HOME Rental Housing Program Compliance Manual

November 16, 2023

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PREFACE

The purpose of this manual is to prescribe and outline the methods and procedures by which Missouri Housing Development Commission (MHDC) will monitor and assess compliance with HOME Program requirements, for HOME funds allocated by MHDC to rental properties throughout the state of Missouri. Further, it is intended to be a training and reference guide to answer questions regarding the procedures, rules and regulations that govern HOME loan properties in Missouri. This manual is intended only as a supplement to existing laws and rules and is not a comprehensive guide to the HOME Program and all of its requirements. This manual was produced for use by HOME Program participants in Missouri to be used in conjunction with the HOME Program Final Rule and MHDC Regulatory Agreement. Upon request, MHDC may provide the latest federal rule changes and advise participants of internal processing requirements; however, MHDC will not make authoritative interpretations of the federal law.

The Asset Management Department utilizes a systematic approach to effectively monitor the physical, fiscal, and regulatory operations of affordable housing properties. This approach is based on sound business practices and economic rationale to measure performance.

NOTE: Employees and officers of MHDC are not liable for any adverse consequences to taxpayers and/or investors as a result of programmatic non-compliance with federal laws.

Compliance monitoring is administered by the MHDC Asset Management Department. Questions regarding compliance issues should be directed to the compliance team at (314) 877-1350 or (816) 759-6600.

CHAPTER 1: INTRODUCTION

1.1 Missouri Housing Development Commission

Missouri Housing Development Commission (MHDC) was established in 1969 by the 75th General Assembly to assist in the creation of low-income and moderate-income housing in Missouri. The legislature established a commission which is currently composed of 10 members. The governor, lieutenant governor, state treasurer and the attorney general serve on the commission by virtue of office. The remaining six members are appointed by the governor for staggered terms of four years, with the advice and consent of the Senate. These individuals must have demonstrated a concern for Missouri's housing needs. MHDC programs are varied and are available to low- and moderate-income Missourians, regardless of race, color, creed, or national origin.

1.2 Background

The HOME Program was created under Title II (the Home Investment Partnerships Act) of the National Affordable Housing Act of 1990. The HOME Program is not a categorical housing program requiring a specific housing activity. Instead, the HOME Program provides states and local governments flexibility to decide what kind of housing assistance is most appropriate to meet the housing needs of the local jurisdiction. Eligible activities include new construction, rehabilitation, and acquisition of standard housing, assistance to homebuyers and tenant-based rental assistance.

The HOME Program affirms the federal government's commitment to provide decent, safe, and affordable housing to all Americans, and to alleviate the problems of excessive rent burdens, homelessness, and deteriorating housing stock in the nation. The United States Department of Housing and Urban Development (HUD) provides funding and guidelines to HOME Program participating jurisdictions (state and local governments) to design and tailor affordable housing strategies to address local needs and housing conditions. The program strives to meet both the short-term goal of increasing the supply and availability of affordable housing, and the long-term goal of building partnerships between state and local governments, and private and public organizations, and strengthening their capacity to meet the housing needs of low- and very low-income families.

1.3 Key HOME Program Participants

Participating Jurisdiction (PJ): These are state and local governments or consortia that serve as the primary entities designated by HUD to administer the HOME Program.

Community Housing Development Organizations (CHDOs): A CHDO is a private, nonprofit organization that meets certain legal, organizational, and capacity qualifications prescribed in the HOME regulations. PJs evaluate the qualifications of an organization according to the regulations and certify it as a CHDO for purposes of the HOME Program.

PJs must match every dollar of HOME funds used (except for administrative costs) with 25 cents from nonfederal sources, which may include but are not limited to cash contributions from nonfederal sources, forbearance of fees, donated materials or labor, the value of donated property, and proceeds from bond financing. PJs must reserve at least 15 percent of their allocations to fund housing to be owned, developed, or sponsored by experienced CHDOs. PJs must ensure that HOME-funded housing units remain affordable in the long term (20 years for new construction of rental housing; 5-15 years for construction of homeownership housing and housing rehabilitation, depending on the amount of HOME funds provided). PJs have two years to commit funds (including reserving funds for CHDOs) and five years to spend funds.

CHAPTER 2: RESPONSIBILITIES

2.1 MHDC

MHDC is responsible for administering the HOME Rental Housing Production Program which provides financing to developers for the acquisition and rehabilitation and new construction of rental housing for low-income and very low-income households. To be considered, all sponsoring entities and proposals must meet the regulations prescribed in the HOME Investment Partnerships Program at 24 CFR Part 92. MHDC accepts applications in response to a Notice of Funding Availability (NOFA) published at specific times during the year. MHDC attempts to select applications consistent with the current Qualified Allocation Plan and within the limits of the funds available.

2.2 The Owner/Developer

In order to take advantage of the benefits provided under the HOME Program, the owner and property must meet certain requirements and HOME required property standards (24 CFR 5.703; 24 CFR 200.925; §92.251; https://www.hudexchange.info/programs/home/) that will benefit low- and moderate-income families. These requirements are to:

1. Manage the property in accordance with the HOME regulations and all additional requirements agreed to during the allocation process for the duration of the compliance period. This includes continuous compliance with regard to income and rent restrictions detailed in the initial application. Any violation of the requirements could result in default of a loan and suspension of further utilization of MHDC resources.
2. Ensure that once the property has been completed and all units are rented, the property is properly administered. The Owner guarantees that all units are suitable for occupancy by meeting HOME property standards requirements, local health, safety and building codes are taken into account, and that the on-site management team complies with all applicable rules, regulations and policies which govern the property. This includes following policies and regulations pertaining to lead-based paint and asbestos disclosure and/or remediation where required.
3. Advise and receive MHDC approval of any material changes in ownership or management. **No changes in management or ownership can be made without prior written approval of MHDC.**
4. Ensure that a duly executed management certification and management entity profile is in force at all times. **No changes to the management certification can be implemented without prior written approval of MHDC.**
5. Certify that the property is being managed in accordance with all applicable federal, state and local fair housing laws.
6. Provide MHDC the annual certification of continuing program compliance and annual occupancy report within 90 days of the end of the calendar year. See Exhibit K and Exhibit H on the MHDC website. HOME properties that also contain tax credits must submit the annual occupancy information through the Certification Portal (CP) in accordance with the seasonal reporting schedule and must submit the annual certification (Exhibit K) signed by the owner, by the last day of the month following the CP submission due date.
7. Provide MHDC an annual operating budget and annual financial statement.
8. Assume liability for any instances of noncompliance and the correction of such deficiencies.
9. Properties that were placed in service in 2003 and thereafter are required to have the Owners and their on-site managers complete a compliance training session that is approved by MHDC. In addition, all new managers are required to attend a compliance training session, with ongoing training to be updated at least every two years. A compliance training provider listing can be found at www.mhdc.com.
10. Please be advised that electronic signatures allowed under HOME. More info here: https://www.hudexchange.info/programs/housing-counseling/technology/#housing-counseling-services.

2.3 The Management Agent

The management agent is responsible for properly implementing HOME Program requirements at the property, and must be thoroughly familiar with all federal laws, rules or regulations governing certification and leasing procedures. The management agent provides all necessary and required information to MHDC; this includes submission of various program compliance reports within specified time frames. Further, if the management agent determines that the property is not in compliance with HOME Program requirements, the Asset Management Department must be immediately notified in writing, directed to the attention of the HOME Compliance Specialist at 505 N. 7th Street, Suite 2000, St. Louis, MO 63101. A duly executed management certification, and management plan is required to be in place at the onset of leasing activity and continually throughout the affordability period. **No changes to the management certification can be implemented without prior written approval of MHDC.**

2.4 MHDC Asset Management Department

The MHDC Asset Management Department is responsible for compliance monitoring of properties that receive HOME Program funding. This department performs the following functions:

1. Provide HOME Program compliance manuals and related materials.
2. Receive, review and file all documentation and certifications required for compliance by owners, developers, and management agents.
3. Initiate, schedule, and conduct on-site physical, management and file reviews.
4. Provide HOME Program compliance monitoring staff to serve as a point-of-contact for information for owners, developers, and management agents.
5. Notify owners when the property is found to be out of compliance with HUD or MHDC requirements, including submission of reports or other requested information.
6. Ensure that development certifications and other records will be retained for the applicable record retention period.

