Costello
UNIVERSITY

MULTIPLE PROGRAMS GUIDE

A SIDE-BY-SIDE SUMMARY OF SPECIFIC HOUSING PROVISIONS - 2018

Combining Multiple Housing Programs

Researching the Issues

When determining how to comply with multiple housing programs at a property, the first step is to understand comparable rules for each program. Federal and state guidance documents and individual regulatory agreements for a property should be gathered and read carefully. Once this is done, analysis can be conducted to establish which interaction is appropriate to maintain compliance with all programs.

Monitor requirements

When reconciling program requirements, it is very important to understand the difference between federal requirements and those imposed by the regulatory agency, such as the tax credit state HFA or the HOME PJ. More restrictive income and rent set-asides or specific conservative calculation methodologies are examples. The agency in these cases may have discretion in what they require and may be willing to negotiate their requirement to assist in complying with other program requirements.

Result of Rule Comparison	Action to Take
A. One program has a requirement that the other does not	**Apply the requirement**
B. Both programs have similar requirements and:	
1. The rules have built-in reconciliation provisions.	**Apply the reconciled rules.**
2. One requirement is more restrictive.	**Apply the more restrictive rule.**
3. The requirements are different and don't reconcile.	**Apply BOTH rules**
4. The requirements conflict.	**Contact to discuss risks and decide on approach:** • **Owners** • **Monitoring agency**

Rule Comparison Type (from above)	Examples
A.	**HUD** – Citizenship, criminal background, numerous specific forms **RD** – Wait list requirements **HUD, RD or HOME** – Conduct an affirmative marketing plan
B.	
1.	**TC with HUD or RD** – Use HUD or RD utility allowances. **TC with HOME** – Do not use income-based rent for over-income households. **TC with RD** – Hold units for TC-eligible households.
2.	**TC with HUD, RD or HOME** – Use lowest applicable Income limits. **TC with HUD or RD** – Conduct annual income certifications at 100% TC properties. **TC with RD** – Do not allow zero income households without exempt income. **TC with RD** – use verification for only 90 days from date of receipt (RD), extend time through verbal confirmation only an additional 30 days (TC). **TC with HUD or RD** – Apply minimum 1-year lease term. **TC with HUD** – Do not charge application fees.
3.	**TC with HUD, RD or HOME** – Apply both student rules.
4.	**TC with RD or HUD** – Dislocating over-income households per RD rules or existing households at a HUD acquisition/rehab per TC rules. **TC with RD** – Displacing students per TC rules. **HUD or RD with TC** – Use of conservative calculations to determine eligibility (highest-in-range or year-to-date, for example).

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STUDENT ELIGIBILITY

TAX CREDIT	HUD	RD	HOME	BOND
In general, households made up of full-time students of any age do not qualify. There are five exceptions to this general rule. They are for students who are: 1) Married and entitled to file a joint tax return* 2) Single parents with dependent child(ren) 3) Title IV welfare recipients (TANF or similar program) 4) Former foster care recipients 5) Participants in a Job Training Partnership Act (JTPA) or similar program** * Same-sex couples qualify for "married and entitled to file" if legally married under any state law. **The "Workforce Investment Act" has replaced JTPA.	HUD Section 8 Rule: Any individual who attends an institute of higher learning (full OR part-time) must be one of the following: 1) A dependent of the household living with a parent 2) Over age 23 3) A veteran 4) Married 5) A parent with a dependent child in the unit 6) A disabled individual who was receiving assistance prior to 11/30/2005 or 7) Be independent from parents or have parents who are income eligible. Certain vulnerable youths also count as independent under HUD and DOE rules. Non-Section 8 programs: Each student at an institute of higher learning must meet ALL of the following requirements 1) Be of legal contract age under state law 2) Have established a separate household from parents for at least a year OR meet the U.S. Dept. of Education definition of an independent student 3) Not be claimed on a parent's tax return 4) Must disclose if they get financial assistance from parents.	**Same as HUD Section 8 Rule**	**Same as HUD Section 8 Rule** (regardless of commitment date)	**Same as tax credit.** In general, households made up of full-time students of any age do not qualify. Prior to HERA, the only exception that qualified a full-time student household was 'married, entitled to file a joint tax return'. Per HERA, the same five student exceptions that apply for LIHTC apply to bond qualification.
§42 (i)(3)(D) & 8823 Guide 17-1 & 2 & Exhibit 17-1; 4350.3 Exhibit 5-1 Rev. Rul. 2013-17	4350.3 3-13	Unnumbered letter dated 1/11/2007	HOME Reg §92.2 (2013)	§42 (i)(3)(D) §142 (d)(2)(C)

INCOME ELIGIBILITY DETERMINATIONS

TAX CREDIT	HUD	RD	HOME	BOND
Income eligibility is determined using the Section 8 method for determining gross annual income found in the HUD Handbook 4350.3 Chapter 5. No deductions to annual income apply to the tax credit program.	Follow the HUD Handbook 4350.3. Allowances and Deductions apply.	Follow the RD HB-2-3560 chapter 6. These rules are based on the HUD regulations.	HUD allows PJs to choose from two methods for determining income, these will be stated in the HOME regulatory agreement and may include: 1) 1040 tax return definition 2) Section 8 method from the 4350.3 Chapter 5* 3) The 2013 regulation change eliminated the Census Long Form as an option. *The most widely used and the only option available to tax credit properties.	Income eligibility is determined using the Section 8 method for determining annual income found in the HUD Handbook 4350.3 Chapter 5. The LURA will determine what method is used to verify income (see verification).
IRS Notice 88-80, Treas. Reg. 1.42-5(b)(1)(vii), 8823 Guide chapter 4	4350.3 chapter 5 and Exhibits 5-1 & 5-2	HB-2-3560 chapter 6	HOME Guide 3.2 D Home Reg § 92.203(b)(2) (2013)	§ 142 (d)(2)(B)

