

FAQ

DCA Affordable Housing Frequently Asked Questions

How can I get notified when this list or the website is updated?

To find out when the website is updated (which includes form updates, important announcements, and the release of income limits) email: compliance@dca.ga.gov

Put “**ADD ME TO YOUR EMAIL LIST**” in the subject line.

Latest Additions to FAQ

How many contacts may I have for a project? (1.6.12)

The LURC and LURA require that DCA contact the owner of record when non-compliance is discovered during a review. This is the owner who is listed in the Mitas Database. As a courtesy, DCA also notifies the Compliance Contact person currently registered with the Compliance Department. Because there are thousands of properties with potentially many contacts for each site, our department will not expand the contact list beyond the owner and Compliance contact.

It is the owner’s responsibility to ensure the correct information is listed in Mitas.

Can I include a cover letter with response to DCA audits? (1.6.12)

The compliance team will only review the Compliance Findings Coversheet and attached documents for each audit.

What qualify as supportive services, and how do I document them? (1.6.12)

The LURA and/or LURC, or other restrictive documents and the QAP for the funding year will define the required supportive services for a project.

Supportive services should:

- be on going and regularly occurring – weekly or monthly.
- meet the needs of the tenant base. (Skateboarding for seniors? Probably not!)
- improve the physical or emotional well being of the tenants
- **not** be a sales pitch – for jewelry, or tax services

Attendance should be recorded on a sign in sheet and include documentation the event took place – copies of hand outs, programs or pictures.

If the project has engaged an organization or company to provide required services, the owner must be able to provide a copy of the contract with the provider and documentation that the contractor/organization is qualified and competent to provide the services rendered.

If the project has made the decision to provide specialty services in house, the owner/manager must maintain documents showing that employees hired are qualified and competent to provide the services rendered, and that the employee has received substantial specialized training to provide the services.

Lastly, if you need to change an approved program, you must get DCA approval before you make the change.

< End of New Entries 1.06.12 >

How do I...

Get to be listed on DCA's approved property manager's list? (10.21.11)

In order to be deemed an experienced entity and approved as a management company, the company must complete the Management Section of the Performance Workbook (for the current or most recent funding round), and submit a copy, along with cover letter and **an electronic copy on CD** of the Policy and Procedures Manual for that company . **The manual MUST be electronic.**

The current funding round documents can be found here:

<http://www.dca.ga.gov/housing/HousingDevelopment/programs/OAHplansGuidesManuals.asp>

Get Copies of the last audit response before I sent it to DCA. OR; My owner can't find their copy of the last DCA audit and response. OR; My owner can't locate the: LURC, LURA, Application, or Annual Owner certification. What do I do? (10/2011)

There are specific record keeping requirement for the Tax Credits, HOME and FDIC programs. If an owner cannot find any/or all of the documents listed above they are no longer in compliance with the record keeping requirements of the programs. Records such as these may be requested through the Georgia Open Records Requests (GORA). (Note, there is a fee for this service.) Requests such as these will result in increased scrutiny by DCA of an owner's record retention practices and may result in the issuance of IRS Form 8823.

Please direct all open record requests to: Phyllis.Carr@dca.ga.gov

Physical Inspection Questions

What is the fee to re-inspect vacant units which are unavailable for inspection?

It is the responsibility of the owner and the management company that the owner has engaged to provide access to any Tax Credit, HOME or FDIC unit that DCA has scheduled for inspection. Advance notice of the inspection is given to the property. Failure to provide access to any vacant unit will be considered non-compliance. The fee for re-inspection is \$150 per unit. The fee covers the cost of the consultant and the administrative cost involved in rescheduling. The unit(s) will be inspected the next time an inspector is in that area. The out of compliance date is the date the last qualified tenant vacated the unit. The non-compliance corrected date is the date that the unit passes inspection or the date that any findings are corrected (10/2011)

If an occupied unit is inspected and rooms are locked and the entire unit cannot be inspected, is the unit out of compliance? How do I correct the non-compliance?

Yes, the unit is out of compliance. DCA assumes such an arrangement is generally in violation of the lease and that removing the lock would correct that violation and would also allow the inspector to complete the unit inspection while at the property. Please note, the inspector will proceed with the scheduled inspections and will return to unit if time allows. If a re-inspection at the site is required, the fee is \$150. (10/2011)

8823 Questions

Why does my out of compliance date go back so far on my vacant not ready/down units?