CHAPTER 3: COMPLIANCE REQUIREMENTS

3.1 Management Plan

The foundation of any successful residential property is a sound management plan. In preparing the management plan, it is important for the owner to consider potential problems that may arise during initial leasing and during operation of the property. The development of this plan should be a cooperative effort between the owner and property manager, where applicable. The management plan must ensure compliance with applicable state and federal laws. A copy of the management plan must be submitted to MHDC with the initial rental development application, and the plan should be updated whenever an important element changes. A copy of the updated plans must be provided to the asset management department. For further information on completing a management plan, please refer to Management/Maintenance Plan Outline (*Exhibit A-1*) on the MHDC website under the HOME rental housing program resource tab.

3.2 Affirmative Fair Housing Marketing Plan

A current Affirmative Fair Housing Marketing Plan must be established, followed, and made readily available for review by MHDC staff. The HOME Program requires affirmative marketing efforts for all properties of five or more units (24 CFR 92.351). Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the property without regard to race, color, national origin, sex, religion, familial status, or disability. Owners (or management agents) must prepare and submit for approval by MHDC an Affirmative Fair Housing Marketing Plan (HUD Form 935.2) or provide to MHDC a plan that has been approved by HUD or Rural Development. **The plan must be reviewed and updated every five years at a minimum.** If it is determined that the information contained in the plan has not changed in the last five years, documentation indicating "No Change" should be maintained with the most recently approved plan and presented to MHDC staff upon request. Fair housing posters must be posted in conspicuous places (i.e., anywhere management meets with the public) within the property for public viewing. Non-discriminatory advertisements, statements and notices should be used. Discriminatory words, phrases, photographs, symbols, or forms that convey that rental units are available or not available to a particular group of people because of race, color, religion, sex, handicap, familial status, or national origin **must not** be used. All advertisements and office or property signs must reflect the Equal Housing Opportunity slogan or logo, which can be accessed at: HUD Office of Fair Housing and Equal Opportunity (FHEO) HUD.gov . Additionally, MHDC requires the AFHMP to be updated and submitted for approval when there is a management company change and/or an ownership change.

3.3 Resident Selection Criteria

(Ref. HUD-Compliance in HOME Rental Projects-Property Owner Guide [Chap. 1])

Resident selection criteria must be properly established and maintained in accordance with the provisions of HUD 4350.3 REV-1 Chapter 4, and readily available for review by MHDC. An owner of rental housing assisted with HOME Program funds must adopt written resident selection policies and criteria that are applied consistently and:

1. Are consistent with the purpose of providing housing for very low-income and low-income families.
2. Are reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease, including:
   a. maximum income limits
   b. ability to pay rent
   c. ability to comply with lease terms
   d. meet property specific requirements
   e. occupancy standards.
3. Provide for the selection of residents from a written waiting list in chronological order of application receipt, observing any preferences that may be established.
4. Follow a consistent method of accepting and processing applications.
5. Provide that all applications received are date and time stamped.
6. Provide prompt, written notification to any rejected applicant, including the reason for rejection.
7. Provide that any preferences observed at the property, and the methodology used to implement such preferences, shall be clearly stated in the management plan.
8. Provide in accordance with Section 504 – (ADA), that existing residents who would benefit from a vacated unit's accessibility features be offered the vacated unit.
9. Provide for Citizenship verification in accordance with 24 CFR Part 5.
10. Provide - Fair Housing and Equal Opportunity Housing (FHEO).

3.4 Citizenship Declaration and Verification

Section 4.14 (C): US Citizen Status

The IRS does not currently have a regulation for U.S. citizenship and has directed owners to refer to HUD policies for guidance. Section 214 of the Housing and Community Development Act of 1980, as amended, prohibits the Secretary of HUD from making financial assistance available to persons other than U.S. citizens, nationals, or certain categories of eligible non-citizens in certain HUD programs. The covered programs are as follows: (1) Section 236 properties; (2) Rent Supplement; (3) Rental Assistance Payments (RAP); and (4) Section 8 programs. Notice H95-95 issued by HUD provides the procedures for implementing the requirements of Section 214 and is available on the HUD website at: HUD.gov (HUDCLIPS-HUD Handbooks, Forms, and Publications)

Pursuant to Section 4.14 (C) and Missouri House Bill No. 1549 Section 4- 208-009, 1-8, which took effect January 1, 2009, and Missouri House Bill No. 390 Section A-208-009, 1-8, which took effect July 7, 2009, and as summarized below, owners (or management agents) must ensure that:

1. No alien unlawfully present in the United States receive any "public benefit," which is defined to include the provision of housing.
2. In addition to providing proof of other eligibility requirements at the time of application, an applicant who is 18 years of age or older shall provide affirmative proof that the applicant is a citizen or a permanent resident of the United States or is lawfully present in the United States.
3. The resident file contains a copy of a Missouri driver's license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States.
4. The resident file contains a signed affidavit attesting to either United States citizenship or classification by the United States as an alien lawfully admitted for permanent residence. The affidavit shall include the

applicant's Social Security number or any applicable federal identification number and an explanation of the penalties under state law for obtaining public assistance benefits fraudulently.

5. Any applicant who has provided the sworn affidavit receives housing on a temporary benefit as follows:
   (1) For 90 days or until such time that it is determined that the applicant is not lawfully present in the United States, whichever is earlier; or
   (2) Indefinitely if the applicant provides a copy of a completed application for a birth certificate that is pending in Missouri or some other state. An extension granted under this subsection shall terminate upon the applicant's receipt of a birth certificate or a determination that a birth certificate does not exist because the applicant is not a United States citizen.
6. An applicant who is an alien does not receive housing assistance unless their citizenship status or lawful presence in the United States is first verified using the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security.
7. **The resident file contains a completed HUD Exhibit 3-4: The Family Summary Sheet, Exhibit 3-5 Declaration Format form and Exhibit 3-6 Verification consent Form for all applicants prior to the initial move in and at recertification for existing residents.** These forms are only required to be completed once for each household member unless the alien status for any household member changes.

Sample documents may be located on the HUD website at: HUD.gov **(HUDCLIPS-HUD Handbooks, Forms, and Publications)**

3.5 Collection of Race and Ethnicity Data

According to HUD Notice 03-23, issued on November 13, 2003, owners of property financed with HOME Program funds are required to maintain completed HUD-27061-H Race and Ethnic Data Reporting Forms in resident files. The form is to be completed at the time of application or not later than at lease signing and must be completed for each household member. Parents or guardians are to complete the form for children under the age of 18. The owner (or management agent) should complete the property name, project number, address of property, name of owner or management agent and the type of assistance program being utilized at the property (e.g., HOME Program). The household member is to complete the ethnic and racial categories, sign, and date the form. **Do not complete this information for the household member.** If the household member refuses to complete the form, place a note in the file indicating such refusal. The information collected from the residents is to be reported to MHDC either through the **CP** reporting system or by use of Exhibit H if reporting manually.

3.6 Fixed and Floating HOME Units

According to 24 CFR 92.252j, in a property containing HOME-assisted and other units, the PJ may designate fixed or floating HOME units at the time of project commitment. Fixed units remain the same throughout the period of affordability. Floating units are changed to maintain conformity with the requirements of this section during the period of affordability so that the total number of housing units meeting the requirements of this section remains the same, and each substituted unit is comparable in terms of size, features and number of bedrooms to the originally designated Home assisted units. NOTE: In a property where 100% of the units have been financed with HOME Program funds, the HOME units are considered to be fixed.

3.7 HOME Unit Transfers

HUD guidance does not discuss unit transfers; therefore, unit transfers are not allowed in the HOME Program. Transfers from one HOME unit to another HOME unit must be treated like a new move-in. All applications, verifications, and tenant income certification procedures and tenant income certifications (TICs) must be completed for the transferring resident(s), including the execution of new income and asset verifications to determine continued eligibility for a HOME unit. The effective date of future recertifications will be the date of the anniversary of the initial move-in to the project, not the date of transfer.