CHILDREN – ADOPTED OR UNBORN

TAX CREDIT	HUD	RD	HOME	BOND
Children in the process of adoption and unborn children are included when counting household members. (pregnancy verified by self-affidavit by mother)	Children in the process of adoption and unborn children are included when counting household members. (pregnancy verified by self-affidavit by mother)	Children in the process of adoption and unborn children are included when counting household members.	Older guidance indicated that children in the process of adoption and unborn children were not included when counting household members. This guidance is no longer available and appears to have been rescinded. It is HIGHLY recommended that the property's PJ be consulted to determine if they still employ this policy. Many PJs use the widely-accepted policy for other HUD programs to include these children.	Children in the process of adoption and unborn children are included when counting household members.
8823 Guide 4-3 4350.3 Appendix 3, Page 20	4350.3 Appendix 3, Page 20	HB-2-3560 Attachment 6-C, page 1	4350.3 Appendix 3, Page 20	

INCOME LIMITS

TAX CREDIT	HUD	RD	HOME	BOND
HUD-published Multifamily Tax Subsidy Program (MTSP) income limits are used. 50 or 60% MTSP limits apply, depending on the minimum set-aside selected for a project. Income limits are property specific and HERA designates a "hold harmless provision" for a specific property, a provision that allows the income limits to never go below the highest limit that has applied to the area since the project placed in service. Households must qualify based on gross annual income.	Income limits based on area median income (AMI) are used and vary based on which HUD program and the county location or MSA. Limits may go up or down any given year. Households must qualify based on gross annual income. **For Section 8:** the very-low 50% AMI limits generally apply, but 40% of new move-ins must be at the extremely low (30% AMI) limits.	RD program income limits based on area median income (AMI) are used based on which RD program and the county location or MSA. Limits may go up or down any given year. Applicants are given priority based on whether they are very-low (50% AMI), low (80%) or moderate (low limit + $5,500) income. Households must qualify based on adjusted income.	HUD HOME income limits based on area median income (AMI) are used. HOME limits ae county or MSA specific and may go up or down any given year.	HUD-published Multifamily Tax Subsidy Program (MTSP) income limits are used. 50 or 60% MTSP limits apply, depending on the minimum set-aside selected for a project. Income limits are property specific and HERA designates a "hold harmless provision" for a specific property, a provision that allows the income limits to never go below the highest limit that has applied to the area since the project placed in service. Households must qualify based on gross annual income.
Treas. Reg. 1.42-5(b)(1)(vii), 8823 Guide 4-2	4350.3 3-6	HB-2-3560 6.2	HOME Guide 3.2 A	§ 142 (d)(2)(B)

CERTIFICATION FORM

TAX CREDIT	HUD	RD	HOME	BOND
Tenant Income Certification or "TIC" is commonly used.	Form HUD-50059	Form RD-3560-8	No specific form required. PJs commonly allow tax credit TICS.	Tenant Income Certification (TIC) or Certificate of Tenant Eligibility (CTE) forms are commonly required by bond monitors.
	4350.3 5-31 B	HB-2-3560 6.11 A		

ZERO INCOME HOUSEHOLDS / UNSECURED INCOME

TAX CREDIT	HUD	RD	HOME	BOND
HUD allows zero income households, but makes provision for interim certifications when income changes. The tax credit certification must establish a household's income for the next 12-month period with no interim certifications. This difference in program regulations creates a "grey" area that is open to interpretation between the programs, state agencies and project owners. Some agencies require that future, unsecured income be counted based on the household's income history. While some require that only imminent and verifiable income be counted. The 8823 Guide opts for using a 12-month history for zero or sporadic income households and thus unknown and unverifiable income is not included on the certification. Check with your state HFA.	HUD allows zero income households and unsecured income is not counted. Changes to this status must be reported immediately and an interim certification conducted.	RD does not consider zero-income households to qualify. Basic expenses that the household must meet are verified and counted as income. A Zero Income Checklist must be completed to determine cash and non-cash contributions to the household that will be used to meet the expenses.	HOME guidance allows zero-income households but does require that the past 12-month average income (if any) be included on the certification.	The bond regulations do not speak to this issue. Typically, it is handled per the tax credit program approach.
8823 Guide 4-33	4350.3 5-5 A, Appendix 3, page 22	HB-2-3560 6.9 A 4, Attachment 6B	HOME GUIDE 6.2 E	

EMPLOYMENT INCOME VERIFICATIONS WITH A RANGE OF HOURS, WAGES ETC.

TAX CREDIT	HUD	RD	HOME	BOND
HUD uses "average hours" when determining employment income. (e.g. 35 hours for 30-40 hours listed on a verification) By regulation we count tax credit income as does the Section 8 program. However, it has generally been accepted as best practice by most state HFAs that the tax credit program should use the more conservative approach of using the HIGHEST in a range (i.e. 40 for the 36-40 hours). Some states apply the HUD method, however. The IRS has not addressed this issue.	HUD uses "average hours" when determining employment income (e.g. 35 hours for 30-40 hours listed on a verification)	RD does not directly address this issue. Typically, the HUD approach is used. (e.g. 35 hours for 30-40 hours listed on a verification)	HOME uses the HUD method to calculated employment income (i.e. "average hours") (e.g. 38 hours for 36-40 hours listed on a verification)	Bond technically uses the HUD "average hours" calculation for employment income. Typically, the best practices accepted by many bond Issuers implement the more conservative approach of using the HIGHEST amount listed as a range on the employment verification. (e.g. 40 hours used for 36-40 hours listed on a verification)
	4350.3 Appendix 6-C		HOME Technical Guide page 6	

