedures already in place. Analyzing a program can be done with two basic concepts in mind, effort and outcome.

- Effort includes the time, money, resources and commitment that must be placed into the program.
- Outcome includes the process of how things are done. If procedures are being followed, fewer errors should be occurring. If employees are attending training, it should be evident in daily operational performance and the monitoring process will reflect fewer errors.

A compliance program can exist within the framework of the property's policies and procedures that are already in place.

With the above mentioned elements of effort and outcome ingrained into a compliance program some of the benefits that can be realized:

- Prevents problems and potential problems from escalating
- Pro-active measures will identify and disclose voluntarily program violations found by the property as opposed to a monitoring auditor
- Acts as a safeguard
- Acts as a defense against a liability
- Compliance is not an option, it is a mandate
- A voluntary program can work much better than a mandatory program and can be less costly

(5.2) Statement of Work

TSAHC utilizes industry related concepts of Asset Management as its method of Compliance oversight pertaining to TSAHC Bond Documents that encompass the Trust Indenture, Loan Agreement, Regulatory Agreement, Asset Oversight Agreement and Compliance Agreement.

TSAHC has integrated a monitoring system that will serve to effectively and efficiently administer Asset Oversight and Compliance Reviews for each property within the TSAHC portfolio. As part of its Asset Oversight and Compliance Review function, TSAHC shall endeavor to maintain continuous knowledge on all aspects of property operations in the areas of owner maintenance, security, leasing, occupancy, financial status and resident services so that potentially unfavorable conditions can be identified and promptly corrected. TSAHC staff will closely monitor issues of owner non-compliance relating to TSAHC Bond Documents and general industry practice. In each case of compliance or non-compliance, TSAHC will document Findings and Observations on the TSAHC Compliance Review Observation Report.

TSAHC conducts annual on-site compliance audits to make certain that income set-aside requirements, rent and lease requirements, as well as resident services requirements are being met according to the Owner's Regulatory and Compliance Agreements.

Compliance Reviews serve as TSAHC's method of verifying that owners are adhering to established guidelines in all areas of property operations as required by the Compliance Agreement. Strong emphasis is placed on detecting Owner or Management Agent non-compliance with TSAHC Bond Document requirements. TSAHC shall ensure that each property is subject to a review no less than once every twelve-month period. Owners will be given no less than a 30-day notice of their annual management review.

The Regulatory Agreement is a critical part of the TSAHC Compliance Review process. It is the source document from which the TSAHC Compliance Agreement derives its substance. The Regulatory Agreement also serves to inform interested and involved parties on the rights and responsibilities associated with ownership and management of the multifamily asset in question. It is the primary document referenced within the Trust Indenture and Loan Agreement used for incorporating TSAHC's "Reserved Rights" onto Bond Document Requirements.

The guidelines laid out in this manual are based on federal and state regulations, as well as the individual contract between TSAHC and the property owners. Specifically, reference for this

information may be found in the Regulatory Agreement/Compliance Agreement and Chapter 5 of the HUD 4350.3 Handbook. For management related industry matters reference is taken from the 2008-2009 version of the Texas Apartment Association (TAA) Redbook. For details on requirements, procedures and references please consult the stated governing documents.

(5.3) TSAHC Compliance Reporting Timeline

Calendar - TSAHC staff refers to the calendar of scheduled Compliance Audit site visits as set and assigned by the Asset Oversight and Compliance Manager. When a notification is sent to the Owner and all contacts the date is not optional. Schedules are prepared with travel cost factors in mind; therefore, changing an audit may not be in the best interest of either party.

Monthly Reports – Borrowers submit through the On-Line reporting system by the 10th of each month the following reports:

- Unit Status Report
- Certificate of Continuing Program Compliance
- Occupancy Summary
- Resident Services Report

Annual Reports-Borrower’s portfolio will have annual compliance and asset oversight audits at each site.

Corrective Action – No later than **30 days** after the site visit, TSAHC staff will send the Owner, Management Agent and the Property Manager an Annual Compliance Report detailing any findings or deficiencies, corrective action requirements and the corrective action cure time.

Regulatory Agreement Cure Period – Please review the applicable Regulatory Agreement for specific default and enforcement provisions. Generally, if a Borrower defaults in the performance or observance of any covenant, agreement or obligation and if such default remains uncured for a period of **60 days** after written notice from the Issuer or Trustee to the Borrower, then the Trustee shall declare an “Event of Default.” Additional time may be permitted to cure the default under the applicable Regulatory Agreement.

Compliance Agreement Cure Period – Please review the applicable Compliance Agreement default and enforcement provisions. Generally, if a Borrower defaults in the performance or observance of any covenant, agreement or obligation of any of the Borrower set forth in the Compliance Agreement, and if such default remains uncured for a period of **60 days** after written notice thereof from the Issuer to the Borrower, then the Issuer shall declare an “Event of Default.” Additional time may be permitted to cure the default under the applicable Compliance Agreement.

Please see chart below for summary of typical compliance provisions and timelines.

<u>ANNUAL AUDIT</u>	<u>ONLINE REPORTING</u>
<p>Owner failed to pay compliance fees, failed to provide information requested by TSAHC, failed to meet the set aside requirements, failed to provide Resident Services, or failed to meet any of the other requirements set forth in the Bond Documents.</p>	<p>Owner failed to report on the 10th of the month, failed to meet to the 20/50 Test, failed to meet 75/80 Test, failed to meet 100% set aside, failed to report 5 Resident Service Activities per Quarter, or failed to meet any of the other requirement set forth in the Bond Documents.</p>
<p>Corrective action must be submitted in 30 calendar days from the date the Compliance Report was sent to the owner and relevant contacts to cure the findings listed on the Compliance Observation Report.</p>	<p>If the property does not meet one of the online requirements, the appropriate letter will be sent to the owner and relevant contacts by email and certified mail extending the cure period 10 calendar days</p>
<p>If corrective action was not submitted in 30 calendar days, a Letter of Non Response is sent by email and certified mail extending the cure period 10 calendar days.</p>	<p>If corrective action was not submitted and filed to come into compliance with the 10 day extension, a Letter of Default is sent by email and certified mail extending the cure period 60 days.</p>
<p>If corrective action was submitted in 30 calendar days but not all findings are cured, a Letter of Incomplete Response is sent by email and certified mail extending the cure period 10 calendar days.</p>	
<p>If corrective action was not submitted after the Letter of Non Response or the Letter of Incomplete Response were sent, a Letter of Default is sent by email and certified mail extending the cure period 60 calendar days.</p>	

(5.4) Compliance Review Procedure

A. Background

TSAHC’s approach to conducting the annual Compliance Review will be in office preparation via the desk review, as well as the on-site visit. The auditor will spend time working with property management staff in order to prepare for the review. The philosophy behind such preparation is to ensure that the property management staff understands TSAHC’s expectations and the compliance review process. The initial contact and preparation for the annual review will occur no less than 30 calendar days in advance of the scheduled on-site visit. (See Attachment 5)

All annual Compliance Reviews will include an on-site file assessment and desk examination. Upon completion of the on-site review TSAHC will forward the Compliance Review Observation Report (See Attachment 6) with a cover letter (See Attachment 7) to the owner within 30 days.