3.8 Income Restrictions

HUD publishes the Area Median Gross Income (AMGI) information for each Missouri county on an annual basis. Each year, when the new published HUD median income limits are available, MHDC places the new annual income limits and corresponding rent limits on the MHDC website at www.mhdc.com. When determining eligibility, the HOME Program income limits in effect on the date the resident moves in must be used.

IMPORTANT NOTE: It is the owner's (or management agents) responsibility to obtain the limits as they are published by HUD and to implement the new limits within 45 days of the effective date published.

NOTE: HOME-assisted units must follow the HOME Program rent and income limits.

1. HOME Program requirements for rent and occupancy must be met at property lease-up and throughout the affordability period. It is the responsibility of the owner and management agent to be aware of and comply with the income restrictions for the property. Income restrictions specific to the property are located in the Regulatory Agreement. For properties with five or more HOME-assisted units, at least 20% of the households must have gross incomes at or below 50% of the area median income.

2. Properties must maintain the required number of units at each designated income restriction level. For example, if a resident initially certified at the 50% income limit exceeds the 50% income limit at a subsequent recertification, the owner or management agent must verify that there is still the required number of units in the property at the 50% income limit. If not, the next unit must be rented to a household that qualifies at 50% of area median income in order to regain the required number of income restricted units.

   Please note: According to HR3221, for those properties **in service prior to July 30, 2008, funded with both HOME funds and 9% Low Income Housing Tax Credit (LIHTC) financing, 40% or more of all residential units (including market rate) in every building must be occupied by individuals with income of 50% or less of the area median income. Therefore, if the property consists of individual single-family homes, every household must meet the 50% area median income limit upon initial occupancy. Refer to Section 42(i)(2)(E) of the IRS Code.**

3. Individuals applying to live in HOME-assisted units should be advised of the maximum income limits at the initial visit to the property. The owner or management agent should explain that all anticipated income must be verified for all individuals over the age of 18 who will occupy a unit, and these people must be included on the application and income certification form prior to occupancy.

4. New applicants and existing residents should be advised of what happens when their income exceeds 80% of area median income. In the event a household's current annual income at recertification exceeds the designated eligibility limit for the unit, the unit continues to qualify as affordable housing so long as the owner fills the next available unit with an income-eligible household. However, once a household's income at recertification exceeds 80% of the area median income, the household is considered over-income by HOME Program standards and the amount of rent the resident must pay is the lesser of the amount required by state or local law or 30% of their adjusted income. The property will still be in compliance provided the requirements of 24 CFR 92.252(i) are met. Residents of HOME-assisted units that have been allocated LIHTCs must pay the rent governed by Section 42 of the Internal Revenue Code. In properties where HOME-assisted units are designated as floating, residents who no longer qualify as low-income are not required to pay as rent an amount that exceeds the market rent for comparable, unassisted units in the neighborhood.

3.9 Rents

The HOME Program has two rent structures: High HOME Rents and Low HOME Rents. In both instances, the limit includes rent charged plus the utility allowance.

1. **High HOME Rents:** For properties with four units or fewer, the High HOME rents apply. The High HOME rent is the lesser of the Section 8 fair market rent or 30% of the adjusted income of a household whose annual income equals 65% of the area median income. HUD makes this determination annually.

2. **Low HOME Rents**: The HOME Program rules specify that if a property contains five or more HOME-assisted units, at least 20% of those units must be rented to families at or below 50% of the area median income. The rents charged to these residents must be at or below the Low HOME rents. The Low HOME rent is the lesser

of the Section 8 fair market rent or 30% of the adjusted income of a household whose annual income equals 50% of the area median income. HUD makes this determination annually.

3. However, **rents may not be charged in excess of those prescribed by MHDC and may not be increased without prior written approval from MHDC.** Initial rents can be found in the regulatory documents for the property, which were executed at the time of loan closing. Rents on HOME-assisted units may not exceed the mandatory base rents established by MHDC. All rent increases must be requested and approved by MHDC's compliance accounting team prior to implementation. Rents may only be increased 12 months from the last requested date (if denied) or Schedule II date (if approved). The window for submitting a rent increase request is **October 1 – December 31**. All rent increase requests submitted outside this period will not be processed. All rent increase requests are required to be submitted online at amrs.mhdc.com, the MHDC Asset Management Reporting System.
4. Properties with outstanding non-compliance issues will not be approved for any funding requests (i.e., rent increase, management fee increase, reserve for replacement, residual receipts) until all non-compliance issues have been resolved. Rent increases cannot exceed the maximum amounts imposed by HOME Program rules. Increases in rents is subject to the provisions of outstanding leases and, the owner (or management agent) must provide residents not less than 30 days prior written notice before implementing an increase. In the event that the property receives federal project-based rental assistance for residents with incomes at or below 50% of area median income, the rent limits from the project-based rental assistance program can be used. In this instance, a copy of the current HUD-approved rent schedule must be provided to MHDC, and the rent increases must be approved by MHDC prior to implementation.
5. In the event a household's income at recertification exceeds 80% of the area median income, the amount of rent the resident must pay is the lesser of the amount required by state or local law or 30% of their adjusted income. (See language in 3.7.4 above) and the asset management department must be notified. However, residents of HOME-assisted units that have been allocated LIHTCs must pay the rent governed by Section 42 (See 3.6(d) above).

CHAPTER 4 – QUALIFYING AND CERTIFYING RESIDENTS

4.1 Resident Income Certification and Verification

NOTE: Beginning 1/1/2024, refer to MHDC HOTMA Guidance and HOTMA Implementation Notice H 2023-10, as it relates to income and asset calculations.

The owner or management agent shall obtain for each prospective resident a Tenant Income Certification (Exhibit B) and verification of income prior to admission to the property. Refer to **4.7** for recertification requirements. HUD 50058/50059 and RD 1944-A can be used in place of the Tenant Income Certification after initial certification. **NOTE: Exhibit B must be completed for all first-year residents, ensuring that Part VIII includes marking the HOME program box.**

MHDC utilizes the Part 5 definition for determining annual income. This annual income definition is found at 24 CFR Part **5.609, 5.603, 5.100,** and is used by a variety of federal programs including Section 8, public housing and the LIHTC Program. This definition was formerly commonly referred to as the Section 8 definition. Annual Income is defined as the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period (for additional information on determining income eligibility, you may obtain a current copy of the publication *Technical Guide for Determining Income and Allowances for the HOME Program*, HUD-1780-CPD by contacting the Community Connections Information Center at 1-800-998-9999.). The owner or management agent must obtain third-party verification of income sources of all adult household members aged 18 or older, as well as benefits paid on behalf of minors living in the household. The income certification and verifications must be maintained in the resident file and be readily available for review by MHDC.

4.2 Annual Income

[Ref. HUD Handbook 4350.3 Rev. 1, Change 2, Chapter 5]

Annual Income is the gross income the household anticipates it will receive in the 12-month period following the effective date of certification of income. For additional income calculation requirements and asset limitations refer to MHDC HOTMA guidance on the MHDC website under Manual and Reference Guides.

"Some circumstances present more than the usual challenges to estimating *anticipated income*. In all instances, owners (or management agents) are expected to make a reasonable judgment as to the most reliable approach to estimating the amount of income a resident will receive during the certification year." HUD 4350.3: 5-5 (A:1, 2; B, C)

Determining Employment Income:

For purposes of calculating annual household income, refer to HUD Handbook 4350.3. Some non-HUD methodologies include using the highest of a range of hours supplied by an employer or basing income determinations on the HIGHER of information provided by the employer and a calculation of annual income based on year-to-date information. While viewed as more "conservative," these methods are not consistent with Section 8 rules. MHDC only requires compliance with the regulation and does not add additional rules that could exclude otherwise eligible households. Generally, HUD would use the average of the hours given and use anticipated information supplied by the employer. It is understood that the use of non-HUD methodologies is often required by investors/owners.