VERIFICATION OF ASSETS / IMPUTING INCOME FROM ASSETS

TAX CREDIT	HUD	RD	HOME	BOND
If the household's assets are $5,000 or less, assets may be verified via self-affidavit. Household assets more than $5,000 must be 3rd-party verified. Imputed income from assets using the Hud passbook rate is calculated, if assets exceed $5,000.	Assets are 3rd-party verified. Imputed income from assets using the Hud passbook rate is calculated.	Assets are 3rd-party verified. Imputed income from assets using the Hud passbook rate is calculated.	Assets are 3rd-party verified or "source documents are used for initial program entry and then every 6th year of the affordability period. Income self-certification or verification from a RA voucher provider can be used for years 2-5. Imputed income from assets using the Hud passbook rate is calculated.	The bond regulations do not specifically address asset verification requirements. The project LURA may have specific requirements or allow self-affidavits to be used when household assets are $5,000 or less. This is not specifically allowed on a federal level like it is for the tax credit program.
8823 Guide 4-7, 4350.3 5-18 B, Rev. Proc. 94-65	4350.3 5-13, Appendix 3	HB-2-3560 6.11 A	HOME Guide 3.2 E 2 & 5, F3, Attachment 3-5 HOME Technical Guide 15	

VERIFICATION METHODS (GENERAL)

TAX CREDIT	HUD	RD	HOME	BOND
Regulation requires review of income documentation, such as w-2s or tax returns. Further IRS guidance provides more detailed verification rules. The below verification options are generally applied to tax credit properties, in the order of preference: 1. 3rd-party verification direct from the party. 2. Documentation provided by the household. **3.** Household self-certification. Verifications are good for 120 days from receipt.	There are 4 basic types of verification available for HUD in order of preference: 1. UIV – Upfront Income Verification with the mandatory use of EIV after move-in and optional use of UIV non-EIV verification; 2. Third-party verification from the source (written) 3. Third-party verification from the source (oral) 4. Family certification by household written statement. Verifications are good for 120 days from receipt and must be no more than 120 days old at time of receipt. Fixed income sources must be verified every 3 years. COLAs can be applied other years.	The below verification options are generally applied to tax credit properties: 1. 3rd-party 2. Documentation provided by the household 3. Household self-certification. Verifications are good for 90 days from receipt and can be extended an additional 90 days with verbal clarification.	At move-in and every 6th year of the HOME affordability period, "source documents" must be used. These are written documents generated by a 3rd party, that verifies the income sources that the applicant reports. At least 2 months of history must be covered by the documentation. For other years, self-certification or verification from other sources, such as local PHAs is acceptable. Verifications are good for 6 months.	The bond regulations do not specifically address verification requirements. The project LURA may have specific requirements and verification lifespans.
8823 Guide 4-21, 4350.3 5-16 B	4350.3 5-13 A, 5-16 B, Appendix 3, HUD MF Notice H-2016-09	HB-2-3560 6.8 & 11	HOME Guide 3.2 D 3 & E 3 & 5; 24 CFR 92.203 (2013)	

SECTION 8 VOUCHER CERTIFICATION IN LIEU OF INDIVIDUAL INCOME/ASSET VERIFICATION

TAX CREDIT	HUD	RD	HOME	BOND
Check with state HFA. Some states allow a letter from a RA voucher issuer stating that the household's income is below the income limit.	Not allowed	Not allowed	Not allowed for initial certification. PJ's might allow use in years other than every 6th year of the affordability period when full 3rd-party verification is not necessary. (see "recertifications").	Not specifically allowed. The LURA may allow for this type of verification.
IRS Reg 1.42-(b)(1)(vii)			HOME Guide 3.2 D 3 & F 3	

HOUSEHOLD FILE RECORD RETENTION

TAX CREDIT	HUD	RD	HOME	BOND
Files for households that qualified units in the 1st year of the credit period are vitally important for the audit of any year's records. They must be retained for a total minimum of 21 years after the first-year credits are claimed. **Files for households qualified in years 2-15** must be kept for a minimum of 6 years beyond deadline for filing the tax returns for a year.	Applications must be kept for 3 years after denial. EIV reports and other forms and verifications that go into tenant files must be retained in the tenant file for the term of tenancy plus three years.	Tenant certification forms and supporting documentation must be retained in the tenant file for the longer of 3 years or until the next Agency monitoring visit or compliance review.	Individual tenant income, rent, and inspection information must be kept for the most recent 5 years throughout the period of affordability, until 5 years after the end of the affordability period.	Records should generally be kept for as long as the bonds are outstanding, plus 3 years after the final redemption date of the bonds.
Treas. Reg. 1.42-5 (b)	HUD 4350.3 4-22; 5-23; 9-14	RD HB-2-3560 6-11 B 5; Attachment 6-J	HOME Guide Exhibit 6-1, 6.2 C 7 & 24	1.148-5(d)(6)(iii)(E) of the arbitrage regulations