The 8823 guide states: *“Vacant low-income units must also be suitable for occupancy; i.e., prepared for immediate occupancy.”* DCA allows 30 days. *“All vacant LIHC units that are not suitable for occupancy (after 30 days) are out of compliance. The out of compliance date is determined for each unit based on the date that **particular unit was vacated**”* (emphasis added): the unit is out of compliance as of the last date it was occupied by a qualified tenant. It is the responsibility of the owner to produce the last file of the most recent qualified tenant. If the owner cannot produce file for the most recent qualified tenant, then the owner must provide a file showing when a qualified household occupied the unit; the date that household vacated is the out of compliance date. If the owner cannot produce any qualified tenant file, then the out of compliance date is the placed in service date.

The owner is required to maintain records for the previous six tax years. The owner is also required to maintain the records of all initial qualifying files for twenty one years. (3.15.11)

IRS Updates

What have you heard the IRS is particularly concerned about right now?

Top ways to get on the IRS audit list

1. Foreclosure
2. Sale
3. Casualty Loss
4. 8609s not completed (including list of all other buildings)
5. **Level Three Habitability Violation Uncorrected** (8.2010)

I know DCA and the IRS want us to make sure our applicants/residents pay taxes. If they are not a w-2 employee, how can my applicant get a copy of their tax return?

If you need a "statement" of your tax account that shows changes that you or the IRS made to the original return filed, you must request "Tax Account Information" which shows payments and tax adjustments on your account. You can request the "Tax Account Information" by writing to, or visiting an IRS office or by calling the IRS at 1-800-829-1040. (8.2010)

REPORTING QUESTIONS

If I have a property with HOME and Tax Credits, do I have to complete both AOCs?

(Updated 1.6.12)

For 2012 there is a combined LIHC and HOME cert for the first time!

The End of Quarterly reports forms says that I have to start sending in reports again if my site falls below 80%. 80% as of what day? How long do I need to send them in again?

Quarterly reports are no longer required. However, in its places the MITAS information must be maintained as directed by DCA. (10.2011)

How can I stop sending in those @#\$\$%^!! quarterly LIHTC reports?

Quarterly reports are no longer required. However, in its places the MITAS information must be maintained as directed by DCA. (10.2011)

When is my first Annual Owners Certification due?

AOCs are due the 28th of February after the first year credits are claimed or a building is occupied.

Are AOC's required for LIHTC properties with Tax Exempt Bonds that are managed by the Atlanta Development Authority?

Yes.

How do I submit required LIHTC and HOME occupancy reports?

Quarterly reports are no longer required. However, in its places the MITAS information must be maintained as directed by DCA.

I am a USDA property (section 538 or 515). Am I required to submit quarterly reports to DCA?

Quarterly reports are no longer required. However, in its places the MITAS information must be maintained as directed by DCA.

TAX CREDIT FAQ

National Non-Metropolitan Income Limit Questions

Are the National Non-Metropolitan Income Limit for programs other than LIHTC.

Not for HOME, Section 8 PBRA, FDIC, Bond or any other subsidy we of which we are aware. *If DCA is notified of other programs that can use them we will post on the website. (6-15-2009)*

Where is the current National Non-Metropolitan income limit applicable then?

It is approved for use **only** at LIHTC properties where:

- 1) The national non-metropolitan median income is greater than the state or county limit AND
- 2) The property is considered rural by the Department of Agriculture (USDA) income

How do I find out if my site qualifies?

Go to our website: www.dca.ga.gov/housing/HousingDevelopment/programs/utility.asp

Calculating Income

Has the Social Security increase for 2012 been announced?

Yes: 3.6%. You may begin using this for re-certifications and new move ins. (10/2011)

Employment information obtained via the work number or other third party does not fully document the tenant's income. What should we do?

Document the file and move to the next acceptable method of verification; 4-6 check stubs. (6.2010)

The applicant or tenant is not a W-2 Employee. Can we still use the DCA Employment Verification?

Answer: You may not. In this case you need to determine if the tenant is self employed or has created a small business and then obtain documents appropriate to that situation, usually tax returns. (6.2010)

If an employer will not completely fill out a DCA Employment Verification, and refuses to answer or will not clarify certain questions, should we still accept the form?

Answer: Do not accept a partially completed verification. Document the file that the employers would not complete the form, and move to the next method of verification: 4-6 check stubs. (6.2010)

The Work Number charges my site to process employment verifications. Do I have to pay them?