Prior to the on-site visit, TSAHC staff will perform the following:

- Review the most current on-line Certificate of Continuing Compliance submitted to determine if property is in compliance with required set-asides.
- Review the most current on-line Unit Status Report submitted to determine files to be audited based upon property's self-reporting.
- Review the most current on-line Resident Services Report submitted to determine if the binder on-site is consistent with the on-line reporting.
- Review the property leasing/occupancy criteria to determine if the property's eligibility procedures are in compliance with company policy.
- Review the Entrance Interview Compliance Questionnaire submitted from the property to help TSAHC staff determine areas of non-compliance.

The auditor will fully inform property management staff of areas to be assessed during the site visit and during the on-going compliance monitoring. The auditor will ask questions to clarify information that may arise during the desk review and from property documents submitted to TSAHC prior to the site visit.

B. Previous Compliance Reviews

The auditor conducting the Compliance Review must also examine the last compliance evaluation performed, if any. This will allow the auditor to make a better determination of the property status and movement towards compliance with regulatory, contractual or federal regulation requirements. Additionally, the auditor will notice problematic areas and provide on-site training to help eliminate the recurrence of problem areas; thereby giving strength in difficult areas.

The auditor will follow up on certifications of corrective action submitted from the previous evaluation to ensure that the Owner's Certification was indeed performed. In cases where Owners submitted information that was false or inaccurate from the previous year's evaluation, the Owner/Agent ***must*** receive a Finding. Corrective action requirements will require strict monitoring and visual verification of any subsequent certifications submitted by the property.

C. Leasing and Occupancy Review

Consists of an assessment in the following areas:

- Resident selection and orientation
- Leases and Renewals
- Rent schedule and rents charged
- Utility allowances (where applicable)
- Application process (a thoroughly completed application from the resident must be in each resident file)
- Initial and annual recertification systems
- Resident files and records
- 20% of the resident files for audit review

The Income Certification will be reviewed to verify the current TSAHC form is being used in all resident files. A key area of the compliance review helps to determine that eligibility documents contained in the resident files are complete, accurate and has the supporting documentation to sustain the information provided by the household. The intent of this review confirms whether the Owner/Agent is complying with the occupancy requirements as set forth in the Regulatory and Compliance Agreements.

The file assessment includes, but is not limited to:

- Applicant screening
- Application intake process
- Section 8 voucher holder requirement
- Verification procedures
- Proper calculation of household annual income
- Calculation of tenant rent
- File maintenance

After a sampling of the required files, and at the auditor's discretion, an expansion on the number of files assessed may occur, if indications of recurring problems exist.

D. Resident Services Review

Includes an analysis of:

- Resident activities
- Resident participation
- Resident relations
- Resident use of community space
- Resident satisfaction

Program effectiveness, tracking and evidence of success stories will also be reviewed. A request for any materials, pamphlets or memoranda that the property has or distributes to residents for verification of numbers reported, as well as Copies of Memorandum of Understanding or Contracts that a property may have with external agencies that support their programming during this time frame. Owners will be encouraged to provide community space to interested agency's willing to provide on-site resident services.

E. General Management Practice Review

General management practice review includes a review of the management policies and procedures relating to leasing and occupancy operations. It may include, but is not limited to staffing, staff supervision, training and operating policies and procedures.

F. Close Out Meeting

Upon completion of the on-site Compliance Review the auditor will have a close out meeting with the Owner/Management Agent staff. TSAHC's policy requires that a representative of the Owner/Management staff be present during the close out review. This may be the on-site

manager. The auditor should take this opportunity to outline any areas of concern and potential areas of concern with possible recommendations for improvement during this meeting. The auditor should wait until he/she is in the confines of the office with all relevant information readily available before a final determination on Findings, Observations or Corrective Action requirements are made.

G. Submitting Corrective Action

When submitting corrective action to TSAHC the following guidelines will provide the correct format to send in the requested documents.

The final report detailing deficiencies and corrective action measures are sent out to the Owner that requires a response to address the corrective action taken by management. It is critical that the documents submitted to TSAHC are legible. Please use the process listed below when submitting corrective action to the appropriate TSAHC staff member, whether by certified mail, e-mail or fax.

- All Documents must include the applicable unit number
- Notices should be submitted on company letterhead to the attention of the appropriate auditor stating the date of the site visit, the corrective action measures taken and the documents being submitted.
- All documents must be legible in the format submitted, (ie, fax, e-mail or certified mail)
- Document forms must be the most current form in use for the program(s)
- Documents should be paper clipped
- The name and title of management staff submitting the corrective action should be provided so that an appropriate response can be sent to the Owner to clear the deficiencies.
- Documents must be submitted on White Paper Only. Colored paper is not acceptable for copy and reading purposes.

In the event the corrective action documents submitted does not cure the deficiencies, an Incomplete Response Notice will be sent by via e-mail and certified mail. This notice will provide details giving reference to the missing documentation that should have been submitted, but was not received. It will also address the process to correct the violation or the appropriate information necessary to submit to TSAHC. Please refer to the notice and submit what has been requested, or the documentation to substantiate the information submitted in order to clear the deficiency.

6. PREPARING FOR AUDIT

(6.1) Annual Audit:

Each development that has received funding through TSAHC will undergo an annual Compliance Audit to verify compliance with the family income and eligibility requirements of the Regulatory Agreement. A random selection consisting of twenty percent (20%) of the affordable resident files will be audited to verify compliance. For example, an apartment

community having a total of 246 units, only 37 units will be audited for compliance purposes. (246 x 75% = 185 x 20% = 37).

(6.2) Desk Review:

Prior to going to the site, the Compliance Notice and Entrance Questionnaire are sent to the Owner, the Property Manager and any relevant contacts provided by the owner. The auditor will review the Entrance Questionnaire (See Attachment 8) and will randomly select 20% of the affordable units taken from the property's most current Unit Status Report. The units chosen by the auditor consist of a mix of:

- Annual recertifications
- Incomes close to the maximum limit
- New move-ins
- Move-outs used to determine qualifying vacant unit status
- Files that may have questions

The excel spreadsheet is used to record the household information and is prepared as a part of the desk review in the office with the remaining information taken from the resident file. (See [Attachment 9](#) and [Attachment 10](#) for the compliance template.

(6.3) Initial Interview

During the initial interview, the auditor will explain the Compliance Review process with the site manager and provide him/her with a list of selected resident files for review. A copy of the Resident Services Binder is also requested to verify compliance with the reported activities. This is also the time that the Property Manager can ask questions that are unclear.

(6.4) File Review

During the on-site file audit the following areas will be monitored to verify household eligibility.