ADDING HOUSEHOLD MEMBERS TO AN EXISTING HOUSEHOLD / INTERIM INCOME INCREASES

TAX CREDIT	HUD	RD	HOME	BOND
No Interim Certifications are required. Individuals added to an existing household during a certification year are income-certified individually and their income is added to the most recent TIC. The total household income is then checked to determine eligibility. This may trigger the AUR rule. The household is considered the same household so long as one original member remains. Some HFAs do not allow additional household members to be added during the Initial Certification year. *See "Increase in Income and Determining Eligibility" for more information.	Adding household members triggers an interim certification. Increases in income do not require a household to move out.	Adding household members triggers a new certification. If this increases the household's income to more than the moderate-income limit, (low (80% AMI) limit + $5,500) the household may be required to move out.	No Interim Certifications are required. Increases in income do not require a household to move out. *See "Increase in Income and Determining Eligibility" for more information.	No Interim Certifications are required. The regulations do not discuss adding household members. The regulatory agreement may discuss this. Increases in income do not require a household to move out. *See "Increase in Income and Determining Eligibility" for more information.
8823 Guide 4-4	4350.3 7-10	HB-2-3560 6.28 B, 6.30	HOME Guide 3.5 & 6	

RECERTIFICATION

TAX CREDIT	HUD	RD	HOME	BOND
Projects that are less than 100% tax credit must recertify each household's income and student status annually. 100% tax credit projects must recertify student status annually. Typically, recertifications are due on the original certification anniversary date. A few states require one full income recertification.	Recertifications are due on the certification anniversary date. Interim certifications must be conducted when household income increases by $200 a month or decreases by an amount that would change the TTP.It is only required that household composition or income items that have changed since the annual certification must be re-verified. Fixed-source income must be verified at least every 3 years.	Recertifications are due on the certification anniversary date. If certain income and household changes occur (including increases of $100 per month or decreases of $50), a new certification is done and all items are 3rd-party verified. A recertification must then be completed no later than a year from the anniversary of the new certification.	HOME households must be certified at move in and every 6th year of the affordability period, with some annual recertification requirements in years 2-5. The HOME program does not mandate dates for the annual cycle, allowing all recertifications to be conducted at once for a year. There are no provisions for interim certifications.	Projects that are less than 100% bond must recertify each household's income and student status annually. Like the tax credit program, 100% projects need to recertify student status each year.
§142(d)(3)(A) (see §42(g)(4)), Treas. Reg. 1.42-(b)(1)(vi), 8823 Guide chapter 5	4350.3 chapter 7, 7-11 A 4	HB-2-3560 6.28	HOME Guide 3.2 F 6	§142(d)(3)(A)

DEDUCTIONS AND ALLOWANCES

TAX CREDIT	HUD	RD	HOME	BOND
Deductions and allowances are not used. Rent is not based on income.	HUD has 5 types of deductions and allowances used to determine adjusted income and rent. Open to all applicable households are: 1) Dependent deduction ($480 per dependent per year) 2) Child care expenses and 3) Disability assistance expenses Available to households where the head or co-head is elderly or disabled are: 1) Medical expenses and 2) Elderly household deduction ($400 per household per year)	RD uses the 5 HUD deductions and allowances.	HOME uses HUD's 5 deductions and allowances for those over-income households paying rent based on their income.	Deductions and allowances are not used. Rent is not based on income.
	4350.3 Chapter 5 section 2	HB-2 3560 5.9 C	HOME Guide Attachment 3-4	

EFFECTIVE DATES OF CERTIFICATIONS

TAX CREDIT	HUD	RD	HOME	BOND
The effective date for move-in is the actual date of move-in. The effective date for **in-place residents** at Acq/Rehab properties is the date of acquisition (for households certified within 120 days of the acquisition date). After the 120-day period, the effective date is the date of the last signature on the certification. The effective date of recertification is the anniversary of the effective date of the original tenant income certification (for less than 100% LIHTC projects where recertification is required).	The move-in date is the date of move-in. The effective date of the initial certification where an in-place resident gets rental assistance is the date that subsidy is assigned to the tenant. Interim Certifications with a rent increase reported in a timely manner, is the first of the month after the end of a 30-day notice. The effective date of interim certifications with rent decreases or when increases in income are not reported timely is the 1st of the month after the income is verified. The annual recertification effective date is the first of the month on the anniversary of original move-in certification. HUD may approve alternative anniversary dates.	The effective date of all RD certifications will always be the 1st of the month. The effective date of a move-in cert is the 1st of the month. If the tenant did not move-in on the 1st, the effective date is 1st of the next month after move-in. The effective date of recertification is the anniversary date of the last certification.	Effective dates are not discussed. Initial income certification must be completed 6 months prior to move-in. Annual recertification is necessary, but does not have to be on the anniversary date of the last certification.	Effective dates are not discussed. Typically, the Tax credit rules are followed.
8823 Guide 4-22, 4-25, 5-1	4350.3 7-5, 7-13, 7-5 C	HB-2-3560 6.28	HOME Guide 3.2 E 1, 6	

MINIMUM REQUIRED PERIOD IN THE PROGRAM

TAX CREDIT	HUD	RD	HOME	BOND
The tax **credit period** in the program is generally accelerated to 10 years with a 15-year **compliance period.** State Housing Finance Agencies (HFAs) also include an **extended use period**, which can vary, though it is a 30-year minimum total, including the compliance period.	Program type, financing and other regulations establish the required period in the program.	Program type, financing and other regulations establish the required period in the program.	The HOME agreement establishes the parameters of the program. The **affordability period** in the HOME program can vary depending on the type of HOME project and the average HOME unit investment. It is at least 20 years for most properties.	The bond qualified project period begins once 10% of the units in a property are occupied and ends the latest of: a) 15 years after 50% of the units are occupied, b) the day no tax-exempt bond is outstanding or c) the day Section 8 assistance, if any, terminates.
§42(i)(1), (f)(1), (h)(6)(D), 8823 Guide chapter 16			HOME Guide 7.1	§142(d)(2)(A)