While MHDC does not forbid these methodologies, it does not feel it is in the best interest of the program to exclude households that qualify based on Section 8 methodologies but do not qualify based on more conservative methods. MHDC will not find an owner/agent who uses averages in a range of hours provided by the employer or other basic HUD methodology to be out of compliance if a household is qualified by the owner/agent using HUD methods, even if another method would determine the household to be over-income. As HUD nowhere requires that owners always conduct a comparative year-to-date analysis, they have never provided YTD calculation instructions. If the owner/agent chooses to examine YTD and it is crucial to eligibility, an owner/agent may, according to consistent company policy, determine why there is a discrepancy through further interaction with the employer. To satisfy Fair Housing equal treatment, any approach developed by an owner/agent must be consistently applied to each household at a property.

> **Example:** Range of Hours
> An applicant's employer anticipates that the applicant will work 35-40 hours a week.
>
> What number of hours should be used in calculating annual income?
> An owner/agent may use the average, 37.5 hours. When ranges on items such as the number of hours are provided by the employer, an average should be used.
>
> **Example:** Year-to-Date (where an owner/agent chooses to analyze YTD)
> An employer anticipates on a verification of employment that an applicant will make $31,228 a year. Per the owner/agent policy, the applicant's year-to-date income annualizes to $34,345 a year.
> What annual income may be used? $31,228

There are many reasons the recent past income may not reflect what is anticipated in the future, and MHDC does not require YTD analysis. If the owner chooses to examine YTD and it is crucial to eligibility (in this example because the income limit is below $34,345 but above $31,228), an owner/agent may, according to consistent company policy, determine why there is a discrepancy through further interaction with the employer. Excluding the household automatically as over-income is discouraged by MHDC.

Verification

The owner/agent must obtain the applicant/resident's consent for the release of information before contacting third parties.

For LIHTC properties, verification documents are good if they are not older than 120 days at the time of receipt by the owner agent and then must be used for a certification with an effective date no later than 120 days after receipt of the document.

For LIHTC/HOME properties, the above applies but additionally must be no older than 6 months old at the effective date of the certification the verifications are attached to.
For HOME-only properties, verifications are good until they are more than 6 months old.

MHDC looks for the following methods of employment verification, in this order:

1. Third-party verification form (MHDC Exhibit C Employment Verification) completed by the employer **AND** two months of recent consecutive paystubs. The stubs must be within 120 days of the effective date. ***24 CFR 92.203*** The new HOME regulations require 2 months of pay history when source documentation is used.
2. Information obtained from the well-known service *Work Number* or other database documentation AND two months of paystubs. If the manager can't reconcile the two, then they must also request an affidavit from the household member explaining any disparities.
3. A notarized affidavit from the household member as to their income plus the 2 months of pay stubs and documentation of the owner or management agent's efforts to obtain third-party verification. **Note**: If an applicant does not yet have two months of consecutive pay stubs because they have recently started a new job, you must thoroughly document the file explaining the situation.

The general rule is if a source of income is not specifically excluded as income (See Income Exclusions Exhibit 5-1 of the 4350.3 HUD Handbook), it should be included as income:

1. See HUD Handbook 4350.3 Rev 1, Chapter 5 [Ex. 5-1] for specific details regarding income inclusions.
   a. Calculation Methodologies to Use in Determining Annual Income
      To annualize full-time employment, multiply the following:
      Hourly wages by 2,080 hours for full-time employment with no overtime
      Weekly wages by 52
      Biweekly wages by 26
      Semi-monthly wages by 24
      Monthly wages by 12

   b. To annualize income from other than full-time employment, multiply periodic amounts (hourly, biweekly, monthly, etc.) by the number of periods (hours, weeks, and months) the household member expects to work.

      Example 1: $5 per hour x 25 hours per week x 52 weeks = $6,500
      Example 2: $130 per week x 52 weeks = $6,760

   c. Use an annual wage without additional calculations.

      Example: If a schoolteacher earns an annual salary of $22,000, the $22,000 should be used as the annual salary, regardless of whether the teacher is paid over a 9-or 12-month period. No interim certification is done at the end of the school year to reduce the household's income.

   d. Use anticipated employment and current circumstances to determine projected income, unless verification forms indicate that an imminent change will occur.

      Example of Anticipated Increase in Hourly Rate: The employment verification indicates that as of April 1, 2000, the applicant's current hourly rate is $8.00 per hour. It also indicates that on May 15, the applicant's income will increase to $8.50 per hour. The applicant works 40 hours per week.

You would make the following calculations:	**Annual Income is calculated as follows:**
40 hours per week x 52 weeks = 2080 hours April 1 through May 16 = 6 weeks	240 hours x $8.00 = $1,920 1,840 hours x $8.50 = $15,640
6 weeks x 40 hours = 240 hours 2,080 hours - 240 hours = 1,840 hours	Annual Income = $17,560

   e. If a household indicates that income might not be received for the full 12 months (e.g., Unemployment insurance benefit is expected to terminate), the income should still be annualized.

f. When ranges on items such as the number of hours are provided by the employer, an average should be used for income calculations.

Please note:

- If an applicant does not yet have two months of consecutive pay stubs because they have recently started a job, the owner/agent must thoroughly document the file explaining the situation, gather the pay stubs that do exist (if any), and also gather a VOE that provides enough information to complete the needed employment calculations.

- If a verification form is incomplete and missing key information needed to establish eligibility, an owner/agent may document a clarifying phone or email conversation with the verifier. If documenting a phone conversation, the clarification record must include the third party's name, position, and contact information, the information reported by the third party, MHDC reserves the right to contact the third party to verify the content of the clarification and needs enough information to do so.

- When verifying information over the telephone, it is important to be certain that the person on the telephone is the party they claim to be. Generally, it is best to telephone the verification source rather than to accept verification from a source calling the property management office.

The resident file must be documented to show failed attempts to obtain third-party written clarification before verbal clarification **is** used.

g. See HUD Handbook 4350.3 Rev 1, Chap. 5 [Ex. 5-1 for specific details regarding income exclusions.

h. HUD Notice H 09-03, issued May 27, 2009, provides for the exclusion of deferred Department of Veterans Affairs (VA) disability benefits from annual income as a result of the Housing and Economic Recovery Act of 2008 (HERA).

i. In addition, all forms of student financial assistance (including scholarships, grants, fellowships, educational entitlements, work study programs and financial aid packages) are excluded from annual income (except for students receiving Section 8 assistance). This is true whether the assistance is paid to the student or directly to the educational institution.

EXAMPLE

<u>STEP 1 – Student Eligible Income</u>: (Ref. HUD 4350.3 Rev. 1 Chapter 3-13 A-4)
When the household is receiving Section 8 rental or voucher assistance:

1. Determine if they meet a Section 8 student income exception – see step 2; OR
2. Financial aid above tuition must be counted as income.

<u>STEP 2 – Income Qualification</u>:

1. Student Financial Aid must be verified and documented for all adult students (part-time or full-time).
2. All education assistance above tuition is now considered income for eligibility purposed when student households are receiving Section 8 rental or voucher assistance.
3. The cost must be verified by the education institution the student is attending. The tuition amount is declared by the school. DO NOT add any amounts for books, fees or other expenses that may be itemized separately on the verification form.
4. The following income exemptions apply for students receiving Section 8 assistance and the financial assistance received above tuition would not be included as income.
    a. Students 24 or older with dependent child(ren) are excluded from the income rule.
    b. Students living with parents who are receiving Section 8 assistance are exempt.
    c. Student loans taken out by the applicant are excluded as they must be repaid.

Please note: The HOME Program adopted the Section 8 student rules in the 2013 regulation revision **(**4350.3 3-13 and 3-40 to 3-41).

The new restrictions apply to **all** HOME units and are effective for all income determinations **after** August 23, 2013. A household that is eligible at move-in but later becomes student ineligible is treated as an over-income household with the resulting action depending on if the unit is fixed or floating HOME.

4.3 Assets

Assets are items of value, other than necessary personal items. Income from assets is taken into consideration when determining eligibility of a household (Ref. HUD Handbook 4350.3 Rev 1, Chapter 5 Ex. 5-2 for specific details regarding asset calculation**; 5.603 Net Family Assets**). Asset information (asset value and income from the asset) must be obtained at the time of application. For additional income calculation requirements and asset limitations refer to MHDC HOTMA guidance on the MHDC website under Manual and Reference Guides.

1. Assets Owned Jointly
   If assets are owned by more than one person, prorate the assets according to their percentage of ownership. If no percentage is specified or provided by statute or local law, prorate the assets evenly among all owners.