DCA will not require sites to use a service for which the site must pay. The file must be documented as required in the 4350 HUD Handbook showing why third party documentation is not possible. Should the site choose to bill the tenant in addition to the application fee, DCA reserves the right to review the documentation behind application fees. Please see other FAQs about application fees. (6.2010)

I know DCA wants me to include anticipated income for unemployed residents. How much do I include? For instance: An applicant tells me on the form they will get \$250 a week for unemployment and they anticipate making \$25,000. (11.2009)

Previous advice from DCA says that **you may not ignore the anticipated income.**

Some sites have further questioned the applicant in writing to get a better idea of what date the resident hopes to start working. Then the site calculates by week the income from unemployment and the income from anticipated wages. This provides the clearest picture of anticipated income.

Some sites have annualized the unemployment benefits (\$13,000 in the example above), and compared it to the anticipated income of \$25,000, and listed the higher amount on the TIC. This method is a conservative indicator of whether or not the tenant will be income qualified.

We do not recommend adding both together: the resident should not be able to draw benefits and work.

An employee paid by the hour has applied at a LIHTC property. The applicant gets a *per diem* and it is recorded on the paycheck check. It is paid to her on an hourly basis. Is this considered income?

Per diem is included as income. It is not reimbursement for expenses and it is paid on a regular, recurring basis. It is discretionary: recipients can spend it for its intended purpose or just keep it.

When a live-in aide who is a family member is added to the household (any time) after move in, is their income counted towards the household income limit?

No. Owners should require adult children who are live-in aides to sign a release form relinquishing any future rights to the unit as a remaining member of the tenant family, as they qualify for occupancy only as long as the individual needing the supportive services is in occupancy. **Live-in aides may not contribute any income to the household including: buying food, medical supplies, paying utility bills, and paying rent.**

There is an applicant who requires a Live-In Aid. The Live-In Aide meets all the requirements except, a child “of the live in aide”(added 1.2012) that would also live in the household. Does this disqualify the Live-In Aide?

Only the live-in-aid can reside in the unit. See question 24 on page 8.
<http://www.hud.gov/offices/hsg/mfh/rhiip/qnaon4350pt3.pdf>

Can we use the EIV (Enterprise Income Verification) for the LIHTC Program?

No. LIHTC programs must pretend it does not exist. Information obtained from this may not be used in any way, shape or form.

How do I calculate unemployment income?

Unless the resident states differently, annualize the verified income resident is receiving.

If a resident or applicant lists anticipated income on an unemployment affidavit, should the income be included on the TIC and in income calculations?

Yes. The resident is telling you they think they will be employed and earn money; therefore you should count it as anticipated income. Please see new guidance added 11-9-2009

Why do older resident have to sign an unemployed affidavit?

All adults who are unemployed should fill out an unemployment affidavit. It is the responsibility of management to do their due diligence to make sure all income sources are reported.

Here are some interesting facts:

The number of seniors expected to work will increase by some estimates up to 26% by 2015.

According to the U.S. Department of Labor, there are more than 16 million Americans over age 55 who are either working or looking for jobs, and older workers are getting new jobs at an annual rate of 4.1 percent.

The Social Security Administration is predicting the percentage of gainfully employed 65-70 year olds will be 30%, and 70-79 year olds will be 20% by 2020.

According to AARP, 72% of all workers today plan to work after retirement and 33% of all retirees re-enter the job market within two years of retirement.

You are not required to use our form, though of course we recommend it.

Are annuities counted as income or an asset?

Chapter 5 in the 4350 HUD handbook, rev 1, change 2, gives us the following test: can the tenant convert the annuity to cash? If the resident can convert it to cash, then count it as an asset. In most cases, once the client starts receiving payments, the annuity can no longer be cashed in. If it can no longer be cashed in, count the payments as income, and do not include the annuity in the asset calculations

Verification of Employment aka VOE

What items on the Mandatory Verification of Employment (VOE) can be clarified if not completed by the employer?

DCA understands employers sometimes fail to complete forms. We approve of clarifications for items after item 4. (*Revised 8.17.10 to reflect new numbering VOE*) For instance, if the employer says the employee gets over time, and lists the wage, but lists "varies" for hours. That item may be clarified verbally. Failure to answer multiple questions makes it more difficult and is handled on a case by case basis. (Question and answer updated 8.2010)

Can we use our own VOE rather DCA's?

It is considered state non-compliance. We will also more closely scrutinize any other verification not on the DCA form.