Documents that must be included in each resident file

- Completed application for adult household members 18 years of age and older with signature(s) and dates. Rental application(s) must be completed in its entirety
- If using the TAA Supplemental Rental Application, all areas of the form must be completed (all boxes must be checked) and clarification or supporting documents must accompany any Yes answers
- Employment Verification(s) are properly submitted by the employer; is legible and calculated correctly by the staff
- Income calculation worksheet (calculations must include YTD and gross amounts and be done correctly)
- Assets and the disposal of assets verified on the application and is mentioned on the Supplemental Rental Application (if applicable) in addition to the Asset Certification
- Assets over \$5,000 have been verified via third party

- Checking account - 6 consecutive month bank statements
- Savings account - most current bank statement

- File contains a signed and dated Tenant Release and Consent for all adults
- Student eligibility (if household is a qualified household)
- Completed current Lease with all initials and signatures
- Lease Addendum for Government Regulated Housing or a Lease Addendum informing of the tax-exempt bond requirements
- Note: WHITE OUT IS NEVER ACCEPTABLE

TSAHC Suggested File Order

Left Side

- Tenant Income Certification (TIC pg 1 and 2)/Annual Certification
- Calculations Page
- Proof of Income
 - Types of Verification
 - Verification of Employment (Employment Verification Telephone Verification, Check Stubs)
 - Social Security Income Document
 - Child Support (Statement/Affidavit/Divorce Decree)
 - Recurring Gift Affidavit
 - Unemployment Income
 - Certification of Zero Income Affidavit
 - Clarifications if needed
- Unemployment Affidavit
- Divorce Decree
- Separation Statements
- Student Eligibility
- Assets Over \$5,000/Assets Under \$5,000
 - Verification for Assets Over \$5,000
- Application
- Supplemental Application
- Tenant Consent and Release
- Credit and Background Report

Right Side

- Lease
- Affordable Housing Addendum
- Other Addendums and Property Forms

❖ All Income Verification for each adult household member should be together.

- ❖ Keep the Location of All Documents Consistent! Consistent location provides efficiency and accuracy for a file review.
- ❖ Separate each year with a colored piece of paper on both sides of the file.
- ❖ The rest of the file can be used for other documents such as housing contracts, adjustments, and correspondence.
- ❖ If clarification is needed, place the clarification behind or after what is being clarified.

(6.5) Exit Interview

Upon completion of the Compliance Audit, the auditor should examine the findings, observations and any areas of concern found during the audit with the site manager clarifying any area(s) that may be unclear.

(6.6) Final Report

Upon completion of the Compliance Audit, the TSAHC auditor will have the Manager of Asset Oversight and Compliance review the draft of the audit report. After approval, the auditor can e-mail the cover letter and the final report to the Owner, Property Manager and any relevant contacts provided by the owner. The final report is due to the owner within 90 days after completion of the annual audit, but it is TSAHC's goal to have them distributed within 30 days.

7. TRACKING AND MONITORING STATUS

(7.1) Findings

Non-compliance violations that require specific action from the owner as required by TSAHC. All findings must be clear, concise and specific to the problem discussed. The problem that has been identified as a Finding should state the unit number, state the non-compliance problem and provide corrective action to get the household back into compliance. A date for the corrective action to be submitted must also be provided.

(7.2) Corrective Action

Specific details on how to correct non-compliance findings. The language must clearly state what the property must do to correct the Finding, the time frame to submit the corrective action to TSAHC, the prescribed manner that corrective action must be submitted to TSAHC. The corrective action timeframe is normally within 30 days to cure. When all findings are current, a "Finding's Cleared Letter" shall be sent (See Attachment 11). If corrective action is not submitted to TSAHC in a timely manner by the Borrower, see chart on page 43 for the outline of the cure period policy.

(7.3) Observations

An observation is an area of concern that can be improved upon and is followed by a recommendation from TSAHC. Recommendations accompany Observations in the same manner that Corrective Action accompanies Findings. Adherences to recommendations are not mandatory, but do provide serious consideration to the directions given.

(7.4) Responses

There are two types of notices sent to owners who either do not respond to the corrective action requested or who do not provide sufficient information to cure the finding. They include the following notices:

- Non Response: If TSAHC has not received a Corrective Action response within the prescribed time frame, a Non Response letter (Attachment 12) will be sent via certified mail, return receipt requested, requiring a response within 10 calendar days.
- Incomplete or Insufficient Response: Incomplete or insufficient submissions of corrective Action will warrant follow-up correspondence (Attachment 13) informing the owner and property manager of the specific findings lacking completion. The follow-up correspondence will be drafted specifically to the outstanding finding at hand and will be sent within 10 calendar days from receipt of the incomplete documents submitted. This notice will be sent via e-mail and certified mail.

(7.5) Extensions

Properties requesting an extension to cure corrective action requirements must submit a formal written request on company letterhead to the TSAHC Compliance Manager who will approve or deny the request. A written response to the request will be sent within five days of the approval. Extensions will only be granted if the finding cannot be cured within 30 days and in TSAHC's judgment cure has commenced. The length of the extensions is determined on an individual basis.

Upon receipt of the corrective action and notices of insufficient action has been sent to the owner, it is the owner's responsibility to inform TSAHC of the corrections.

8. DEFAULT PROCEDURES/ENFORCEMENT AND OPPORTUNITY TO CURE

TSAHC takes its role as the Issuer of Bonds that establish affordable housing seriously. Owners that receive the benefit of these Bonds are bound to the requirements that accompany them. TSAHC will always strive to educate and assist owners in their responsibilities as they relate to the Bonds. However, in those cases where owners are failing to meet their obligations, TSAHC will follow the necessary procedures that could ultimately lead to a default situation. *It is vitally important to understand that owners who are in a potential default situation will be given proper notice and opportunity to cure before a default can be declared.* The specific Bond Documents that govern the property in question should always be carefully reviewed on a case-by-case basis prior to initiating default action.

The Trust Indenture, Loan Agreement, Regulatory Agreement and Compliance Agreement each have specific Notice of Default requirements pertaining to the manner of notice delivery, person and addressed notices are delivered to, documentation establishing notice delivery and timeframe upon delivery of notice to its recipient that constitutes actual receipt. Consequently, prior to

initiating a Notice of Default that will begin the 60-day notice and cure requirement, TSAHC staff must closely review each of the above-mentioned Bond Documents for specific owner covenants that have been violated and for specific delivery instructions contained. In areas where much of the same information is required but one document may require additional, a more stringent method of delivery, TSAHC will incorporate the most stringent notice and delivery requirements among all its Bond Documents in order to simplify the process. Given that each Bond Document references another in important areas of compliance, TSAHC must ensure that it strives to incorporate each provision within the various Bond Documents that has been defaulted upon when drafting a Notice of Default. Upon completion of the draft Notice of Default, TSAHC legal counsel must approve it prior to its release.

The Regulatory Agreement and Compliance Agreement contain specific language regarding matters of default and enforcement action available to the Issuer or Trustee. Proper notice, delivery of notice and opportunity to cure must be followed in accordance with all relevant provisions of applicable Bond Documents. Specific penalties regarding non-compliance are also discussed. TSAHC legal counsel should be consulted prior to initiating Initial Notice of Default and any subsequent action thereafter.

An event of default can occur if the owner:

- Fails to pay compliance fees
- Fails to provide information requested by TSAHC
- Fails to meet the required set-aside requirement (Safe Harbor Requirement)
- Fails to provide Resident Services
- Fails to meet any of the other requirements as set forth in the Regulatory Agreement, Compliance Agreement, Asset Oversight Agreement, etc.

To the extent legally permissible and upon advance notice, TSAHC staff can inspect the books and records of a TSAHC financed property or the incomes of any of their residents, including but not limited to resident files during normal business hours. TSAHC staff may also choose to make copies if so desired and file such reports as are necessary to meet our requirements.