INCREASES OF INCOME AND DETERMINING ELIGIBILITY

TAX CREDIT	HUD	RD	HOME	BOND
For less than 100% tax credit properties, household income that is over 140% of the current income limit at recertification is "over-income". Over-income households continue to qualify as Tax Credit households if the next available unit of the same or smaller size ***IN THE BUILDING*** is rented to a qualified tax credit household. This continues until the applicable fraction is restored not counting the over income households. Once the applicable fraction is restored, the household may be raised to market rent, but cannot be required to vacate the unit. This is often called either: • the AUR "Available Unit Rule"; • the NAUR "Next Available Unit Rule"; or • the "140% rule"	Rent increases up to the maximum rents. Households that are at the maximum rent and not receiving RA are NOT required to move out of the unit.	Rents increase up to the maximum rents. Households that exceed the moderate-income limits must vacate the unit. Overage (the amount of the tenant's rent that exceeds Basic Rent up to Note Rent) must be paid to RD.	Income and subsequent rent increases may result in re-classification from LOW to HIGH HOME rents. Rents switch to 30% of adjusted income once the household's income exceeds the 80% limit. LOW HOME households that exceed the HOME 50% limits and HIGH HOME households that exceed the HOME 80% limits are "over income". Resulting actions are then determined by the program and depends on whether the project is "fixed" or "floating" HOME. Households at the maximum rent are not required to move out of the unit. For projects that have tax credit funding also, rent for over-income households is not based on adjusted income, but may be raised to tax credit limits.	For less than 100% bond properties, household income that is over 140% of the current income limit at recertification is "over-income". Over-income households continue to qualify as bond households if the next available unit of the same or smaller size ***IN THE PROJECT*** is rented to a bond household. NOTE: For bond/tax credit projects, this rule becomes a ***BUILDING*** rule to conform to the tax credit regulations.
§42(g)(2)(D)(ii), Treas. Reg. §1.42-15, 8823 Guide chapter 14	4350.3 chapter 8	HB-2-3560 6.30	HOME Guide 3.5 & 6, Attachment 3-4 & Attachment 3-5 §92.25 3 (c) (2013)	§142(d)(3)(B) & (C)

TRANSFERRING HOUSEHOLDS

TAX CREDIT	HUD	RD	HOME	BOND
For less than 100% tax credit properties, households with income above the 140% limit at recertification may only transfer to units in the same building. At 100% tax credit properties and for households with income below the 140% limit, transfers can take place between buildings in the project without the household qualifying under current income limits. See IRS form 8609 to determine which buildings are in a project. Transfers between units cause the units to switch status, especially for purposes of initial tax credit rent up.	Transfers are allowed between buildings within a project. Households that overcrowd or under occupy a unit may be required to move to an appropriately sized unit (if that unit is available), or stay and pay contract rent. The effective date of the household's recertification after transfer is the anniversary date of their original move-in date to the property.	Transfers are allowed between buildings in a project. Households that overcrowd or under occupy a unit may be required to move to an appropriately sized unit (if that unit is available). If an appropriate unit is not available, tenancy may be terminated. A recertification is completed at transfer, and the transfer date becomes the new anniversary date.	HUD guidance does not discuss unit transfers for HOME. Generally, households must re-quality at transfer for the new unit. "Floating" HOME units can switch their designation. "Fixed" HOME units do not switch.	Bond rules do not discuss unit transfers.
Treas. Reg. 1.42-15(d), Rev. Rul. 2004-82, Q&A #8, 8825 Guide 4-24	4350.3 chapter 7 section 3	HB-2-3560 6.21, 6.30 A		

SUBSIDY AND RENT LIMITS

TAX CREDIT	HUD	RD	HOME	BOND
Section 8 RA and RA from similar programs is exempt when determining household income. Household rent may exceed the tax credit max rents for households receiving assistance and whose income has increased. Tenant rents may also exceed the tax credit limit for households receiving RD assistance for which RD "overage" is paid.	Not applica ble.	Rental assistance, if available at a property, pays rent up to basic rent. When tenant rent exceeds basic rent, overage is paid to RD equal to the difference between the tenant rent for a unit and the basic rent.	Include any subsidy when determining compliance with HOME rent requirements. There is an exception for project-based subsidy in LOW HOME units where tenants pay 30% of their income toward rent. For these units, the full subsidy program rents may be collected.	The bond program does not impose rent requirements. The bond agreement may have some project specific requirements.
§42(g)(2)(B)(i) & (iv), 8823 Guide 11-5 & 6		HB-2 7.4 C, 7.11 A-C	HOME Guide 3.3 C	

UTILITY ALLOWANCES

TAX CREDIT	HUD	RD	HOME	BOND
Projects with RD or HUD funding use the UA for those programs. There are 5 additional choices for other properties: 1) Local PHA published UAs 2) Estimate from a Utility Company 3) Estimate from an HFA 4) HUD Utility Schedule Model (HUSM) 5) Engineer Model The UA for voucher holding households is the PHA published UA that their rent calculation is based on.	UA for a property is calculated based on actual consumption at a property every 3rd year and adjusted by a HUD published rate the other years.	UA for a property is calculated based on RD policy. If there is more than a 15% rate increase, owners should collect a "significant sampling" of tenant data. If any increase 15% or less, "a sampling" is required. Each state Agency sets futher policy.	The PJ establishes a UA. Since the 2013 change in HOME regulations, UAs provided by Public Housing Authorities are no longer acceptable. UAs must now be: 1) Calculated based on actual project consumption; or 2) Use the HUD Utility Schedule Model (HUSM) NOTE: This is only applicable to HOME projects committed funds after 8/23/2013. The method for HUD projects is acceptable. Tax credit options are also acceptable except PHA estimates.	The bond program does not impose rent limits, thus a UA is irrelevant. The bond agreement may impose further rent restrictions.
Treas. Reg. 1.42-10, 8823 Guide Chapter 18	MF Notice H-2015-4	7 CFR 3560.202 HB-2-3560 4.26/ 4-29; 7.3 / 7-3	HOME Guide 3.3 D; 24 CFR 92.252 (d) (2013) CPD HOME FAQ 11-13, Homefires Vol. 13 No. 2	