I have an applicant that says they are paid under the table or do not file taxes. Can they live at my community?

Tax Credit communities are monitored by DCA and The IRS. If you suspect someone of tax fraud (not paying taxes, avoiding taxes, etc.) you should report them to the IRS. See the contact information at the end of the Tax Credit FAQ.

Can I accept hand carried income verifications?

Income verifications hand carried by tenants should not be accepted. Verifications are to be completed by third parties, and returned to apartment managers/owners via mail or fax. If mail verifications are received, keep copies of the envelope to document that the verification is third party.

Should I verify faxed forms?

DCA has been informed by an industry expert that the IRS is not accepting fax verifications of income without a verbal confirmation. As a best practice, DCA suggests that LIHTC properties begin verbal confirmation of all faxed VOEs, even when using the DCA Mandatory Employment Verification. (See revised Employment Verification effective 9.1.2010)

Do Social Security Verifications need to meet the 120 day test?

DCA has been informed by an industry expert that the IRS is no longer accepting Social Security Verifications that are outside the 120 day window.

Here are links to assist you in obtaining updated verification:

www.ssa.gov/onlineservices - find the [Request a Proof of Income letter](#) link or click on either of these links.

The resident may also call: 1-800-772-1213. Forms will be sent to the resident.

The 800 number to verify child support no longer works. Where can I verify child support?

<https://services.georgia.gov/dhr/cspp/do/Logon> The tenant will need to log on to pull the information. (8.2010)

Can a live in aid be under the age of 18?

A live-in-aide should sign and be bound by a Live-in-Aide agreement. Unless the 16 or 17 year old can be legally bound under your state law, do not permit such an arrangement. (3.15.11)

Assets

Do I list assets individually or by tenant?

Please list each asset separately on the TIC. It is easier for DCA to match assets and verifications to each other.

Recertification and Renewal

How do I implement the available unit rule for 30% state set aside units?

When a household, "**Household A**", exceeds the 30% limit, they become a 50% or 60% household – whichever is the next highest limit. The rent should remain restricted for **Household A** until the next available comparable rent restricted unit is occupied by a qualified 30% household, "**Tenant B**". This will maintain the minimum number of 30% units at the site.

If you were to keep **Household A** on a Month-to-Month (MTM) lease at a LIHTC site, then after **Tenant B** moves in, you could raise **Household A's** rent appropriately to the 50 or 60 limit usually within 30 days of **Tenant B's** move in. If you put **Household A** on a MTM lease, we would require that you notify **Household A** at that time why you are doing so, so that they can plan appropriately.

At HOME site since you must execute a 12 month lease – unless the tenant requests a shorter lease, you may have a greater lag between when **Tenant B** move in and **Household A** gets a rent increase.

At some sites, there may be a number of units where there in-place tenants with incomes at or below 30% AMI, but they are paying the 50% rent “**Resident C**” (no 30% units were available at move in). It would be acceptable to DCA for an owner/manager to do the following: Notify **Resident C** their rent will decrease to the 30% rental limit (or approved rent in the case of HOME), then give Household A the minimum 30 day notice of a rental increase to the next higher limit. In these cases, the selection of the tenant to get a rental decrease should not be arbitrary: it should be the tenant who has lived at the community the longest period of time OR the tenant with the lowest income at the last certification. The policy should be consistent over time. (3.15.11)

What do I do when a new household member is added to the household between certifications/re-certifications?

When at least one member of the original household is present:

A- During First Six Months

During the first six months, be very cautious. To protect against fraud, DCA requires that credit reports be available in the file so that the owner/manager and DCA can review resident history. If it appears that the addition is legitimate and there are no recent residences in common, document the reason for the addition and follow the steps for After Six Months

B- After Six Months of Residency

When occupants are added during the lease term the following should be done.

- 1) Verify Income of the new household member
 - 2) Hand write the new household member and income and assets on the TIC and **date** and initial by tenants and mgmt.
- Or
- 2) Generate a new TIC with new tenant (and income and assets), then sign and date using current dates, as applicable. The new TIC should be stapled to the TIC that was done during at the time certification/re-certification was due. Do not discard that original TIC.
 - 3) Implement the available unit rule as necessary.

What is the effective date of recertification?

Effective date of recertification remains the anniversary of the move-in-date.

How far in advance can recertification begin?

Recerts may be completed up to 120 days prior to the effective (i.e., move-in) date of the certification. This also means that TICs can be signed 120 days prior to the effective date of recertification. The 120 window also applies to initial move in.