In determining whether a default by the owner exists, the Trustee shall not be required to conduct any investigation into or review of the operations or records of the Borrower and may rely on any written report, notice or certificate delivered to the Trustee by any person retained to review the owner's compliance by the owner or TSAHC with respect to the occurrence or absence of a default unless it has actual knowledge of facts that create a reasonable basis to suspect that the report, notice or certificate is erroneous or misleading.

If an owner defaults in the performance or observance of any covenant, agreement or obligation of the Regulatory Agreement the owner has a 60 day period to cure after notice has been given by TSAHC or the Trustees. The time to cure can only be extended if in the opinion of Bond Counsel, the failure to cure said default within 60 days will not adversely affect the tax exempt status of interest on the tax exempt bonds. See Section 15 of the Regulatory Agreement. The Compliance Agreement contains similar cure periods in the case of a default by the owner. See Section 13 of the Compliance Agreement.

The Regulatory Agreement and Compliance Agreement contain remedies for the Issuer as a result of a default. For example, TSAHC can collect monetary damages, use any other remedy available at law or in equity, etc.

9. RECORDS RETENTION

Both TSAHC **and each property** must maintain all records pertaining to the properties for a period of no less than three (3) years following the later of the date on which no Bonds remain outstanding or the end of the Qualified Project Period. All tenant files with supporting documentation, resident services information and sign-in sheets must be made available. TSAHC will retain all monthly, quarterly and annual reports, in addition to the annual reports with the Bond Documents.

TSAHC will maintain all required records according to prescribed timeframes and permit timely, effective audits. TSAHC will maintain complete and accurate records regarding activities relating to each Compliance Review it performs. All records will be maintained for the longer period of which no Bonds remain outstanding or the end of the Qualified Project Period

10. TIPS FOR GETTING THROUGH A SUCCESSFUL FILE REVIEW

When you receive a notice that your community is scheduled for a Compliance Review in the next 30 days. This is a good time to make certain that the compliance policies and procedures already in place are effective. In fact, this is the reason for having an effective compliance program in the first place.

When reviewing files an auditor will look back at the initial move in to determine if the household was initially eligible. The first year annual recertification will be reviewed to verify any changes from the initial to the first year. Resident files should be clearly documented to indicate that staff has verified the changes and provide documentation via a clarification log for auditor review.

Getting through a successful file review is achievable. With the information provided below this will give a heads up when conducting an internal file audit prior to a site visit from TSAHC. Much of the information that we review and consider in compliance include:

- Income Certification is:
 - Checked with the correct action type (Initial Certification or Recertification)
 - Effective date and move in date is filled in
 - Include all household members, relationship code, date of birth, and student status
 - Reflect the household income for all adults
 - Reflect the household assets with the supporting documentation in the file
 - Signed and dated by all household adults
 - Signed and dated by Owner Agent (preferably the Manager)

- Application that is completed in its entirety, **all** blanks are answered
- Application provides current information on income and assets
- Asset income is calculated according to the \$5,000 rule (Under and Over \$5,000)
- Income calculations indicate the overtime, bonuses or anticipated pay increases as indicated on the employment verification
- Income calculation worksheet is in the file to show the property calculation
- Employment verifications are:
 - Not written on by staff
 - Unclear information has been verified using a phone clarification
 - Dates correspond with the Income Certification (e.g. not dated after move-in)
 - Verifications are within the 120 day time period
 - If check stubs are used, a consistent number so that auditor can determine if property adhering to occupancy criteria
- Rent charged is the correct rent according to the unit
- Recertifications are completed in the time prescribed (every 12 months)
- Annual recertifications have separation to determine one year from another
- Lease agreement and lease addendum for government regulated housing (lease must be a minimum of 6 months)
- File organization is a PLUS for any auditor

Events in a resident file that can trigger non-compliance therefore resulting in a finding being given:

- Application is incomplete or missing
- Missing required documents to determine eligibility (no income verification, no tenant release, etc.)
- Asset income not included or missing (home mortgage, etc.)
- Information on Unit Status Report differs from resident file documentation
- Copies of income verifications that appear to have been altered
- Incomplete Income Verifications
- Not tracking the Next Available Unit Rule
- No child support documentation and household has children
- Supplemental Rental Application reflect the exact income of the Income Certification
- Initial eligibility not clearly documented
- Staff completing resident documents (there are red flags that will alert an auditor that this is the case)
- Blank forms in the file having signatures and dates
- Documents that appear to be fraudulent (signed by another and not the resident)
- No white out to be used

As a source of reference, the governing documents listed below should be placed in a binder and accessible to the on-site staff for easy reference of day-to-day operations and management directives.

- Owner Initial Application for tax exempt bond financing
- Regulatory Agreement
- Compliance Agreement
- Asset Oversight Agreement
- HUD 4350.3
- Property Inspections
- Current Licenses and Permits
- If the property has project based Section 8-HAP Contract
- Fair Housing Poster(s) (English required; Spanish as the demographics of the community dictates)

Having access to these documents allow managers and on site staff to successfully fulfill the compliance obligations of the owner and maintain the tax exempt status of the bonds without penalty. In addition to proper compliance training the on site staff will be confident when qualifying new applicants for an apartment home or when recertifying existing residents to retain occupancy.

11. NONDISCRIMINATION POLICY

TSAHC shall not discriminate based on race, color, sex, religion, handicap, familial status or national origin in the leasing, rental or other disposition of housing or related facilities included in a property under its jurisdiction. TSAHC will periodically review this policy and procedures to assure compliance with all housing and civil requirements including, without limitation, Title VI and Title VIII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and Title II of the Americans with Disabilities Act.

12. PRIVACY POLICY

It is the policy of TSAHC to ensure the privacy of individuals covered by the Privacy Act of 1974 and to ensure the protection of all information contained in such individual's records maintained under TSAHC's portfolio unless release is required by the Texas Public Information Act or other statute, regulation, subpoena, court order, consent or other law. Notwithstanding the above, this privacy policy in no way limits TSAHC's ability to collect such information as it may be deemed necessary to determine eligibility, evaluate screening selection criteria, compute rent or enforce and/or verify compliance with the terms, conditions or obligations of tenancy or participation in TSAHC programs.

Attachments for the TSAHC Compliance Manual

Attachment 1: The Income Certification and Instructions

Attachment 2: Military Basic Housing Memorandum

Attachment 3: Approved Resident Services

Attachment 4: Monthly Resident Service Reporting

Attachment 5: Compliance Site Visit Notification Letter

Attachment 6: Compliance Review Observation Report

Attachment 7: Corrective Action Letter (Cover Letter)

Attachment 8: Entrance Questionnaire

Attachment 9: Compliance Spreadsheet (Tab 1- Property Detail)

Attachment 10: Compliance Spreadsheet (Tab 2: Resident File Review)

Attachment 11: Compliance Findings Closed Letter

Attachment 12: Letter of Non-Response

Attachment 13: Letter of Incomplete Response



INCOME CERTIFICATION

Initial Certification Recertification Other* _____

Effective Date: _____
 Move-in Date: _____
 (MM/DD/YYYY)
 *Transfer from Unit: _____

PART I – DEVELOPMENT DATA

Property Name: _____ County: _____ Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$ _____	\$ _____	\$ _____	\$ _____
Add totals from (A) through (D) above			TOTAL INCOME (E):	\$ _____

