

To: LIHTC Property Owners and Managers Compliance Memorandum: 20-06  
From: Jennifer Henderson, Director Date: June 16, 2020  
Planning and Housing Development Division  
Re: Low-Income Housing Tax Credit Compliance Manual Update

North Dakota Housing Finance Agency (NDHFA) has published an updated Low Income Housing Tax Credit (LIHTC) Compliance Manual. Last revised in 2007, the new manual clarifies regulatory requirements not addressed in the previous version and updates policies and procedures. Additionally, the sections were redesigned to improve navigation.

**Section 1.04 defines important time periods** for LIHTC projects. Owners and property managers should be familiar with these. One change in this section is reiterating that effective with the 2020 QAP, all owners have waived their right to a qualified contract.

**Section 1.06 Owner Responsibilities** have not changed. However, content was added to make it clear that per state and federal regulations NDHFA will accept documents with electronic signatures. It, however, will be the responsibility of the owner and property management company to develop policies and procedures for accepting and authenticating such signatures.

**Section 1.08 Transfer of Ownership** clarifies the requirements of transferring property ownership.

**Section 1.09 Casualty Loss** was added to clarify what NDHFA expects when a building experiences a loss.

**Section 1.10 Vacant Units** clarifies requirements for vacant units.

**Section 1.11 Building Identification** explains the mechanism NDHFA uses for building IDs.

**Section 1.12 Minimum Set-aside Election** defines the meaning of the minimum set-aside and adds the income averaging option.

**Section 1.13 Rent, Income and Utility Allowance**

- Gross Rent defined and reiterates what is and is not included in gross rents.
- Gross Rent Floor defined.
- Rent increases added language prohibiting rent increases during term leases.
- Section 8 Assisted Unit clarification.
- Allowable Fees and Disallowed Fees defined.
- Overcharged Gross Rent requirements defined.
- Utility Allowances was revised to match the most recent 8823 guide, reiterating these must be updated annually and when changing methods is allowed. If the energy consumption model is selected, NDHFA must be notified in order to review the proposed allowance.
- Rent and Income Limit Publication was not changed but clarifies hold harmless and HERA.

**Section 1.14 Unit Transfers** details the unit transfer requirements.

**Section 1.20 Violence Against Women Act (VAWA)** details how projects must implement VAWA.

**Section 1.21 Target Population Set Aside Units** details the requirements of set aside units, i.e. homelessness and frail elderly, and what is expected for occupancy targeting.

**Section 1.22 Reserve Accounts** outlines the requirements that will be enforced for Operating and Replacement Reserve Accounts.

**Section 2 Qualification of Applicants** more fully aligned with the layout of the HUD 4350.3 guide. This section does clarify when the Assets Under \$5,000 form should be used.

The Leasing to Students section was updated to reiterate and make clear that regulation requirements student certification to occur annually even if income recertification is not necessary.

### **Section 3 Compliance Monitoring Procedures**

- Annual fee was updated with the increase implemented in 2020.
- This section was also updated to provide more details outlining procedures NDHFA will use when conducting annual desk reviews, physical inspections and tenant file reviews.

**Section 4 Compliance Policy for Extended User Period Y15 policy** was originally a separate document and has now been merged into the compliance manual.

NDHFA plans to conduct training webinars in July to review the updates and have a question and answer session.

If you have any questions about the manual updates, contact the Planning and Housing Development Division staff at [hfainfo@nd.gov](mailto:hfainfo@nd.gov) or (701) 328-8080.