

**S**tate of  
**Utah**

2003  
Federal  
Low-Income Housing  
Tax Credit Program

**ALLOCATION  
PLAN**

**S**tate of  
**Utah**

2003

Low-Income Housing  
Tax Credit Program

Part III

**COMPLIANCE  
MONITORING PLAN**

**STATE OF UTAH**  
**LOW INCOME HOUSING TAX CREDIT PROGRAM**  
**COMPLIANCE MONITORING**

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**STATE OF UTAH**  
**LOW INCOME HOUSING TAX CREDIT PROGRAM**

**COMPLIANCE MONITORING PLAN**

The Code requires the UHC to monitor Tax Credit projects for compliance with the provisions of §42 of the Code, and to notify the IRS of any noncompliance of which the UHC becomes aware. This Compliance Monitoring Plan (the "Plan") sets forth the procedures that the UHC shall follow, and those procedures that an owner of a Tax Credit project shall be required to follow, to satisfy the requirements of §42 of the Code and the regulations promulgated thereunder. As a condition to the allocation of Tax Credits, owners are required to enter into a binding agreement to comply with the terms and conditions of this Plan.

The Plan is part of the UHC's Tax Credit Allocation Plan for the State of Utah. The Plan may be amended as deemed necessary by the UHC to comply with §42 of the Code and the regulations issued thereunder, as the same may be amended, or to further promote the Tax Credit Program in the State of Utah.

**1. RECORDKEEPING AND RECORD RETENTION REQUIREMENTS**

**A. Record keeping Requirements**

A Project Owner is required to keep separate records for each qualified low-income building in a Tax Credit project that show for each year in the compliance period:

1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
2. The percentage of residential rental units in the building that are low-income units;
3. The rent charged on each residential rental unit in the building (including any utility allowances);
4. The number and ages of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under IRC § 42 (g)(2) (as in effect before the amendments made by the Revenue Reconciliation Act of 1989);
5. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;
6. The annual income certification of each low-income tenant per unit;
7. Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Form W-2, or verification of income from third parties such as employers or state agencies paying unemployment compensation);
8. The eligible basis and qualified basis of the building at the end of the first year of the credit period; and
9. The character and use of the nonresidential portion of the building included in the building's eligible basis under IRC § 42(d) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonable required by the Tax Credit project).

For purposes of §42 of the Code and the Plan, tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the United State Housing Act of 1937 ("Section 8 of the Housing Act"), and not in accordance with the determination of gross income for federal income tax liability. Attached, as Exhibit A, is a copy of 24CFR 813.106 HUD Definition of Annual Income, which is required to be used for determining income levels under IRC § 42. In the case of a tenant receiving housing assistance payments under Section 8 of the Housing Act, the documentation requirement of this Section 1.A is satisfied if the applicable public housing authority provides a statement to the owner declaring that the tenant's income does not exceed the applicable income limit under IRC § 42 (g).

## **B. Record Retention Requirements**

An owner is required to retain the records described in Section 1.A for at least six years after the due date (with extensions) for filing the federal income tax return for the year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

## **2. CERTIFICATION AND REVIEW REQUIREMENTS**

### **A. Certification Requirements.**

An owner is required to certify at least annually to the UHC that, for the preceding 12-month period:

1. The Tax Credit project met the requirements of: the 20-50 test under IRC § 42(g)(1)(A) or the 40-60 test under IRC § 42(g)(1)(B), whichever minimum set-aside test was applicable to the project;
2. There was no change in the applicable fraction (as defined in IRC § 42(c)(1)(B)) of any building in the project, or that there was a change, and a description of the change;
3. The owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving housing assistance payments under Section 8 of the Housing Act, the statement from a public housing authority described in Section 1.A;
4. Each low-income unit in the project was rent restricted under IRC § 42(g)(2);
5. All units in the project were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under IRC § 42(i)(3)(B)(iii));
6. Each building in the project was suitable for occupancy, taking into account local health, safety, and building codes;
7. There was no change in the eligible basis (as defined in IRC §42(d)) of any building in the project, or if there was a change, the nature of the change (e.g., a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge);
8. All tenant facilities included in the eligible basis under IRC § 42(d) of any building in the project, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;
9. If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying

- income before any units in the project were or will be rented to tenants not having a qualifying income;
10. If the income of tenants of a low-income unit in the project increased above the limit allowed in IRC § 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income; and
9. An extended low-income housing commitment as described in IRC § 42(h)(6) was in effect (for buildings subject to section 7108 (c)(1) of the Revenue Reconciliation Act of 1989).

## **B. Review Requirements.**

The UHC shall review the certifications submitted under Section 2.A for compliance with the requirements of IRC § 42. The UHC shall also inspect at least 20% of Tax Credit projects each year and shall inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for each low-income tenant in at least 20% of the low-income units in those projects. The UHC shall determine which tenants' records are to be inspected or submitted by the owners for review. The records to be inspected must be chosen in a manner that will not give owners advance notice that their records for a particular year will or will not be inspected. However, the UHC may give an owner reasonable notice that an inspection will occur so that the owner may assemble records (for example, 30 days notice of inspection).