PART IV. INCOME FROM ASSETS

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
TOTALS:			\$ _____	\$ _____
Enter Column (H) Total		Passbook Rate		
If over \$5000 \$ _____		X 2.00%	=	(J) Imputed Income \$ _____
Enter the greater of the total of column I, or J: imputed income			TOTAL INCOME FROM ASSETS (K)	
(L) Total Annual Household Income from all Sources [Add (E) + (K)]			\$ _____	

PART V. DETERMINATION OF INCOME ELIGIBILITY

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature (Date)

Signature (Date)

Signature (Date)

Signature (Date)

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: <input type="checkbox"/> From item (L) on page 1	\$ _____	Household Meets Income Restriction at: <input type="checkbox"/> 50% <input type="checkbox"/> 60% <input type="checkbox"/> 80% <input type="checkbox"/> OI	RECERTIFICATION ONLY: Current Income Limit x 140%: \$(optional) _____ Household Income exceeds 140% at recertification: <input type="checkbox"/> Yes <input type="checkbox"/> No
Current Income Limit per Family Size: \$ _____			
Household Income at Move-in : \$ _____		Household Size at Move-in: _____	

PART VI. RENT

A. Tenant Paid Rent:	\$ _____		
B. Rent Assistance:	\$ _____		
C. Other non-optional charges	\$ _____	Unit Meets Rent Restriction at: <input type="checkbox"/> 50% <input type="checkbox"/> 60% <input type="checkbox"/> 80% <input type="checkbox"/> OI	
D. Gross Rent For Unit	\$ _____	Maximum Rent Limit for this unit: \$ /	

ARE ALL OCCUPANTS FULL TIME STUDENTS? <input type="checkbox"/> yes <input type="checkbox"/> no	If yes, Students must be Married and filing a joint Income Tax Return (also attach documentation)
---------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------

PART VIII. PROGRAM TYPE

This household's unit will be counted toward the property's occupancy requirements. Indicate the household's income status as established by this certification/recertification.

50% 60% 80% OI** ** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Income Certification is/are eligible under the provisions of program's rules and regulations to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification). If a household transfers from a unit, enter the unit number the household transferred from in the area below the Move-in Date.

Move-in Date Enter the date the tenant has or will take occupancy of the unit.

Effective Date For initial move-ins and certification, the effective date is the date of move-in. For those currently living on the property, the effective date should be the date the tenant signs the Income Certification.

For annual recertification, the effective date should be no later than one year from the effective date of the previous certification. The tenant must execute the certification no more than 90 days prior to the effective date. If the certification is performed late, the effective date is the date the tenant executes the income certification. **NOTE: Verifications must be valid (ie: Dated no more than 120 days prior to the effective date of the certification).**

Property Name Enter the name of the development.

County Enter the county (or equivalent) in which the building is located.

Unit Number # Enter the unit number.

Bedrooms Enter the number of bedrooms in the unit.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H - Head of Household	S - Spouse
A - Adult co-tenant	O - Other family member
C - Child	F - Foster child(ren)/adult(s)
L - Live-in caretaker	N - None of the above

Enter the date of birth, student status, and social security number or alien registration number for each occupant.

If there are more than 5 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A) Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment, distributed profits and/or net income from a business.

Column (B) Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.

Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.).
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J).
Row (L)	Total Annual Household Income From all Sources. Add (E) and (K) and enter the total.

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Income Certification. For move-in, it is recommended that the Income Certification be signed no earlier than 90 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in	For re-certifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Household size at move-in	
Household Meets Income Restriction	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.
Current Income Limit x 140% (This field is optional)	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus other non-optional charges. (A+B=C)
Maximum Rent Limit for this unit (This field is optional)	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check “yes”. If at least one household member is not a full time student, check “no”.

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

**Full time is determined by the school the student attends.*

Part VIII – Program Type

Mark the appropriate box indicating the household’s designation.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner’s representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in program compliance.

These instructions should not be considered a complete guide on program compliance. The responsibility for compliance with federal and state program regulations lies with the owner of the property.



To: Owners and Managers of TDHCA Sponsored Developments

**From: Patricia Murphy
Director of Portfolio Management and Compliance**

Date: September 24, 2008

RE: Military Basic Housing Allowance

Through the passage of the Housing and Economic Recovery Act of 2008, the Basic Housing Allowance for persons in the military is excluded from the determination of income, provided that the property is located in a county or an adjacent county with a "qualified military installation." On September 17, 2008, the Internal Revenue Service released a listing of "qualified military installations," two of which are in Texas: Fort Bliss and Fort Hood.

Note that only the basic housing allowance and hostile fire pay are excluded. **All other types of military income must be included when determining resident eligibility.** For example, suppose a person in the military presents their Leave and Earnings Statement that shows the amounts below. In determining eligibility, the bolded amounts would be considered the household's income. Only the Basic Housing Allowance of \$1290.30 would be excluded.

Basic Pay: **\$2497.80**
Basic Allowance for Subsistence **\$294.43**
Flight pay: **\$25**
Hazardous Duty Pay: **\$35**
Basic Housing Allowance: \$1290.30

This exclusion from income applies to Housing Tax Credit developments. This change does not apply to Housing Trust Fund, or HOME rental developments. This change does not apply to Tax Exempt Bond properties unless the property also receives Housing Tax Credits.

This change applies in the following counties:

El Paso	Hudspeth
Bell	Milam
Falls	McLennan
Coryell	Lampasas
Burnet	Williamson

Attachment Three

TSAHC's Approved Resident Services

It is the Texas State Affordable Housing Corporation's goal to support developers in the creation of high quality Resident Service Programs. To reach this goal, and better serve your residents, we need your help on site. TSAHC has created basic guidelines and reporting system to help with this process.

The following is a list of activities/courses that must be implemented. In order to fulfill the Resident Service requirement, six resident service activities per quarter at a minimum must be provided from the following list, If the applicant received additional points under the Resident Service scoring criteria, an average of four resident service activities per month at a minimum must be provided from the following list. If you are interested in starting an activity or course that is not on the list, please propose the new activity to the Manager of Asset Oversight and Compliance, or his/her designee for approval. Activities that are provided daily such as after school programs and educational/scholastic tutoring can be counted as two services for the quarter. Please make sure that it will encourage economic self sufficiency and/or promote homeownership opportunities.