Does an “on notice” resident have to complete recertification?

Owners should document attempts to obtain the recertification before the move out date. If the notice is timely and the owner has informed the household that the annual recertification is due, but the household does not comply with certification and documentation request prior to vacating the unit, the vacated unit will not be considered out of compliance with the recertification requirements.

Can I have a resident date a TIC 1-1-08 (or 09 or 10...)?

Only if your site is open on New Year’s Day and the resident signs it that day.

Do my residents have to renew the lease at recertification?

Not for the LIHTC program. Of course you want to encourage them to renew, but the LIHTC makes no provision to force renewal. If a landlord non-renews a resident for refusing to sign a new lease, DCA would view this as a program violation since DCA does not consider this “good cause” for eviction. They must complete recertification paperwork and TIC. Updated 6.16.09

Extended Use Questions

I have a deal that is out of the initial compliance period and is now in the extended use period. What is recommended for income verification and recertifying?

For 100% LIHC properties that have entered the Extended Use compliance period (year 16 and going forward), tenants should be initially qualified as usual. We recommend a regular recert at the first anniversary, and then you may use our self recertification form. This form is located under suggested Forms. It would also be wise to contact the owner to see if they plan on applying for new credits in the near future. (8.2010)

Utilities and Utility Allowances

**The new DCA utility allowance is effective 6-1-10. How long do I have to implement it?
Revised 6.10.2010**

For LIHTC properties: within 90 days of the effective date. **HOME** properties see the HOME question in the HOME section. (6.2010)

How often does the utility allowances change, and how soon after the change should the property use the new utility allowance?

Frequency of Utility Allowance changes vary by issuing authority. It is wise to check for changes at least quarterly.

If the applicable utility allowance for a unit changes, the new utility allowance must be used to compute gross rents of LIHTC units 90 days after the change. When the utility allowance for a unit changes the new allowance must be used to compute gross rents within 90 days of the effective date.

Can I bill my residents for water like the other properties in the area?

No. Not unless you have prior approval from DCA. Unless your application states that you can bill your resident for a utility, you must not do so without DCA authorization.

(Revised Utility Regs) Sub-metered water is now recognized as a utility paid directly by the tenant for purposes of 1.42-(10a); the utility allowances for water/sewer that are sub-metered can now be included in the utility allowance calculation for calculating net rent. Does this mean we are back to the way sub-metered water was handled before the changes in the regulations on July 29th, 2008?

Yes

(Revised Utility Regs) The Notice states that building Owners (or their agents) can charge a reasonable fee for the administrative cost of the sub-metering and it will not be considered gross rent. Does this mean the fee charged by the sub-metering company is no longer an issue as long as it does not exceed \$5 per month?

Correct

(Revised Utility Regs) If we did not calculate water/sewer charges based on actual usage for the property can we use the appropriate (PHA or DCA utility) allowances for that area?

Yes. Be sure to check your application and review what allowance to use.

(Revised Utility Regs) If we do not want to request the average cost from Georgia Power or other utility providers, going forward, what do we do?

Notify DCA in writing that you will be using the utility allowances for the Section 8 voucher holders for the county in which the property is located. Some properties are finding it simpler having only one utility allowances for each property. This will lock you in for the upcoming year.

How often do I reexamine and update my utility allowance?

Annually, or when the PHA used by your site is released.

Students Updates

Our property has a full-time student household comprised of a single parent with minor children. The only problem is she hasn't filed a tax return. Does DCA allow for alternative documentation (such as a self-affidavit) or must we give her notice to vacate? The household meets no other student exception.

Unfortunately, we have had no guidance from the IRS clarifying what happens when no one claims them. *Please note that since the lack of guidance means that the answer below is for Georgia administrative compliance. We can offer no assurance that the IRS will interpret the regulation in the same manner. As always, it is the responsibility of the owner to maintain compliance with the Code, restrictive covenants and IRS regulation.*

If the household gets Section 8 (HCV) or PBRA assistance, and other agency has verified that low income status of the household, this, along with a notarized statement from the tenant that no one else claims the children on their taxes – such as a grandparent – should be fine.

If the tenant does not receive assistance, they must have income to pay rent. This income must be reported on a tax return and without that, the tenant should not be able to claim the student exemption. (3.15.11)

If a household consists of all full-time students but is expecting a child, would the unborn child be counted as a non-student household member?