   Example: Mrs. Robertson is a HOME Program tenant. She and her daughter, Mrs. Duncan, who lives 1,200 miles away, have a joint savings account. Assume that in this example, state law does not specify ownership. Even though either Mrs. Robertson or Mrs. Duncan could withdraw the entire asset for her own use, count Mrs. Robertson's ownership as 50% of the account.

2. Determining the Value of Assets
   In determining income from assets, the owner or management agent must use the cash value of the assets (the amount the applicant (or resident) would receive if the assets were converted to cash). Cash value is the market value of the asset minus reasonable costs that were or would be incurred in selling or converting the asset to cash.

   a. Expenses that may be deducted include the following:
      i. Penalties for withdrawing funds before maturity;
      ii. Broker/legal fees assessed to sell or convert the asset to cash;
      iii. Settlement costs for real estate transactions; and/or
      iv. Loans against the asset.

   b. Assets Converted to Trusts:
      A trust is generally considered a legal arrangement regulated by state law in which one party holds property for the benefit of another. A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Trust assets are typically transferred to the beneficiary upon the death of the grantor. There are two types of trusts: revocable and irrevocable.

      i. Revocable Trusts:
         The grantor of a revocable trust can change this type of trust as often as he or she wishes and therefore has access to this asset at any time. Therefore, you include the cash value of any revocable trust available to the household.

         Example of a Revocable Trust: Mr. Porter establishes a trust of $30,000 in his daughter's name. (The daughter is not a member of the household.) Because it is revocable, he can modify this trust at any time and has access to it. For purposes of this example, the income is either reinvested into the trust or paid to his daughter. Treat this trust as a current asset. Even though Mr. Porter does not receive the income from this asset, he is required to report the cash value of the asset and the income the trust generates. Because it is still considered to be an asset owned by Mr. Porter, it is not considered an asset disposed of for less than fair market value.

      ii. Irrevocable Trusts:
         1. This is a trust agreement that allows an individual to permanently transfer assets during his or her lifetime to someone else.

2. Trusts, which are not revocable by or under the control of any member of the household, are not considered assets.
3. Instead, the regulation requires that the actual income distributed to the applicant (or resident) from such a trust be counted when determining annual income. (As with all income, this is the gross amount received before taxes or other deductions.)
   a. As long as the trust exists, any income distributed from the trust to the applicant (or resident) must be counted as income.
   b. If there is no income distributed from the trust, do not count any income from the trust (e.g., income from the trust that is reinvested into the trust).
4. If an asset is disposed of for less than fair market value by being converted to an irrevocable trust, assuming that no consideration is received or the consideration which is received is less than fair market value, the owner or management agent must count such an asset for a period of two years.
   a. In addition, any actual income distributed from the irrevocable trust must also be counted as income under paragraph "3" above. Therefore, for a two-year period, the owner or management agent will consider this asset for the purpose of income computation and, in addition, count actual income distributed from the irrevocable trust to the applicant (or resident).
   b. Following the two-year period, the owner or management agent will count only the actual income distributed from the trust to the applicant (or resident).
5. Actual and Imputed Income from Assets
   a. If the net household assets are less than $5,000, annual income must include the actual income from the assets.

EXAMPLE

Type of Asset	Cash Value	Imputed Income Per Year
Checking Account	$550	$0
Savings Account	$3,000	$300
Totals	$3,550	$300

   b. Beginning 1/1/2024, refer to MHDC HOTMA Guidance and HOTMA Implementation Notice H 2023-10, as it relates to income and asset calculations.

   If the net household assets exceed $5,000, annual income must include the greater of the following:

   1. The actual income from the assets; or
   2. Imputed income from the assets. (Impute income by multiplying total net household assets by the passbook rate specified by HUD. As of 1/1/96, the rate is 2%).

EXAMPLE

Type of Asset	Cash Value	Actual Income Per Year
Checking Account	$550	$0
Savings Account	$3,000	$300
Cert of Deposit	$12,000	$480
Property	$32,000	$0
Totals	$47,550	$780

Since the total assets in this example exceed $5,000, the imputed income must be calculated. In this example, the Net Household Assets of $47,550 are multiplied by .02, totaling $951. The actual income from assets ($780) would be compared with the imputed income from assets ($951) and the greater of the two is included as part of the household's gross annual income. In this case, the imputed amount of $951 is included in the household's income. MHDC recommends rounding up to the next dollar amount to provide the most conservative estimate of annual income.

4.4 Household Size and Eligibility

When determining a household's size for income limit purposes, the following individuals are **included**:

a. All persons living in the unit 50% or more of the time (including foster children and adults);

b. Children temporarily absent due to placement in a foster home;

c. Children in joint custody arrangements who are present in the household 50 percent or more of the time;

d. Children who are away at school but who live with the family during school recesses;

e. Unborn children of pregnant women (Unborn children can be verified only through self-affidavit from the pregnant woman. No further verification is allowable.);

f. Children in process of being adopted;

g. Temporarily absent family members who are still considered family members. For example, the owner may consider a family member who is working in another state on assignment to be temporarily absent. Persons on active military duty are considered temporarily absent (except if the person is not the head, co-head or spouse or has no dependents living in the unit). If the person on active military duty is the head, co-head, or spouse, or if the spouse or dependents of the person on active military duty resides in the unit, that person's income must be counted in full;

h. Family members in the hospital or rehabilitation facility for periods of limited or fixed duration;

i. Persons permanently confined to hospital/nursing home. The household has the right to decide whether or not to include individuals permanently confined to a hospital or nursing home as a household member. If the individual is included as a household member, his/her income must be certified and included.

When determining a household's size for income limit purposes, the following individuals are **excluded**:

a. Live-in aides. A live-in aide/attendant is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:
   - Is determined to be essential to the care and well-being of the person(s);
   - Is not obligated for the support of the person(s); and
   - Would not be living in the unit except to provide the necessary supportive services. The necessity

   of such an aide must be verified by a professional third party. Note: although not used for income limit purposes, a live-in aide may be counted when determining unit size.

b. Temporary visitors and/or guests

   [1]Change 4 to HUD Handbook 4350.3, published in 2013, removed foster adults and foster children from this section. Foster adults and foster children must be counted as household members for both income and occupancy purposes.

4.5 Computing Total Household Income

After all income and asset information has been obtained and computed for a household, all sources of income are added together to derive the total household income. In order for the household to qualify for a HOME-assisted unit, the total household income must be less than or equal to the maximum allowable qualifying income in effect at the time of resident certification. If the total household income is greater than the maximum allowable qualifying income, the household cannot be approved for a HOME-assisted unit.

4.6 Initial Income Certification Guidelines

Once all income and asset information has been obtained and computed, the management agent must prepare a Tenant Income Certification (TIC (Exhibit B)) for each resident. The form is a legal document which, when fully executed, qualifies applicants to live in the HOME-assisted units in the property. The TIC must be executed along with the lease prior to move-in. **NOTE: Any changes to documentation must be initialed by all parties involved.**

The following guidelines apply:

1. The owner or management agent should instruct the prospective resident(s) to sign the TIC exactly as their name(s) appear on the form.
2. The TIC must be executed on or prior to the date of move-in.
3. No one may live in a HOME-assisted unit in the property unless he or she is certified and under lease.
4. The Exhibit M-1 form is to be used when certifying or re-certifying a household for eligibility with the HOME program. You must complete this document along with the Exhibit M: LIHTC Certification of Student Eligibility form <u>if you are qualifying an applicant/resident for a unit that is both a HOME and an LIHTC unit</u> as the requirements are different for each. The household must qualify under both programs in order to be eligible to occupy a HOME/LIHTC unit.
5. Upon receipt of all verifications, the owner or management agent should review all documentation and calculations, as necessary. If all requirements for eligibility are met, the applicant is qualified.

4.7 Annual Income Recertification Requirements

On an annual basis, an income certification must be completed and documentation to support that certification must be retained for each household occupying a HOME-assisted unit. Upon receipt of all verifications, the owner or management agent must determine if the household is below 80% of the area median income limit. If a household's income at recertification exceeds 80% of the area median income, the household is considered over-income by HOME Program standards and the rent must be increased accordingly (see 3.7.4 above).