- **Career Services**
 1. Computer Literacy Class
 2. GED Classes
 3. Job Skills/Training
 4. Resume/ Job Search Workshop
 5. Job Fair
 6. College Preparation Class
 7. Military Recruiting

- **Children's Services**
 1. After School Care (2 Services When Provided Daily)
 2. Swimming Lessons
 3. Free On-site Daycare (2 Services When Provided Daily)
 4. Free On-site Tutoring Sessions (2 Services When Provided Daily)
 5. Performing Arts Classes
 6. Holiday Safety Classes
 7. On-Site library
 8. Free Lunch Program (2 Services When Provided Daily)

- **Community Awareness**
 1. Crime Watch Meeting
 2. Self Defense Course
 3. Child Id/Fingerprinting Program
 4. Fire Safety Class
 5. Hurricane Safety Class
 6. Domestic Violence Awareness Workshop
 7. Drug Awareness Workshop
 8. Host Support Groups Such as AA, Anger Management, etc.
 9. Community Gardens

Attachment Three

10. Community Service Activities (i.e. Habitat for Humanity)
11. Green Living/Environmental Workshop

- **Financial Skills**

1. Household Budgeting Workshop
2. Financial Planning/Credit Counseling Workshop
3. Asset Building Workshop
4. Tax Preparation Courses
5. Student Financial Aid Workshop
6. Personal Insurance Workshop (Medical, Renters, Life, Disability, Car)

- **Medical and Health Services**

1. Basic First Aid and CPR Class
2. Caring for the Disabled Class
3. Health and Screening Services
4. HIV/AIDS Classes
5. Vaccinations/ Flu Shots Services
6. Weight Loss Club (Fitness and Exercise Classes)
7. Diabetes/ Heart Disease Courses
8. Babysitting Safety Courses
9. Health and Nutritional Courses
10. Low Cost Healthy Cooking Courses
11. Cancer Awareness Workshop/Cancer Screening Services
12. Free Dental Services

- **Personal Development**

1. Counseling Services
2. English as a Second Language Courses
3. Home Ownership Counseling
4. Home Ownership/Apartment Maintenance Courses
5. Parenting Classes
6. Anger Management Courses
7. Family Counseling
8. Cleaning Supply Safety Class
9. Book Club

- **Free Transportation Services**

1. Grocery Store
2. Library
3. Medical Visits
4. Cultural Community Events
5. Free/Discounted Public Transportation Tickets

Activities that will not be included towards the six resident service requirement include children's movie time, patio decorating contests, gambling trips, resident parties, Easter Egg Hunts or other activities along these lines. Properties are welcome to offer these activities, but they will not count towards fulfilling the Resident Services obligation.

Attachment Four

Resident Services: Month Year

Print Preview

Submit Report

Full Screen

Property:
Completed by:
Status:

ZZ Demo Property
04/02/2009

 Pending

Edit Report Data:

Description	Available	Monthly # Residents Served	Service Provider
Basic Adult Education			
Budgeting	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Computer Literacy Classes	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
GED Classes	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Job Skills	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Financial Planning Courses	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Other:	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Children's Activities			
After School	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Athletics	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Child Care	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Educational/Scholastic Tutoring	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Weekend Camps	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Youth Program	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Other:	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Community Safety			
Crime Watch	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Personal Protection	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Other:	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Direct Support			
Home Delivery	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
School Supplies	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Utilities Assistance	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Other:	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?
Medical & Health Services			
Basic First Aid & CPR	<input type="checkbox"/>	<input type="text"/>	<input type="text"/> ?

Attachment Four

Care & Training of Disabled	<input type="checkbox"/>			?
Health Screening Services	<input type="checkbox"/>			?
HIV/AIDS Classes	<input type="checkbox"/>			?
Vaccination/Shots	<input type="checkbox"/>			?
Health & Nutritional Courses	<input type="checkbox"/>			?
Other:	<input type="checkbox"/>			?
Personal Development				
Counseling Services	<input type="checkbox"/>			?
Credit Counseling	<input type="checkbox"/>			?
English as a Second language	<input type="checkbox"/>			?
Home Ownership Counseling	<input type="checkbox"/>			?
Job Skills-Mentally Disabled	<input type="checkbox"/>			?
Vocational Development	<input type="checkbox"/>			?
Other:	<input type="checkbox"/>			?
Senior Citizens Program				
Cultural Outings	<input type="checkbox"/>			?
Entertainment	<input type="checkbox"/>			?
Estate & Financial Planning	<input type="checkbox"/>			?
Home Care	<input type="checkbox"/>			?
Senior Meals	<input type="checkbox"/>			?
Medical Services	<input type="checkbox"/>			?
Other:	<input type="checkbox"/>			?
Social Activities				
Community Gardens	<input type="checkbox"/>			?
Computer Facilities	<input type="checkbox"/>			?
Other:	<input type="checkbox"/>			?
Transportation Services				
Other:	<input type="checkbox"/>			?
Other:	<input type="checkbox"/>			?
Online Resident Services				
Emergency Services	<input type="checkbox"/>			?
Family and Parenting Services	<input type="checkbox"/>			?
Educational Resources	<input type="checkbox"/>			?

Attachment Four

Senior Resources	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	?
Other:	<input type="checkbox"/>	<input type="text"/>	<input type="text"/>	?
		<input type="button" value="Save"/>		

Instructions

Complete the data in the form and hit save. For help about a particular field, mouse over the help symbol

[?](#) for additional instructions



Date

Owner

Owner Address

City, State, Zip

Attn: Owner Contact

RE: Name of Property

Dear Owner:

The purpose of this letter is to serve as notification that a TSAHC Representative will conduct a Compliance review at **Name of Property on Date**, starting at approximately **Time**. In order to facilitate an efficient review, we intend to complete as much of the review as possible in our office prior to our on-site visit. We will be using your Unit Status Report that is on the TSAHC website. Please make sure to keep it up to date so that we have access to accurate information.

Please review the documents outlined below and forward them to our office no later than **14 days before your site visit**. These documents may be submitted via e-mail, fax, or regular mail. It is the intention of TSAHC to minimize the disruption to your staff's routine and the amount of time we spend at your site; therefore, we will need to begin our desk review of these documents as soon as possible.

- Entrance Interview Questionnaire
- Occupancy Qualifications/ Rental Criteria
- Section 8 policy

The site visit consists of a 20% file review to verify income eligibility and unit set aside requirements, a review of resident services, and a comprehensive interview with at least one member of the management staff. The list of files to be reviewed will be given to management staff the day of the review.

The ability to develop a productive partnership is important to us, and we welcome the opportunity to serve you and your residents. We hope that our work together will assist in providing the best possible affordable housing within the State of Texas. As always, you may contact me via telephone or e-mail for assistance or information.

Respectfully,

TSAHC Staff Member

Title

E-mail Address

Phone Number

Texas State Affordable Housing Corporation
Compliance Review Observation Report
 “Bringing Affordable Housing Closer to Home”

Property Street Address City, State, Zip Code Owner: INSPECTION DATE: Inspector’s Name:			
Number of Units:	Number of required LI units:	Number of required VLI units:	
COMPLIANCE AUDIT		YES	NO
1) Are procedures that ensure compliance with the set aside requirements and rent requirements effective?			
2) Is the property accepting Section 8 households?			
3) Is the income to rent ratio for Section 8 households less than 2.5?			
4) Are the rent increases smaller than 5%?			
5) Is there any discriminatory language on the Application for Tenancy or Occupancy Qualifications?			
6) Does the lease or rental agreement inform the resident of Very Low Income/Low Income and Recertification requirements?			
7) Is additional monitoring by TSAHC recommended?			
COMMENTS:			

SET-ASIDES		YES	NO	N/A
1) Do the files reviewed establish that the property is meeting the Low Income residency requirement whereby 75 percent of the units are rented to tenants whose adjusted income is 80 percent or less of the median gross income for the Metropolitan Statistical Area where the property is located?				
2) Do the files reviewed establish that the property is meeting the Very Low Income residency requirement?				
3) Are the set-aside units evenly distributed?				
a) No more than 60% of the set-aside requirements consist of one unit type?				
b) No less than 20% of the set aside requirements consist of any particular unit type?				
4) If either of the set asides have not been met, are any units :				
a) Rented for less than 30 days, not including month-to-month?				
b) Utilized as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home, or trailer court or park?				
c) Leased to a corporation, business or university?				
d) Owned by a cooperative housing corporation?				
e) Not available for rental on a continuous basis to members of the general public?				
COMMENTS:				