No, unborn children may not qualify the household in this situation. (6.2010)

Do the student rules apply even after a student has graduated?

Absolutely! The student rules are applied on a calendar basis, January – December. If a student went to school fulltime more than four months earlier in the year, they are still considered a student later in the calendar year. (11.2009)

Has HUD answered the student income question for Tax Credit sites?

Per Rev 3: “All forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income **except for students receiving Section 8 assistance.**” **This is consistent with the previously published DCA recommendation. Financial aid should only be counted if the tenant receives Section 8. (REF 5-6 E) This is also confirmed in the most recent 8823 Guide**

There have been many questions about how children are claimed on tax forms, and how a parent proves they are not being claimed on non- custodial parent’s taxes. We now have guidance from the IRS:

The absent/non-household member parent can claim a child or children and the household (custodial) parent can still qualify for the student exception. ([See the updated student affidavit under mandatory forms](#))

Fees and Rent

If my lease calls the late fee rent, do I need to include it in my rent calculation?

Yes! If your lease calls any fee rent, then it should be included in the rent calculation; this includes NSF fees, and utility fees or bills deemed rent in your lease.

What is an acceptable application fee?

Per the 8823 Guide *“Application fees may be charged to cover the actual cost of checking a prospective tenant’s income, credit history, and landlord references. The fee is limited to*

recovery of the actual out-of-pocket costs. No amount may be charged in excess of the average expected out-of-pocket costs of checking tenant qualifications at the project.” DCA may request documentation of bills from third party providers to show cost of processing. Management should be prepared to document other cost associated with the cost of processing applications. If an application fee is charged to a tenant, tenant files should also contain proof that a background check or credit check are run. DCA suggests either the report or recommendation from the outside provider be in each tenant file. **Just because DCA does not always investigate the cost breakdown for an application fee does not mean the fee is approved by DCA or that the IRS will accept your documentation that the fee is reasonable and only covers actual cost.** (Updated 6.16.09 and 8.2010)

Move Out Charges and Fees

What are acceptable move out charges?

*“Fees for preparing a unit for occupancy must not be charged; owners are responsible for physically maintaining LIHC units in a manner suitable for occupancy.” **Chapter 11, Guide for Completing Form 8823 Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition.***

Over the past few months, DCA reviews have indicated that excessive fees are being charged to tenants at move-out. Fees are acceptable only if damages exceed reasonable wear and tear. In cases where excessive wear and tear is well documented (photos), the Owner/Manager must be able to provide documentation of the actual cost for repair or replacement of non-capital items. In the case of capital items, replacement/repair may not exceed the actual pro-rated replacement cost based on expected life span.

Documentation of charges should include copies of bills from vendors, with contact phone numbers, showing that the work was completed. **If a vendor fails to cooperate with a DCA investigation, the bill will be disallowed, and the charge included in rent calculation.**

Do I need to have move in and move out condition forms in the file?

Detailed and complete move-in and move-out inspection must be in each file. Each form must be signed by both the tenant and landlord. Simply writing OK in large letters across an area or the whole form is not acceptable.

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Occupancy

Can a live-in aide bring a family member with them?

A live-in aide is added to the household because the tenant has a documented need for assistance with day to day living activities. Only the aide may live in the unit with the LIHTC household. The live –in aide may not bring with them another family member such as spouse or child to live in the unit

How soon after move in may a resident add another occupant?

Additional occupants may be added after the first six months of an initial lease, and any time thereafter. Other than newborns, be very wary of making any other additions. The management company lease should prohibit adding occupants without managements' permission. Should management decide that there is a reasonable and plausible explanation for adding a new tenant during the first six months; the exception should be well document, and credit reports available for DCA to view.

Do I count these kids?

If a resident has children in the unit part-time, do I count them as residents when determining what the income limit to use?

If the children will be in the unit **50% of the time or more**, and you want to include them in the count, DCA suggests the following:

Children of school age: get a birth certificate, and proof that they are or will attend the school where your residents attend. Additional documents you could obtain include a divorce degree or other legal document showing custody arrangement or a prior year tax return.

Children under school age: get a birth certificate, **and** one of the following: A) a divorce degree B) other legal document showing custody arrangement, or C) a notarized statement from the non-resident parent stating the custody agreement.

As always check with your owner or syndicator for additional documentation requirements.

Forms

Do I need to have a new Service Animal Addendum and Handicapped Priority Policy in the file each year?