RENT LIMITS

TAX CREDIT	HUD	RD	HOME	BOND
Rent limits are calculated based on income limits. There is a gross rent "floor, established at the date of allocation or placed in service date, so that the rents do not have to fall below the "floor" for a project, even if the HUD published Income Limits go down from year to year. Rent limits are calculated imputing 1.5 persons per bedroom.	Market (or contract) rents are calculated for a specific property and will be spelled out in regulatory and HAP agreements.	Basic and market rents are calculated for a specific property and will be spelled out in regulatory and other agreements.	HUD publishes the HOME high and low rent limits. Rents do not decrease below the originally-approved HOME rents. 2013 HOME regulation requires that PJs approve all rents annually at each HOME project that they monitor.	The bond program does not have rent limits. Specific bond agreements may impose limits.
§ 42 (g)(2)(C), Rev Prc 94-57, 8823 Guide 11-2 Example 1			HOME Guide 3.3 §92.2 52(f)(2) (2013)	

LEGAL AUTHORITY AND PROGRAM GUIDANCE

TAX CREDIT	HUD	RD	HOME	BOND
Legal Code: Internal Revenue Code §42, Treasury Regulation 1.42, Revenue Rulings, Revenue Procedures, and IRS Notices. Although **not regulatory**, "The Guide for Completing Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition" AKA "The 8823 Guide" and IRS Newsletters provide additional guidance. Private Letter Rulings indicate IRS thinking but cannot be sited as precedent for any but the individual cases involved.	HUD Handbook 4350.3 "Occupancy Requirements of Subsidized Multifamily Housing Programs." Additional MF Housing Notices provide updates. HUD also has a RHIIP Listserve where guidance and announcements are often first published.	HB-2-3560 "Multi-Family Housing Asset Management Handbook," RD also provides updates through Administrative Notice (AN) and Unnumbered Letters (UL).	24 CFR Part 92 regulation, "Compliance in HOME Rental Projects: A Guide for Property Owners" AKA the "HOME Guide." A HOME Technical Guide and Online Calculator provide income calculation guidance.	Internal Revenue Code §142, Revenue Rulings, Revenue Procedures, and IRS Notices
www.irs.gov	www.hud.gov	www.rd.usda. gov	www.hudexchange. info	www.irs.gov

VACANCIES

TAX CREDIT	HUD	RD	HOME	BOND
Vacant units are considered tax credit units if: A) the unit was previously occupied by a qualified household; B) the unit was ready to lease in a reasonable amount of time; and C) the owner/manager can prove that the unit was marketed before any non-tax credit units of the same or smaller size	Vacant units do not impact program compliance unless vacant units are excessive in quantity or duration. Vacancy claims can be made to HUD to recoup lost rents.	Vacant units do not impact program compliance unless vacant units are excessive in quantity or duration. Rental Assistance that remains unused after 6 months due to vacancies may be removed	A few, short term vacant units do not impact program compliance. NOTE: HOME units that are not leased within 6 months of project completion could become an issue. Within 18 months HOME	Vacant units are considered bond units if the unit was previously occupied by a qualified household. When the next household leases the unit, qualification is determined for that household.

were leased. (Vacant Unit Rule VUR)		from a property by RD.	funds must be paid back on those units that were not leased to HOME qualified households.	
Treas. Reg. 1.42-5(c)(1)(ix), Rev. Rul. 2004-82, Q&A #9, 8823 Guide chapter 15		HB-2-3560 9.15/9-33	§92.525 (2013)	IRS Reg. 103.8 (b)(5)(ii)

MINIMUM SET-ASIDE AND REQUIRED NUMBER OF UNITS IN PROGRAM

TAX CREDIT	HUD	RD	HOME	BOND
Typically, properties have a 20-50 or 40-60 minimum set-aside. The first number designates the minimum percentage of units at the property that must be designated “tax credit” units. The second number represents the MTSP income and rent limit for those units. tax credits are claimed based on the actual percentage of tax credit units to all the units in a building, this is called the “applicable fraction.” NOTE: New York City adds a third minimum set-aside of 25-60. State agencies can determine additional set-asides.	This is based on the HUD program type and the regulatory agreement in place for the property.	This is based on the RD program type and the regulatory agreement in place for the property.	The HOME units in a property are determined by the amount of HOME Funds given to the property in proportion to the cost to build. These are designated “low” and “high” HOME units. Typically, 20% of units must be “low” HOME units with a 50% income and rent limit. The remainder of the HOME units are “high” HOME with an 80% rent and income limit.	Typically, properties have a 20-50 or 40-60 minimum set-aside. The first number designates the minimum percentage of units at the property that must be designated “bond” units. The second number represents the MTSP income and rent limit for those units. The bond units must meet the minimum set-aside at the property, but do not need to exceed the minimum. During lease-up once a property reaches 10% occupancy the minimum set-aside must be maintained among the occupied units. This may cause a hold on leasing to non-bond households until the bond minimum set-aside is reached. NOTE: New York City adds a third minimum set-aside of 25-60. State agencies can determine additional set-asides.
§42(g)(1), 8823 Guide chapter 10, IRS form 8609(s) line 10C shows the designation			HOME Guide 1.8	§142(d)(1) Rev. Proc. 04-39