As an alternative to inspecting at least 20% of Tax Credit projects each year and the inspection of low-income certifications, supporting documentation, and rent records for at least 20% of the low-income units in those projects, the UHC may rely on either of the following in satisfaction of the Review Requirements of this Section 2.B:

1. The owners of at least 50 percent of all Tax Credit projects in the UHC's jurisdiction shall submit to the UHC for compliance review a copy of the annual income certification, the documentation the owner has received to support that certification, and the rent record for each of the low-income units in their projects; or
2. The owners of all Tax Credit projects shall submit to the UHC each year information on tenant income and rent for each low-income unit, in the form and manner designated by the UHC, and the owners of at least 20 percent of the Tax Credit projects must submit to the UHC for compliance review a copy of the annual income certification, the documentation the owner has received to support that certification, and the rent record for each low-income tenant in at least 20 percent of the low-income units in their projects.

## **C. Frequency and Form of Certification.**

The certification and review requirements of Section 2.A and B shall be made at least annually covering each year of the fifteen year compliance period under IRC § 42(i)(1) and thereafter for such period determined by the UHC not to exceed the Tax Credit project's extended use period. The certifications must be made under penalty of perjury. The certifications and reviews may be completed more frequently than on a twelve month basis, provided that all months within each twelve month period are subject to certification.

### **A. Exception for Certain Buildings.**

As a partial exception from the Review Requirements of Section 2.B, an owner is not required to submit, and the UHC is not required to review, the tenant income certifications, supporting documentation, and rent records for buildings financed by the Rural Development ("RD") under the section 515 Program, or buildings of which 50% or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on

which is exempt from tax under section 103 of the Internal Revenue Code of 1986 (tax-exempt bonds). In order for the above described buildings to be excepted from the Review Requirements under Section 2.B, the UHC must enter into an agreement with the RD or tax exempt bond issuer under which agreement the RD or tax exempt bond issuer shall agree to provide information concerning the income and rent of the tenants in the building to the UHC. The UHC may assume the accuracy of the information provided by the RD or the tax-exempt bond issuer without verification. The UHC must review the information and determine that the income limitation and rent restriction of IRC § 42(g)(1) and (2) are met. However, if the information provided by the RD or tax-exempt bond issuer is not sufficient for the UHC to make this determination, the UHC must request the necessary additional income or rent information from the owner of the buildings. For example, because RD determines tenant eligibility based on its definition of "adjusted annual income," rather than "annual income" as defined under Section 8 of the Housing Act, the UHC may have to calculate the tenant's income for IRC § 42 purposes and may need to request additional information from the owner.

### **3. INSPECTION REQUIREMENTS**

An owner shall permit, and the UHC shall have the right to perform, an on-site inspection of any Tax Credit project, at least through the end of the compliance period and thereafter for such period determined by the UHC not to exceed the Tax Credit project's extended use period, of the buildings in the project. The inspection provision of this Section 2I is separate from any review of low-income certifications, supporting documents, and rent records under Section 2.B.

### **4. NOTIFICATION OF NONCOMPLIANCE REQUIREMENTS**

The UHC has a continuing responsibility to monitor compliance. All recipients of Tax Credits will be required to supply the UHC with annual Tax Credit certifications, and/or inspections will be conducted each year to monitor compliance. Prior to such inspections, Program participants will receive notification advising them of what records will be required by the inspectors. If noncompliance is discovered, the UHC is required, and will, report events of non-compliance to the Internal Revenue Service.

#### **A. In General.**

The UHC shall give the notice described in Section 1V.B to the owner of a Tax Credit project and the notice described in Section 4.C to the IRS.

#### **B. Notice to Owner.**

The UHC shall provide prompt written notice to the owner if the UHC does not receive the certification described in Section 2.A, or has not received or is not permitted to inspect the tenant income certifications, supporting documentation and rent records described in Section 2.B, or discovers by inspection, review, or in some other manner, that the Tax Credit project is not in compliance with the provisions of the Code.

#### **C. Notice to Internal Revenue Service.**

The UHC shall file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS no later than 45 days after the end of the correction period (as

described in Section 4.D, including extensions permitted under that section) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The UHC shall explain on Form 8823 the nature of the noncompliance or failure to certify and indicated whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis, that results in a decrease in the qualified basis of a Tax Credit project under IRC § 42(c)(1)(A) is noncompliance that must be reported to the IRS under this Section 4.C. If the UHC reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the UHC need not file Form 8823 in subsequent years to report that building's noncompliance.

#### **D. Correction Period.**

The correction period shall be that period during which an owner must supply any missing certifications and bring the Tax Credit project into compliance with the provisions of the Code. The correction period is not to exceed 90 days from the date of the notice to the owner described in Section 4.B. The UHC may extend the correction period for up to 6 months, but only if the UHC determines there is good cause for granting the extension.