Yes, unless it is included in the current lease the tenant has signed.

Must we address service animals and the handicapped priority policy in our leases or addendums? (11.2009)

Yes. And they should be addressed each year a resident is recertified, as well as at move in.

Miscellaneous

My property went into foreclosure! What do I do? Can I raise rents?

- 1) Notify DCA
- 2) In case of foreclosure, tenant gets protection for 3 years from: rent increase above limit and may only be evicted for good cause.

DCA wrote me up because the resident's income is less than the anticipated rent and utilities. Why? (11.2009)

Common sense says that the resident has an unlisted source of income in order to pay for food, rent and utilities. Taxpayer due diligence is required to determine that source. It is done by further questioning the resident to find out how they intend to pay rent.

This should only happen at re-recertification. A new resident first moving into the unit must meet leasing criteria set forth by the owner/manager. **A pattern of allowing new residents to move in without sufficient income to pay rent could be considered institutionalized non-compliance.**

Why am I getting letters and follow up on previous years audits?

Just to drive you crazy. Really. Ok, not really. The compliance department has implemented a more thorough policy to ensure files were closed and non-compliance was in fact corrected at the end of each review.

Can I accompany the DCA inspector and ask questions during the file audit or unit inspection?

DCA inspectors have a limited time to review any site. Remember, the quicker the inspector gets out, the less time he/she has to poke around. **If** you hold questions until the exit interview at the end of the review, we can answer questions and get in and out of your community **quickly**.

How do I report fraud to the IRS?

Quoting from the 8823 Guide:

Tenant Fraud:

“Report any suspected or known deliberate misrepresentation of income to the Internal Revenue Service’s Suspected Tax Fraud Hotline at 1-800-829-0433. When calling the Hotline, the following information should be provided:

1. tenant’s name,
2. tenant’s social security number if possible,
3. explain association with LIHC program,
4. what the tenant did that misrepresented their income or documentation (the owner may be asked to provide evidence of the tenant’s fraudulent acts),
5. amount of tenant income as reported by the tenant and the amount actually verified, and
6. the difference between the market rate and restricted rent for the unit, and how long the tenant was in the unit. This is the amount of economic benefit the tenant may be deemed to have received as taxable income.

So that possible loss of low-income housing credit might be avoided if it is determined upon later review by the state agency that a tenant is not qualified for low-income housing, the state agency should encourage owners to immediately report any suspected deliberate misrepresentation of fraud by a tenant to the state agency.”

Taxpayer Fraud:

“If a state agency becomes aware of an apparent fraudulent act by the owner, management company, or other party associated with the low-income housing property, or a party responsible for providing income/asset verification for tenants, the state agency should report the alleged acts to the Internal Revenue Service’s Criminal Investigation Department (CID) by calling 1-800-829-0433.”

HOME FAQ

Can you tell me when it is acceptable and what the proper procedure for closing a wait list on a HOME property is?

The closing of a wait list is reasonable if the wait list for assistance for one or more bedrooms is excessive (e.g. one year or more).

The consideration for closing the wait list should take into account whether the current waiting list includes a sufficient number of applicants/families to satisfy the requirements of the AFHMP (those least likely to apply). Also the wait list must be current/updated (determine if current persons on the wait list are still seeking housing, or if there are changes in income, family composition, etc.).

The owner must advise potential applicants that the waiting list is closed.

The owner must publish a notice to that effect in a publication likely to be read by potential applicants.

Please also see 4-16 (B) HUD Handbook Opening and Closing Waiting List. (3.15.11)

HOME Rent – Adjustment at Recertification

We understand the rent to be charged at recertification is the lesser of adjusted rent, net tax credit max rent, net or net FMR. Due to the current market situation, our current lease rents are now lower than the DCA approved rents. We have been told we do not need approval to decrease the DCA approved rents, however, we should notify you of the decrease. If the rent to be charged calculated on the Adjusted Income and Rent Worksheet is higher than the current lease rents, can we continue to charge the current lease rent as long as we notify DCA of the decrease?

Failure to adjust the rents of “over income tenants” at recertification will be considered a major instance of non-compliance. Major non-compliance will result in a reduction of the Owner/Developer’s GA Compliance Score. You cannot consider the current rent amount approved by DCA for the over-income (60%) household. DCA does not have the authority to approve this program change. Therefore at re-certification the rents must be based on the lesser of the adjusted rent (less utility), net tax credit rent, net FMR, or the applicable amount allowable under state or local law. ****Note 6-1-2010 Please see Compliance Directive 2010-2 or the HOME compliance Manual for changes to this policy****

What if my occupancy is low and increasing rents because the HOME program insists will drive my occupancy lower?