1. Recertification of Income
   MHDC monitors recertification of income 365 days from the later of the following:
   a. The move-in date, or
   b. The date of the last certification.

   Households in HOME units must be recertified annually, once every calendar year. Full source documentation must be used at move-in, and then every sixth year of the HOME affordability period. For recertifications that are due in years other than every sixth year, self-certification, or verification of income from a PHA for voucher holders is acceptable. In the intervening years (not the 6th year of the affordability period), the owner/agent can choose one of three methods permitted by HUD to recertify income:

   1. Source documents, as required at initial occupancy.
   2. Written statement and certification by tenant that: (1) Specifies household's size and anticipated annual income; and (2) Certifies that the information is complete and accurate; acknowledging that source documentation is available upon request. If it is not, the owner must examine source documentation.
   3. Written statement by administrator of government program under which the tenant receives benefits. The statement must: (1) Indicate the household size; (2) Specify the current income limit for the program and verify that the household's income does not exceed that limit; and (3) Acknowledge that the household's income is examined each year.

   The household must continue to annually complete an Exhibit B Tenant Income Certification (TIC) and each household must continue to certify student status annually.

   Mixed-income LIHTC projects with market units are subject to annual income recertification and HOME units will be recertified at the same time.

   A household may indicate that they are now over the 80% income limit during one of the years that self-certification is allowed at recertification. If this is true at a HOME-only property and rent based on adjusted income must be calculated, the owner should switch to source documents to ensure accurate calculations.

Example: Every Sixth-Year HOME Recert Cycle
Jordan moves in on the 4th year of a HOME property's affordability period. He is fully source document certified, as all move-ins are. The next year, Maya moves in and is fully certified. As this is the 5th year of the affordability period, Jordan provides self-certification for his recertification. The following year is the 6th year of the affordability period and all recerts that year are fully certified, including Jordan and Maya. The next year, both Jordan and Maya are eligible for self-certification and will be for the following ***years until the 12th year of the affordability period, when all recerts will again be fully certified***.

Year of Affordability Period	Person	Type of certification	Full Certification	Self-Certification
4	Jordan	Move-in	x	
5	Jordan	Recertification		x
	Maya	Move-in	x	
6	Jordan	Recertification	x	
	Maya	Recertification	x	
7	Jordan	Recertification		x
	Maya	Recertification		x

Recertifications are to be effective on the anniversary date of initial verification, time of lease renewal, or by an annual schedule whereby verifications for all tenant households are performed at the same time.

The recertification process should begin 120 days before the anniversary date of the original move-in. Recertifications that are done or effective after the anniversary date cause a noncompliance event. However, if an owner sends timely notice(s) informing a tenant that annual recertification is due, but the household vacates the unit after the anniversary date, the unit will not be considered out of compliance. Owners must document the file regarding attempts to complete the recertification by the due date and when the tenant moves out of the unit. This must also be disclosed on the TIC. Similarly, if an owner takes action to remove a noncompliant household by initiating an eviction action the unit will not be considered out of compliance. If the household does not vacate the unit because the court does not support the eviction, a recertification will be required within 120 days of the court determination.

2. Adding a New Member to an Existing Household
   If a new adult member joins an existing household during the *initial* six months of residency, the household must re-qualify as if it is a new household qualifying for residency. If the new member will be added to the household, the following steps must be taken:
   a. The prospective resident (i.e., new household member) must complete an application for residency and verifications of income and assets must be completed;
   b. The prospective resident's (i.e., new household member's) income must be added to the current household's previously certified income. The combined household income must be compared to the maximum allowable income limit in effect at the time of application for the initial household, based on actual (projected) household size.

4.8 Leases and Addendums

All residents must execute a lease for no less than one year, unless mutually agreed otherwise by the resident and owner or management agent. Leases executed for less than one year require a statement signed by the resident indicating that a one-year lease was offered but a shorter term was chosen. The lease and statement, as applicable, is to be maintained in the resident file and readily available for review by MHDC. The lease must contain the security deposit amount, utility information, monthly rental amount, and signatures for all parties involved. The lease must comply with all applicable state and local laws and should incorporate the drug-free lease addendum as originated by HUD.

MHDC strongly recommends that leases for HOME-assisted units contain an addendum with specific provisions obligating residents to cooperate with the owner and/or management agent. These provisions should clearly set forth the resident's responsibilities to provide all information necessary to assess the household's eligibility to occupy the HOME-assisted unit.

Minimum Lease Requirements

1. List legal names of parties to the agreement and all household members;
2. All household members over 18 years of age must sign the lease;
3. List description, including address of the unit being rented;
4. List effective date lease begins (the date of move-in or resident takes possession);
5. List specific terms of the lease;
6. List full unit rental amount;
7. List any additional optional charges with description (parking, pets, etc.);
8. List resident portion of rent;
9. List the acceptable use of the premises;
10. List the rights and obligations of the residents, including the following:
    a. The resident's obligation to *certify annually to income* and consequences of not meeting program requirements;
    b. The resident's obligation to *notify management of any changes* to household composition;
    c. Any new household members are subject to eligibility requirements and **MUST** be certified prior to occupancy.

Initial HOME Program Lease Term

HOME-assisted units are subject to an initial lease term of no less than 12 full months, unless otherwise agreed by all parties. The 12-month requirement may include free rental periods or rental concessions of a month or less. Succeeding leases are not subject to a minimum lease term; however, there must be a lease term in effect (e.g., a month-to-month lease is acceptable, but the requirements must be established in the lease). Exhibit R is the Addendum to Lease HOME Provisions.

Nonrenewal of Leases

24 CFR 92.253(b) prohibits HOME-assisted properties from including specific language in a lease. These protections are offered to residents in the event of the foreclosure or sale of the property. Thus, qualified residents may not be evicted or not allowed to renew a lease for other than "good" or "just cause". Owners and management agents are encouraged to consult a legal advisor for interpretation of the requirement. Owners are encouraged to consult their legal and property management advisors regarding development of each property's standard lease, taking into account applicable landlord-tenant laws, HOME Program requirements and any other governmental programs in effect at the property.

Bifurcation of Leases

On March 7, 2013, The Office on Violence Against Women reauthorized The Violence Against Women Act (VAWA). Specific to the Low-Income Housing Tax Credit (LIHTC) and HOME programs, a key element of VAWA includes requiring public housing agencies (PHAs), assisted housing owners and managers to bifurcate leases of tenants residing in federally subsidized housing. This assists in evicting a tenant who engages in domestic violence, dating violence, sexual assault, or stalking without penalizing a victim of such criminal activity.

The VAWA 2013 reauthorization now provides that if the person removed as a result of bifurcation was the sole eligible tenant, remaining tenants must have the opportunity to establish their eligibility for the program, or, if not eligible, be given a reasonable amount of time to find new housing. Public Housing Agencies (PHAs) assisted housing owners and managers are required to attach the HUD-approved Lease Addendum, Form HUD-91067, which includes the VAWA provisions to each existing or new lease.

CHAPTER 5 – ADDITIONAL COMPLIANCE REQUIREMENTS AND MONITORING

5.1 Annual Certification of Continuing Program Compliance

The Annual Owner Certification of Continuing Compliance Exhibit A is submitted using MHDC's Certification Portal (CP) rental reporting system. All tax credit properties are required to enter resident data using CP. Resident events include move-ins, move-outs, annual recertifications, unit transfers, rent and utility allowance changes, household composition updates, and student status updates.

Resident events that must be reported online do not include interim recertifications performed for other programs, such as Section 8 or RD. In order to obtain the maximum benefits from (CP) it is required that all resident events be entered into the system within thirty (30) days of the event date.

After reviewing the CP submission from the property, MHDC will notify the owner in writing of any errors or incompletion. All correspondence to the owner will be sent electronically.

The CP site address is https://CP.mhdc.com/
The CP User Guide is located here: http://www.mhdc.com/program_compliance/LIHTC/comp-online/CPM.pdf

In accordance with MHDC HOME Program requirements, an Annual Certification of Continuing Program Compliance and LIHTC/HOME Occupancy Report must be completed and submitted to the MHDC asset management department within 90 days of the end of the fiscal year. *(See Exhibits K and H.)*

The seasonal reporting schedule is as follows and is based on the year the last building is placed in service.