INITIAL LEASE AND LEASE TERM

TAX CREDIT	HUD	RD	HOME	BOND
Other than in SRO or transitional housing projects, households must not be "transient." This generally means that the initial lease term must be at least 6-months. Termination or non-renewal must be for good cause under state law.	The initial lease term must be 12-months. The HUD lease must be used. Termination or non-renewal must be for good cause.	The initial lease term must be 12-months or the end of the HAP contract, if sooner. The lease is developed by the owner and must be certified by the owner's attorney and approved by RD. Termination or non-renewal must be for good cause.	The initial lease term is typically 12-months, unless a lesser term is agreed upon, which can't be less than 30-days, except in cases of threat to the tenants, employees or property. The lease is developed by the owner avoiding 9 prohibited clauses. The lease must be approved by the PJ. Termination or non-renewal must be for good cause.	The bond program leaves the lease and initial lease term up to other program funding, unless the bond agreement mandates some lease requirements. The minimum term is generally at least 31 days.
§ 42(i)(3)(B)(i) & "Blue Book" 8823 Guide chapter 20; § 42 (i)(3)(B)(iv)	4350.3 chapter 6, Appendix 4 A-G	HB-2-3560 Attachment 6-E & 6-F	HOME Guide 4.3 B, Attachment 4-1 24, CFR 92.253 (b) (2013)	Bond Agreement

APPLICATION, SCREENING AND MONTHLY FEES

TAX CREDIT	HUD	RD	HOME	BOND
Applicants can be charged an averaged fee for the actual costs to run the checks. Non-optional monthly fees must be added when determining gross rent compliance.	Applicants must NOT be charged for the costs of screening. Monthly fees must be approved by HUD.	Fees to applicants are discouraged but allowed, and limited to the actual cost of the screening. Monthly fees must be approved by RD.	Application, screening and other fees must be approved by the Participating Jurisdiction (PJ). Any allowed monthly fees must be deducted from the HOME rent limit to determine the maximum rent charged for a unit.	Application fees and costs to screen applicants are not addressed.
8823 Guide 11-2 to 11-3	4350.3 4-7 A-C, E 2	HB-2-3560 6.18 B, 6.19	Home Guide 3.3 D 4 HOME Regs § 92.214(b) (2013)	

CRIMINAL BACKGROUND CHECKS

TAX CREDIT	HUD	RD	HOME	BOND
Owners may screen for criminal background.	Owners are required to screen for criminal and drug-related criminal activity. Applicants must be screened for lifetime sex offender registration and those registered are prohibited entry.	Owners may screen for criminal background. Owners may deny admission for criminal activity. If rejected for occupancy, the letter must outline the reason.	Owners may screen for criminal background. Applicants rejected must receive a written explanation.	Criminal background checks are not addressed.
8823 Guide 11-2 to 11-3	4350.3 4-7 A-C, E 2	HB-2-3560 6.18 B, 6.19	HOME Guide Exhibit 4-1	

RELEASE OF INFORMATION FORMS

TAX CREDIT	HUD	RD	HOME	BOND
No specific form is required.	HUD uses form 9887 and 9887-A. These are signed at initial and annual recertification.	The owner is required to develop a Release of Information form. No specific form is required.	No specific form is required.	No specific form is required.
	4350.3 3-11	HB-2-3560 6.11 2		

CITIZENSHIP REQUIREMENTS

TAX CREDIT	HUD	RD	HOME	BOND
The Internal Revenue Service (IRS) does not establish citizenship requirements. The HFA or the owner may establish some non-citizen restrictions.	Only U.S. citizens or eligible non-citizens may receive assistance. Non-citizens must provide documentation that is verified through the Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services' SAVE system. Households that consist of non-eligible and eligible members will have their assistance pro-rated.	Only U.S. citizens or eligible non-citizens may receive benefits. RD guidance on how to establish this is still pending.	The multi-family HOME program does not have established citizenship requirements.	The bond program does not have established citizenship requirements.
8823 Guide 13-2	4350.3 3-5 F, 3-12, Exhibit 3-5	§3560.152 (a)(1)		

RACE / ETHNICITY REPORTING REQUIREMENTS

TAX CREDIT	HUD	RD	HOME	BOND
Race and ethnicity data collection and reporting procedures are established by the State Housing Finance Agency (HFA). The HFA is required to report this data to HUD.	Applicants have the option to report their race and ethnicity using the form HUD-27061-H, though this is NOT a required form. Management must NOT complete the form on the applicant's behalf. Race and ethnicity data is NOT placed on the waiting list.	Application forms and waiting lists must include race and ethnicity data. If the applicant will not supply the data, management is required to complete the race and ethnicity information based on observation.	The PJ must establish race and ethnicity data collection and reporting procedures. The PJ must review the data collected each year.	The bond program does not have race and ethnicity data collection or reporting procedures.
The Housing and Economic Recovery Act of 2008 (HERA) section 2835	4350.3 2-11 A, 4-14 A 4, Exhibit 4- 3, 4-16 D 4	HB-2-3560 6.18 A, Exhibit 6-5	HOME Guide 4.2 B 5	