UNITS WALKED			
(units vacant and unready for extended period of time and all down units)			
Unit #	USR Designation	New Designation	Comments
COMMENTS:			

Texas State Affordable Housing Corporation
Compliance Review Observation Report
 “Bringing Affordable Housing Closer to Home”

RESIDENT SERVICES	YES	NO	N/A
1) Does the programming appear to cater to the resident profile of the property?			
2) Does the programming appear to be effective? Discuss your observations in the comments section below. Provide examples of the program effectiveness or ineffectiveness.			
3) Is there a resident services notebook available to review?			
4) TSAHC provided Technical assistance regarding:			
a) Resident attendance			
b) Frequency of service provided			
c) Transportation provided for off site services			
d) Notification to residents of services			
e) Number or type of services			
f) Survey of residents			
g) On-line reporting			
5) Does the property comply with the resident services requirement?			
COMMENTS:			

OFFICE	YES	NO	N/A
1) Is the office neat, the desk uncluttered?			
2) Are accurate office hours posted?			
3) Are the following displayed in full view:			
a) Occupancy Qualifications?			
b) Fair Housing Poster?			
COMMENTS:			

RESIDENT FILE REVIEW	YES	NO	N/A
1) Are there any Next Available Unit Rule Violations?			
2) Does the file audit establish that residents are being recertified on an annual basis?			
3) Does the owner maintain all records relating to resident income certifications, together with supporting documentation?			
4) Does the Owner/Agent make an effort to determine that the income certification provided by the resident is accurate?			
5) Does the file audit indicate that staff needs additional training?			
COMMENTS:			

If a new household moves in to any of the units with Findings (listed below), instead of submitting the required Corrective Action documents, submit with your response: the application for tenancy, the verifications, the Income Certification, and the 1st page of the lease for the new household occupying the unit.

Unit	Finding	Issue	Corrective Action Requirement

Texas State Affordable Housing Corporation
Compliance Review Observation Report
“Bringing Affordable Housing Closer to Home”

COMMENTS:

SUMMARY OF FINDINGS AND OBSERVATIONS

Findings address serious issues that need to be cured immediately. **Findings** will always be followed by **Corrective Action Requirements**. Management must complete the **Corrective Action Requirements** and send certification to TSAHC that they have been resolved as stipulated within each **Corrective Action Requirement**. This certification must be on company letterhead and address each item individually.

The Findings identified during the review include:

Observations will address issues that can be improved upon, but do not require immediate action. An **Observation** will always be followed by a **Recommendation**. Management should consider **Recommendations** but there is no written response required.

The Observations identified during the review include:



Date

Owner

Owner Address

City, State, Zip

Attn: Owner Contact

RE: **Name of Property**

Dear Owner:

On **Date**, a Compliance Review was performed at the above referenced property. Details of the review can be found in the enclosed Observation Report. The purpose of this review is to determine compliance with your TSAHC Multifamily Bonds.

The Compliance review included:

- A review of the Entrance Interview Questionnaire
- A review of the current Unit Status Report
- A 20% file review to verify income eligibility and unit set aside requirements
- A review of resident services, and
- A comprehensive Exit Interview with the Property Manager

This review may indicate items in need of correction in order to be in compliance with your TSAHC Multifamily Bonds. A list of Findings and/or Observations resulting from the review is enclosed in the detailed Compliance Report. Each Finding will include Corrective Action dates for those items considered deficient. Properties with any Corrective Action Requirements will be placed on a Monitoring Status pending correction.

I appreciate the time and effort your staff allotted to our review. If you wish to discuss the report findings before preparing your response, please feel free to contact me at the number listed below.

Respectfully,

TSAHC Staff Member

Title

E-mail Address

Phone Number

Attachment Eight



Entrance Interview Questionnaire

Instructions: Answer the questions below and return to TSAHC Compliance Department at 512-477-3557 (fax), or email to TSAHC Staff Member.

Property Name: _____

1. Briefly explain your certification process?
2. How do you track re-certifications?
3. How is the Next Available Unit Rule Tracked?
4. Briefly explain your re-certification process, including when you begin?
5. Are any units on the property rented for less than 30 days, not including month-to-month leases? If so, list the unit numbers.
6. Are any units utilized as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park? If so, list the units.
7. Are any units leased to a corporation, business or university? If so, list the units.
8. Are any units owned by a cooperative housing corporation? If so, list the units.
9. Are any units not available for rental on a continuous basis to members of the general public? If so, list the unit number and provide an explanation.
10. Does any property staff live on-site? What unit do they live in? What is their job title?

The information contained thereon is, to the best knowledge of the Borrower, true and accurate.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Attachment Nine

About this Spreadsheet

This spreadsheet file lets you test tenant qualifications for any number of apartments in a complex. Below, you must enter the tenant certification variables for the project. Take special care to enter the HUD one-person very low income for the county (**DO NOT** enter the median income). It is important to enter all information requested. Please note that you should only type over the [BLUE](#) text. All other cells have formulas.

Name of Property/Portfolio		Property Name
HUD 1-Person Very Low Income Limit		
Month/Date of HUD Income Limits		04/01/09
County Name (County, ST)		County Name
Year of Bond Closing		
Predominate Median Income Percentile? (40%, 50%, 60%, Other?)		50%
Are 100% Of The Units Tax Credit Units?		No
Utility Allowance for Each Bedroom Size?	Studio	0
	1BR	0
	2BR	0
	3BR	0
	4BR	0
	5BR	0

INSERTING ADDITIONAL UNITS?

Go to the pull down menu "Tools" and select "Additional Unit". The spreadsheet will insert a new worksheet for one additional unit. Select "Additional Unit" each time you add a new tenant certification.

NOTE!: Before you insert an Additional Unit be sure to RENAME the worksheet entered previously. Double click on the Tab at the bottom of your screen and enter the unit number for that certification.

NOTE!: You must insert a new spreadsheet to start entering tenant information. The worksheet titled "Template" is protected. It will not allow you to enter any information. You can only enter information on the spreadsheets that you add through the "Tools" menu.