SEASONAL REPORTING SCHEDULE			
Placed-In- Service Date	**Activity Period Covered**	**CP Report Due Date**	**Exhibit A, K and Housing Priority Certification Due Date**
1990, 1991, 1992, 1993, 2006, 2010, 2014, 2018, 2022, 2026, 2030, 2034, 2038	April 1 – March 31	April 15	April 30
1994, 1995, 1996, 1997, 2007, 2011, 2015, 2019, 2023, 2027, 2031, 2035, 2039, 2043	July 1 – June 30	July 15	July 31
1998, 1999, 2000, 2001, 2008, 2012, 2016, 2020, 2024, 2028, 2032, 2036, 2040, 2044	October 1 – September 30	October 15	October 31
2002, 2003, 2004, 2005, 2009, 2013, 2017, 2021, 2025, 2029, 2033, 2037, 2041, 2045	January 1 – December 31	January 15	January 31

NOTE: If the property also participates in the LIHTC Program, the information compiled on the LIHTC/HOME Occupancy Report (*Exhibit H*) must be submitted through the Certification Portal (CP) System utilizing the same seasonal reporting schedule (based on the LIHTC placed-in-service dates) that is required for the tax credit program. In this instance, only the signed *Exhibit K* must be submitted via regular mail and must be received by MHDC no later than the last day of the month following the **CP** submission. Whether submitting online through **CP** or reporting manually, race and ethnic data must be included.

5.2 Utility Allowances

It is the responsibility of the owner to obtain accurate utility allowances for MHDC's use in comparing HOME rents to the maximum program rent for the property. The utility allowance schedule should include all costs to be paid by the resident for utilities including heat, electricity, water, sewer, oil, gas, or trash. Please note: Range, microwave and refrigerator are only included in the Utility Allowance amount if the resident supplies or leases the appliances. Utilities do not include telephone, cable and/or Internet (HR3221 Ruling).

Acceptable Source of Utility Allowance Reporting:
Please be advised that the Volume 13 No. 2 May 2016 HOME final rule notice is to be used for the four allowable utility allowances. Please refer to this notice for further guidance regarding acceptable utility models.

The HOME Rule requires the PJ to establish a utility allowance for a HOME-assisted unit. However, a PJ may require property owners to complete initial UA calculations and submit their calculations for review and approval of the PJ prior to implementation. The staff cost of determining UAs can be charged as an administrative cost under 24

CFR 92.207(a). In addition, the staff cost of determining the initial UA, prior to project completion, can be charged as a project-related soft cost for projects to which HOME funds were committed on or after August 23, 2013, under 24 CFR 92.206(d).

HOME Program Requirements require project specific utility allowances for each HOME project using the HUD Utility Schedule Model or an estimate based on actual utilities at a property. PHA estimates or other estimates that are not project specific are not acceptable. Any other form of utility allowance source must be approved by MHDC in advance.

1. The utility allowance must be updated on an annual basis.
2. The property owner must clearly identify, on the supporting documentation, the utility allowance calculated and provide evidence of each utility utilized for the property, (i.e., circling, underlining, highlighting, etc).
3. MHDC requires a quarterly update submitted through AMRS. New utility allowances may be implemented on the effective date of the newly calculated data. If there is no change the same information must be submitted.
4. All utility allowance information must be available for review by property inspections or upon request by MHDC.
5. If an error is discovered after submitting utility allowances, contact Asset Management at asset.mgmt@mhdc.com and request access to the original submission to make any corrections.

Utility Allowance Program Guide

Tax Credit
Projects with HUD or RD use the UA for **those** programs. The UA for voucher holding households is the PHA published UA that their rent calculation is based on. These are the five choices for other properties: 1. Local PHA chooses UA; 2. Estimate from a utility company; 3. Estimate from an HFA; 4. HUD Utility Schedule Module (HUSM) or; Engineer module. **Program Source Document: Treasury Regulation 1.42-10, 8823 Guide Chapter 18**
HUD
UA is calculated based on actual consumption every three years and adjusted by a HUD published rate the other years. **Program Source Document: MF Notice H-2015-4**
RD
UA is calculated based on RD policy. If there is **more than** a 15% rate increase, the owner must collect a "significant sampling" of tenant data. If an increase is 15% or **less**, "a sampling" of tenant data is required. MHDC may have further policies. **Program Source Document: 7 CFR 3560.202 HB-2 3560 4.26 / 4-29; 7.3/7-3**
HOME/HTF
The PJ establishes the UA. Since the 2013 change in HOME regulations, UAs provided by PHAs are no longer acceptable. For the HTF, the trustee must establish UAs annually. UAs must now be: 1. Calculated based on actual project consumption or; 2. HUD Utility Schedule Module (HUSM). *Please be advised that this is only applicable for HOME project funds committed after 8/23/2013.* The UA method for the HUD program is acceptable. The UA method for the tax credit program is acceptable except for PHA estimates. **Program Source Document: HOME Guide 3.3 D; 24 CFR 92.252(d)(2013) CPD HOME FAQ 11-13** **Homefires Vol. 13 No. 2 HTF CFR 24 93.302 (c)**
BOND

UA is generally not applicable for bond-only projects as the bond program does not set rent limits. However, the bond regulatory agreement may impose other rent restrictions.

5.3 On-Site Physical Inspection and File Reviews

The on-site physical inspection and audit of resident and related files are performed under the HOME Program requirements for rental housing every two years.

MHDC will provide a report summarizing the results of the review to the owner and management agent and will require a written response to the findings and a schedule for making corrections. In addition, MHDC is to be notified immediately of any property-damage losses as a result of fire, vandalism, or weather.

5.4 Annual Inspection by Owners

In addition to the on-site physical inspection and audit conducted by MHDC, the owner shall perform unit inspections on at least an annual basis to determine whether the appliances and equipment in the unit are functioning properly and to assess whether a component needs to be repaired or replaced. This is also an opportunity to determine any damage to the units caused by the resident's abuse or negligence, and if so, make the necessary repairs and bill the resident for the cost of the repairs. Owners and/or management agents are strongly encouraged to immediately correct any deficiencies noted during the MHDC annual on-site physical inspection.

5.5 Fair Housing and Lead-Based Paint Regulations

Upon property entry, households living in HOME-assisted units must be given the Fair Housing brochure entitled "You May Be a Victim Of" and the Lead Based Paint brochure entitled "Protect Your Family from Lead in Your Home." The household must sign documentation acknowledging the receipt of these brochures at time of move-in. **Although this is not a requirement of Section 42**, all HOME-assisted units in a tax credit property should have a signed copy of the acknowledgement located in the resident file. The owner must incorporate ongoing lead-based paint maintenance activities into regular building operations as a preventative maintenance measure.

For HOME-assisted properties these include the following:

1. A visual inspection for lead-based paint annually and at unit turnover;
2. Repair of all unstable paint surfaces; and
3. Repair of encapsulated or enclosed areas that are damaged.

NOTE: See Updated MHDC Lead-Based Policies and Procedures
Under Important Notices: http://www.mhdc.com/program_compliance/index.htm

5.6 HOME Loan with LIHTC

In the event a property has both tax credits and HOME Program funds, the most restrictive compliance requirements are applied to units containing both. See the MHDC LIHTC Compliance Manual for further details.

5.7 Non-Compliance Issues

Non-compliance issues will be communicated to the owner and/or management agent in writing and must be corrected within the period stated by MHDC. Failure to satisfactorily correct or resolve discrepancies may result in recapture of HOME Program funds, as well as non-consideration for and exclusion from participation in future MHDC program opportunities. In addition, properties in non-compliance status, regardless of reason, will not be approved for rent increases, management fee increases, replacement reserve withdrawals, etc., until such time as the non-compliance is corrected. Non-compliant properties that also contain tax credits will be reported to the IRS.

5.8 Compliance Accounting

The compliance accounting team promotes the financial health of participating properties by monitoring compliance of program requirements for the Affordable Housing Tax Credits (AHTC), LIHTC, HOME-assisted and/or MHDC fund balance properties. Reviews and approvals are performed annually for budgets and financial statements. Requests are processed for rent increases, replacement reserves and surplus/residual receipt fund distributions.