DCA is sensitive to occupancy and cash-flow concerns at HOME sites, but DCA cannot waive HOME program requirements without HUD approval. So, if you request to waive this provision of the program, we must go to HUD for approval. Requests for a temporary waiver should be sent to the compliance email: compliance@dca.ga.gov.

Rent at Recertification

Suppose a household has exceeded the 80% income limit and the qualified deductions are removed from the income. Now when rent is calculated, the rent is below the DCA approved* HOME rent for the unit. Do I have to drop the rent to the new rent? (Question revised 8.2010)

One word: No.

Also remember HOME properties have rent floors. The property never has to drop rents below the established rent floor.

** All rent increases must be approved by DCA prior to the increase being passes along to residents*

Do I need to get rent decreases approved by DCA?

No, but you do need to notify DCA of the change.

Due to the current market situation, our current lease rents are now lower than the DCA approved rents. If the market improves and we are able to increase our lease rents, would we then need to receive written notice form DCA to increase the rents to the amounts already approved by DCA prior to the “recession”?

You do not need approval to raise rents back to the approved DCA rent.

HOME – Utility Allowance

If we received approval to use the actual consumption utility allowance from DCA, and have the approval in writing, can we increase the tenant paid portion of the rent in the middle of the lease?

No.

- 1) At a HOME property if a **utility allowance increases**, and as a result the rent is reduced, you have 90 days to adjust the rent.
- 2) At a HOME property if a **utility allowance decrease**, and as a result the rent would increase, the rent may not be increased during the term of the HOME lease. The length of a HOME lease is 12 months. Rents may not be increased during the term of the lease.

SPECIAL HERA SECTION

How do I calculate the 30% HERA income limits at my property?

Multiply the applicable 50% limit by .6

By what date do I have to start using the Ethnic Data forms required by HERA?

All move-ins and re-certifications after 1-1-2009 must complete the Ethnic Data Form. A summary must be provided with 2009 AOC due 2-28-2010.

Does Fort Benning Qualify under the Housing and Economic Recovery Act (HERA) exception for military income?

No. Fort Benning **does not**. And since the dates during which the growth should have taken place have passed, it will not qualify in the future either.

USERS GUIDE TO NEW INCOME LIMITS

Please note that this guidance is being implemented in the absence of any controlling guidance on the matter from the Internal Revenue Service or the Department of Housing and Urban Development. If conflicting information is received, this guidance is subject to

revision, as needed to comply with applicable laws, regulations, and other controlling federal directives.

HERA Special Income Limit/HUD Hold Harmless Impacted Area Questions

How do I know if my project qualifies to use the HERA Special 50% and HERA Special 60% limits?

Are the following statements true:

1. All the buildings at your property placed in service prior to 12/31/08 AND
2. Your project located in a county or a city which has the “HERA Special 50% and HERA Special 60% income limits listed

If the answer to **both 1 and 2** is below is yes, your property qualifies to use the HERA Special Limits and is considered to be a HUD hold harmless impacted project.

What if the property is made up of ten buildings and only 2 were placed in service prior to 12/31/08?

To take advantage of the HERA Special 50% and HERA Special 60% income listed, the Owner must commit to making the “multiple building project” election (line 8b) on all the building’s IRS Form 8609s.

If the Owner does not elect to treat the project as “a multiple building project” and does not choose that election on the IRS Form 8609s then the two building placed in service prior to 12/31/08 could use the “HERA Special 50% and HERA Special 60% income limits listed on Table A. The remaining buildings that were placed in service after 12/31/08 must use the income limits listed on Table B. **This would mean two income limits at the property.**

A project has acquisition and rehab credits and the acquisition PIS date for all buildings is 12/31/08 and the rehab PIS date for all buildings will be sometime late in 2009. Would this property qualify to use the HERA Special 50% and HERA Special 60% limits?

Answer

The earliest PIS date for a building governs, so if a building has acquisition credits with a PIS date prior to 1/1/09 then this project would use the HERA income limits even if the Rehab PIS date is in 2009.

If our project has both Tax Credit and HOME funds can we use the HERA Special 50% and 60% income limits?

Answer

Projects with HOME funding cannot use the HERA Special 50% and 60% limits for determining income and rents.