PRINTING THE WORKSHEET(S)

- A. PRINT ALL TENANT CERTIFICATIONS:
Go to the pull down menu "Tools" and select "Print All"
- B. PRINT CURRENT TENANT CERTIFICATION:
Go to the pull down menu "Tools" and select "Print Sheet"

Attachment Ten

	Unit # 101	COMMENTS
HUD 1-Person Very Low Income Limit	\$23,300	TENANT QUALIFIED
Month/Date of HUD Income Limits	02/01/08	
County Name (County, ST)	County	
Year of Allocation	0	
0	0	
Predominate Median Income Percentile (40%, 50%, 60%, Other?)	50%	

SECTION 42 LIMITS

Number of Persons in Family		1	2	3	4	5	6	7	8
40% of Median Income		\$18,640	\$21,280	\$23,960	\$26,600	\$28,720	\$30,840	\$33,000	\$35,120
50% of Median Income		\$23,300	\$26,600	\$29,950	\$33,250	\$35,900	\$38,550	\$41,250	\$43,900
60% of Median Income		\$27,960	\$31,920	\$35,940	\$39,900	\$43,080	\$46,260	\$49,500	\$52,680
Maximum Gross Rent by Bedroom		0	1	2	3	4	5		
40% of Median Income		\$466	\$499	\$599	\$692	\$771	\$852		
50% of Median Income		\$583	\$624	\$749	\$864	\$964	\$1,064		
60% of Median Income		\$699	\$749	\$899	\$1,037	\$1,157	\$1,277		
Maximum Gross Rent by Persons		1	2	3	4	5	6	7	8
40% of Median Income		\$466	\$532	\$599	\$665	\$718	\$771	\$825	\$878
50% of Median Income		\$583	\$665	\$749	\$831	\$898	\$964	\$1,031	\$1,098
60% of Median Income		\$699	\$798	\$899	\$998	\$1,077	\$1,157	\$1,238	\$1,317
Numbe of Bedrooms		0	1	2	3	4	5		
Utility Allowance		\$0	\$0	\$0	\$0	\$0	\$0		

OCCUPANCY INFORMATION From Income Certification

Tenant Name(s)		Name			
Unit Number	101			Monthly Utility Allowance	\$0
Family Size	1			Actual Gross Rent	\$0
Number of Bedrooms	1			Maximum Gross Rent	\$624

Attachment Ten

Maximum Income Percentile?		50%	Actual Income (see below)		\$0	
Actual Net Tenant Rental Contrib.		\$0		Maximum Income		\$23,300
Date of last certification		01/01/05				
Are all occupants full-time students?		no				

CERTIFICATION INCOME BREAKDOWN:

Type of Income*	Amount on IC	How Did Property Calculate Income?	3rd Party Verification Received?		
Work/Business1					
Work/Business2					
Work/Business3					
Housing Allowances					
Pensions/other Periodic Pmts					
Child Support/Alimony					
AFDC/Welfare					
Unemployment/Severance					
Social Security/SSI					
Other Income?					
Total Asset Value†	\$0				
Assets: Actual Income	\$0				
HUD Interest Rate	2.00%	Additional Comments			
Imputed Income From Assets	\$0	Is Annual Certification Signed & Dated? (Y/N)			YES
Asset Amount Included as Income	\$0	Was Verification completed within 90 days? (Y/N)			YES
TOTAL INCOME	\$0	Have Assets Been Verified			YES

QUALIFIED STATUS

Income Qualified?	YES	Rent OK?	YES
-------------------	-----	----------	-----

Attachment Ten

				Meets 140% rule?		YES
				Tenant Qualified?		YES
All low-income project?		No				

†Do NOT calculate imputed interest if assets total less than \$5,000.

*Do NOT include the following income: (See 24 CFR 813.106)

(1) Employment income from children under 18;	(5) Scholarship income (for tuition, books, etc.);
(2) Lump sum income;	(6) The value of food stamps;
(3) Income from a HUD job training program;	(7) Earned Income Tax Credit (EITC);
(4) Temporary or non-recurring income;	(8) Hostile fire pay to Armed Services personnel.

Per Temporary Regulations effective 5 May 1995 and scheduled to expire 6 May 1996, also exclude:

(9) Resident stipends (only if under \$200/month);	(12) Income from state or local employment training;
(10) ALL scholarships, including work-study jobs;	(13) State tax rent credits and rebates.
(11) ALL income earned by FT students, except the Head of Household;	

1) Move -in date:			
2) Initial Income Certification date:			
3) Recertification dates:			
	YES	NO	Comments
4) All household members screened?			
5) HH number = TIC, Lease, Application?			
6) Is there a lease addendum?			
7) Is there a Tenant Release and Consent form?			
8) List the dates of birth of HH members (1988= 18)			
9) If income was calculated incorrectly, what is the correct calculation?			

Attachment Ten

10) List the Income Certification dates		
-----------------------------------------	--	--

FINDINGS

Explain

Household not eligible at move-in	
Ineligible student household	
Owner failed to maintain Income Certification and Documentation	
Question if household eligible at move-in	
Rent over limit	
Late re-certification	
Other	

Attachment Eleven



Date

Owner

Owner Address

City, State, Zip

Attn: Owner Contact

Re: **Property**

Dear Owner:

The Texas State Affordable Housing Corporation (TSAHC) has received the corrective action submitted by **Name of Person** on **Date**, for the Compliance Review performed on **Date**.

Compliance Audit:

This response is sufficient information to establish that the Findings identified on the Compliance Review Observation Report dated **Date**, sent to you **Date** have been corrected.

Thank you for your attention to this important matter. Please do not hesitate to call should you have any questions regarding this notice.

Respectfully,

TSAHC Staff Member

Title

E-mail Address

Phone Number

Attachment Twelve



Date

By Facsimile/Original by Certified Mail
Return Receipt Requested

NON RESPONSE NOTICE
REQUEST FOR CORRECTIVE ACTION

Owner

Owner Address

City, State, Zip

Attn: Owner Contact

RE: Name of Property

Dear Owner:

The Texas State Affordable Housing Corporation (TSAHC) has not received a response to the Findings identified on the Asset Oversight Review Observation Report dated **Date**, sent to you **Date**. To ensure compliance, we must receive documents meeting the Corrective Action Requirements set out in the Report no later than **Date**. Please refer to the Narrative pages of the Report for the corrective action requirements.

Thank you for your attention to this important matter. If you have forwarded the required documents, please contact us to ensure we have received the information that you submitted. Please do not hesitate to call should you require additional information or clarification on this important request.

Respectfully,

TSAHC Staff Member

Title

E-mail Address

Phone Number

Attachment Thirteen



Date

By Email/Original by Certified Mail
Return Receipt Requested

**1st NOTICE OF
INCOMPLETE OF INSUFFICIENT
RESPONSE NOTICE REQUEST
FOR CORRECTIVE ACTION**

Owner

Owner Address
City, State, Zip
Attn: Owner Contact

RE: Name of Property

Dear Owner:

The Texas State Affordable Housing Corporation (TSAHC) has received an incomplete or insufficient response from **Name of Person** to the Findings identified on the Compliance Review Observation Report dated **Date**, sent to you **Date**. Specifically, your response has not sufficiently addressed the following Corrective Action requirements:

List the Incomplete Findings

To ensure that corrective action has been reviewed by a 3rd party, information requested in this notice must come from the Compliance Department. It is recommended, site staff should submit documents to the Compliance Department in a timely manner to avoid delays in meeting the TSAHC corrective action deadline.

All units listed above **MUST** reflect a Market unit on the Unit Status Report until TSAHC has submitted a letter stating that all findings have been corrected.

Please refer to the original report submitted to you on **Date**, for a complete review of the findings and the corrective action requested.

To ensure compliance, we must receive documents meeting the Corrective Action Requirements set out in the Report no later than **Date**.

Thank you for your attention to this important matter. Please do not hesitate to call should you require additional information or clarification on this important request.

Respectfully,

TSAHC Staff Member
Title
E-mail Address
Phone Number