5.9 Compliance Training

Properties that were placed in service in 2003 and thereafter are required to have the Owners and their on-site managers complete a compliance training session that is approved by MHDC. In addition, all new managers are required to attend a compliance training session, as a condition of the approval of any new management contract as described in Section 2.2.

Representatives of the ownership entity and management company, who are responsible for the day-to-day operations and compliance reviews for the property, must have successfully completed HOME training approved by MHDC within the most recent two years and for every two-year period following, in the case where HOME is the only funding source. If the funding source is a combination of HOME and LIHTC, then LIHTC training will suffice.

For those companies that designate staff (employer trainer or internal company instructor) to attend a third party provided training and return to train other members of ownership and/or management staff who conduct day-to-day operations and compliance reviews at the property, the following rules apply:

1. If a third-party source conducts training, the person or entity must not be an identity-of-interest party to the ownership or management entity.
2. The third-party training provider must issue certificates of completion to attendees to be retained on file as evidence of completion.
3. If training is conducted by an employer trainer or internal company instructor, the owner or management agent must submit to MHDC both a resume that supports the trainer's qualifications and the training curriculum or agenda to be considered and approved by MHDC prior to the training session. The employer trainer or internal company instructor must issue certificates of completion to attendees to be retained on file as evidence of completion and upon MHDC request.

Staff responsible for ongoing day-to-day operations and qualifying households who have not completed program training that satisfies MHDC's training requirements are considered non-compliant.

MHDC EXHIBITS SCHEDULE

Exhibit		On what type of property is it used?	When is it used?	Please Note
A	Owner's Certificate of Continuing Program Compliance	LIHTC	Annually when submitting resident data.	May be submitted more frequently during property lease-up.
B	Tenant Income Certification	LIHTC/HOME/ MHDC/FDIC/ AHAP	Initial qualification and recertification. May also be used to correct a TIC or if household composition changes within the first 6 months of certification.	If Section 8 and utilizing 50059, there must be a TIC completed at move-in.
C	Employment Verification	LIHTC/HOME/ MHDC/ SECTION 8/AHAP/FDIC	Initial qualification and recertification.	
C-5	Management Questionnaire	LIHTC/HOME/ MHDC/ SECTION 8/AHAP/FDIC	Prior to property inspection.	Must be submitted to Compliance Officer within seven (7) business days prior to the inspection date.
D	Under $5,000 Asset Verification	LIHTC/HOME/ MHDC/ SECTION 8/AHAP/FDIC	When assets are less than $5,000.	If this is a HOME unit, use if no assets are reported by resident(s). For HOME, all assets are to be verified by a 3rd party. **Note:** See HOTMA Guidance effective 1/1/2024.
E	Certification of Zero Income	LIHTC/HOME/ MHDC/ SECTION 8/TBRA	Move in and re-certification when there is no reported income from an adult member of the household.	
F	Student Verification	LIHTC/HOME/ SECTION 8	Move in and re-certification if household member is a full-time student.	Not needed if allowed to utilize the Ex. U. Note: HOME units follow Section 8 Student Rule.
G	Notice of Change of Ownership or Ownership Interest	All programs	Initial and if there are any changes of ownership or ownership interest.	
H	Annual Occupancy Reports for Non internet Reporting	LIHTC/HOME	Annually.	For properties with 12 units or more.
I	Unit Certification	LIHTC	At move-in or at transfer.	
J	Authorized Representative Designation	All programs LIHTC/HOME/ MHDC	Initial and if there are any changes in authorized representatives.	
J-1	Management Authorized Representative Designation	All programs LIHTC/HOME/ MHDC	Initial and if there are any changes in authorized management representatives.	
K	HOME Annual Certification of Continuing Program Compliance	HOME	Annually when submitting resident data.	May be submitted more frequently during property lease-up.
L	Property Information Sheet	All programs LIHTC/HOME/ MHDC/ TBRA/AHAP	Initial and if there are any changes in management staff.	
M	LIHTC Certification of Student Eligibility	LIHTC, HOME, MHDC, SECTION 8	At move in and recertification.	Student rules, as defined by Section 42, will no longer apply. Other programs such as HOME have longer compliance periods where the student rule may apply.

Exhibit		On what type of property is it used?	When is it used?	Please Note
M-1	HOME Certification of Student Eligibility	HOME	At move in and recertification.	
N	Disclosure of Lead Paint-Hazards Warning	HOME/LIHTC/ MHDC	At move-in.	For all properties built before 1978.
O	Tenant Eviction Language Lease Addendum	LIHTC/MHDC	At move in, recertification and any time a new lease is executed.	
P	Request for Common Use Unit	All programs LIHTC/MHDC/ HOME	When a common use unit is requested or cancelled.	Common use units are that could be occupied by a qualified resident, but instead are used for management, security, or maintenance purposes.
Q	Non-Employment Affidavit	LIHTC/MHDC/ HOME/TBRA/ SECTION 8	At move in and re-certification.	
R	Addendum to Lease – HOME Provisions	HOME	At move in, re-certification and any time a new lease is executed.	
T	Request for Extension	All programs LIHTC/MHDC/ HOME/AHAP	When an extension for time to cure deficiencies is needed.	Due to MHDC by the 10th calendar day from the mail-out date of inspection report.
U	Annual Resident Certification	100% LIHTC properties only	3rd year recertification on 100% tax credit properties. Mixed-use properties may not utilize the Ex. U. The most restrictive program recertification requirements are to be followed.	Prior approval must be requested to use the Exhibit U.
V	IOI Statement Qualifications	All properties with MHDC interest LIHTC/MHDC/ HOME/AHAP/ TBRA	At move in and re-certification.	
W	8609 Owners Certification General Partnership Form	LIHTC	When original 8609s cannot be obtained by any other means.	8609s must be requested of the original owner and/or the IRS before an Exhibit W will be accepted.
Y	Corrective Action Plan	All properties subject to management review	When a property is out of compliance to track uncorrected deficiencies.	Due on the 10th of the month until the property is no longer on a corrective action plan.
Z	Housing Priority Checklist	Properties with Special Needs units and/or Service Enriched Priority	To be completed annually. Refer to the Seasonal Reporting Schedule.	Submitted in AMRS Housing Priority Certification module.

Please Note: Forms are revised from time to time. It is the responsibility of the owner/management company to check the MHDC website and implement new forms immediately. Revision dates are printed on the bottom of the form and new or updated forms are denoted with a banner on the website. Additionally, MHDC exhibits must be used. No other forms are acceptable.

APPENDIX

All forms may be accessed on the MHDC website at:
https://mhdc.com

Exhibit A-1	Management/Maintenance Plan Outline
Exhibit B	Tenant Income Certification
Exhibit C	Employment Verification
Exhibit E	Certification of Zero Income
Exhibit F	Student Verification Form
Exhibit H	LIHTC/HOME Annual Occupancy Report
Exhibit K	HOME Certification of Continuing Program Compliance
Exhibit M-1	HOME Program Certification of Student Eligibility
Exhibit N	Disclosure of Information on Lead-Based Paint
Exhibit Q	Nonemployment Affidavit
Exhibit R	Addendum to Lease – HOME Provisions
HUD 935.2	Affirmative Fair Housing Marketing Plan
HUD-27061	Race and Ethnic Data Reporting Form
HUD-91067	HUD Approved Lease Addendum

ADDITIONAL RESOURCES

The following resources may be helpful in maintaining compliance with the HOME Program:

Missouri Housing Development Commission (MHDC)
www.mhdc.com

MHDC Certification Portal Link
https://CP.mhdc.com/

HUD Exchange-HOME Investment Partnerships Program (Policy guidance, Rent limits, Income limits, etc.)
HOME: HOME Investment Partnerships Program - HUD Exchange
https://www.hudexchange.info/

HUDCLIPS (HUD Handbooks, Forms, and Publications) & HUD Physical inspection standards
HUD.gov / U.S. Department of Housing and Urban Development (HUD) |

HUD HOTMA Resource Page
https://www.hud.gov/program_offices/public_indian_housing/hotmaresources

EQUAL HOUSING OPPORTUNITY