AFFIRMATIVE FAIR HOUSING MARKETING

TAX CREDIT	HUD	RD	HOME	BOND
The Internal Revenue Service (IRS) does not address affirmative marketing.	HUD requires an Affirmative Fair Housing Marketing Plan (AFHMP) on HUD form 935.2A. This is updated by the owner/manager at least every 5 years and must be approved by HUD or the Contract Administrator (CA).	RD requires an Affirmative Fair Housing Marketing Plan (AFHMP) on HUD form 935.2A. This must be approved by RD and updated every 5 years.	The PJ must establish affirmative marketing procedures. The PJ is responsible to make sure that the established affirmative marketing plan is followed by the site.	The Internal Revenue Service (IRS) does not address affirmative marketing.
	HUD.gov form 935.2A	HB-2-3560 6.17, HUD.gov form 935.2A	HOME 4. 2 B	

ONLINE SYSTEM USED BY PROGRAM

TAX CREDIT	HUD	RD	HOME	BOND
The Internal Revenue Service (IRS) does not have an online system. Individual State Housing Finance Agencies (HFAs) may have a unique online system.	HUD has Tenant Rental Assistance Certification (TRACS) and Enterprise Income Verification (EIV).	Management Agent Interactive Network (MINC).	The Participating Jurisdiction (PJ) uses the Integrated Disbursement and Information System (IDIS) to report to HUD.	The IRS does not have and online system.

ADMINISTERING AGENCY

TAX CREDIT	HUD	RD	HOME	BOND
The Internal Revenue Service (IRS) and State Housing Finance Agencies (HFAs). NOTE: Each state has an HFA; however, they are not all specifically called Housing Finance Agencies.	Housing and Urban Development (HUD) Multi-family Division and Contract Administrators (CAs) which are 'contracted' by HUD.	Rural Development (RD) / Rural Housing Services (RHS) under the United States Department of Agriculture (USDA).	Housing and Urban Development (HUD) under the Office of Community Planning and Development (CPD). CPD appoints Participating Jurisdictions (PJs) that commit the HOME funds to owners and monitor compliance.	The Internal Revenue Service (IRS) and bond issuers.
IRS.gov and individual state HFA websites	HUD.gov and individual CA websites	RurDev.USDA.gov	HUD.gov and individual PJ websites	IRS.gov

INSPECTIONS – FILE REVIEW AND PHYSICAL

TAX CREDIT	HUD	RD	HOME	BOND
Inspections are done on a minimum 3-year cycle. 100% of buildings and generally 20% of units are inspected at a minimum. Larger properties have a lessor percentage required based on number of units. UPCS (Uniform Physical Conditions Standards) or local standards are used for the Physical Review. NOTE: Section 504 is not applicable to tax credit funding. Fair housing standards apply.	MORs (Management Occupancy Reviews) are performed on varying schedules. REAC Physical inspections use UPCS and are conducted on a 1 to 3-year schedule based on the previous REAC score: >89 = 3-year schedule 80-89 = 2-year schedule <80 = 1-year schedule Some HUD programs use HQS (Housing Quality Standards Protocol. Section 504 and fair housing standards apply for review of accessibility.	Annual Physical Inspections: 5% of occupied units (minimum of 2) and 5% of vacant units (minimum of 2). Tri-annual Supervisory Visits review units based on size: 1-5 units = all units inspected 6-30 units = 6 inspected 31-74 units = 10 inspected >74 units = 15 inspected Vacant units = 5% inspected (minimum of 2 units) RD 3560-11 is the form used for Physical reviews. Section 504 and fair housing standards apply for review of accessibility.	Reviews are based on the total number of units in a property, NOT just the HOME units, with a 3-year inspection cycle. The inspector selects a "Reasonable Sample." The PJ must choose between local and state codes or UPCS or HQS* for the physical reviews. Section 504 and fair housing standards apply for review of accessibility. *UPCS replaced HQS with the 2013 HOME regulations. Further guidance is forthcoming.	No inspection schedule is required by code. NOTE: Section 504 is not applicable to bond funding. Fair housing standards apply.
Treas. Reg. §1.42-5(c)(1)(vi) & (2)(ii)(B) 8823 Guide 6-1 & Exhibit 6-1	4350.1 chapter 5, see also www.hud.gov for further REAC, UPCS and HQS information	HB-2-3560 9.9 F, 9.10 F, RD 3560-11	HOME Guide Exhibit 6-1, 6.2 C 7; HOME Guide Exhibit 5- 1 24 CFR 92.504 (d) (2013)	

REPORTING REQUIREMENTS

TAX CREDIT	HUD	RD	HOME	BOND
IRS form 8609 must be filed with the IRS, the first year of the credit period. Form 8609A is filed other years of the compliance period. An annual owner certification of program compliance must be submitted to the state HFA.	Reporting and HAP processing is submitted monthly through TRACS.	Reporting and RA processing is submitted to RD monthly through MINC by the 10th of the month.	Annual occupancy and other reports are submitted to the PJ.	Form 8703 must be filed with the IRA annually.

VIOLENCE AGAINST WOMEN ACT (VAWA)

TAX CREDIT	HUD	RD	HOME	BOND
VAWA applies to tax credit properties since 2013. The IRS is unlikely to issue guidance. HUD guidance may be used as a model.	Applies since 2005 to Section 8 and since 2013 for most other HUD programs. HUD has issued sample notice of rights (Form HUD-5380), victim cert. (5382), model emergency transfer plan (5381), model emergency transfer request (5383). A lease addendum (91067) is required.	RD applied HUD 2016 guidance.	HUD 2016 guidance applies to HOME.	VAWA does not apply.
	Fed Reg Vol 81 No. 221 Wed Nov 16, 2016	Admin Notice 4814 dated 1-18-17; Fed Reg Vol 81 No. 221 Wed Nov 16, 2016	Fed Reg Vol 81 No. 221 Wed Nov 16, 2016	