#### **E. Record Retention.**

The UHC must retain records of noncompliance or failure to certify for 6 years beyond the UHC's filing of the respective Form 8823. In all other cases, the UHC must retain the certifications and records described in Section 2 for 3 year from the end of the calendar year the UHC receives the certifications and records.

### **5. DELEGATION OF AUTHORITY**

The UHC may retain an agent or other private contractor ("Authorized Delegate") to perform compliance monitoring. The Authorized Delegate must be unrelated to the owner of any building that the Authorized Delegate monitors. The Authorized Delegate may be delegated all of the functions of the UHC, except for the responsibility of notifying the IRS under Section 4. For example, the Authorized Delegate may be delegated the responsibility of reviewing tenant certifications and documentation under Section 2.B, the right to inspect buildings and records as described in Section 3, and the responsibility of notifying owners of lack of certification or noncompliance under Section 4. The Authorized Delegate must notify the UHC of any noncompliance or failure to certify.

If the UHC delegates compliance monitoring to an Authorized Delegate, the UHC shall use reasonable diligence to ensure that the Authorized Delegate properly performs the delegated monitoring functions. Delegation by the UHC of compliance monitoring functions to an Authorized Delegate does not relieve the UHC of its obligation to notify the IRS of any noncompliance of which the UHC becomes aware.

The UHC may delegate all or some of its compliance monitoring responsibilities for building to another agency of the State of Utah. This delegation may include the responsibility of notifying the IRS under Section 4.

### **6. LIABILITY**

Compliance with the requirements of the Code is the responsibility of the owner of the building for which the Credit is allowable. The UHC's obligation to monitor for compliance with the requirements of the Code does not make the UHC liable for an owner's noncompliance.

## 7. FEES

To reimburse the UHC for anticipated fees and expenses in administering the Plan, set forth below is a schedule of compliance monitoring fee which an owner will be required to submit to the UHC prior to the final allocation of low-income housing credits (issuance of IRS Form 8609). It is contemplated that the fees set below will be a one-time fee assessment to compensate the UHC for its compliance monitoring activities. However, the UHC may assess additional compliance monitoring fees as necessary in the future to reimburse the UHC for expenses it incurs in administering the Plan.

| <u>Number of Units in Project</u> | <u>Fee</u>            |
|-----------------------------------|-----------------------|
| 1-10 units                        | 0                     |
| 11-30 units                       | \$ 500.00 +\$50/unit  |
| 31-50 units                       | \$1,000.00 +\$50/unit |
| 51 & over                         | \$2,000.00 +\$50/unit |

The UHC has implemented a schedule of periodic on-site physical site and file inspections. The UHC will annually do a drive-by inspection of the site and buildings ("Site Inspection). The UHC may, at its discretion, require unit inspections (appointment within a reasonable period of time) based on the Site Inspection results. Should deferred maintenance or other exceptions be discovered, the owner will be notified. Building Code or equivalent, Fair Housing and other violations will be reported to the IRS according to the reporting requirements and procedures of IRC §42 and Form 8823.

File and unit on-site inspections that will be provided without additional fees are: (i) annual drive-by project inspection, (ii) initial first year of operation site inspection and courtesy file review, (iii) a site and file inspection every third year thereafter on a random basis according the UHC Inspection and Audit Procedures. The UHC may select any year of project operation for file inspection. Generally projects will have 20% of a single year's files inspected and 20% of the project's units. Projects will be charged inspection fees when: (i) an expanded file inspection per the inspection procedures is required or, (ii) additional units are inspected, because of a trend of code or other violations. Additional Inspection fees will be charged as follows:

| <b>Tier</b> | <b>UHC Service</b>   | <b>Cost</b>  |
|-------------|--|--|
| One         | <ol style="list-style-type: none"> <li>1. First-Year project inspection</li> <li>2. First year Credits are taken project and file inspection</li> <li>3. Project and file inspection every third year on a random basis according to the UHC Inspection and Audit Procedures. The UHC may select any year of project operation for file inspection. Generally 25% of the units and 100% of files will be inspected.</li> </ol> | Initial Fee  |
| Two         | <ol style="list-style-type: none"> <li>1. Additional files or units over Tier 1 levels require inspection according to the requirements of the UHC Audit Procedures</li> <li>2. Issuance of a Notice to Owner of Non-compliance (anticipating the issuance of an 8823)</li> <li>3. Issuance of IRS Form 8823<br/>Each IRS Form 8823 issued</li> </ol>  | \$10 per file<br>\$15 per unit<br>\$150<br>\$150<br>\$25 |

|  |  |                                  |
|--|--|----------------------------------|
|  | 4. Follow-up inspections subsequent to noncompliance<br>5. Following year inspection of files and/or units (required where an 8823 is issued)<br><br>AA The UHC will add travel and per diem charges as appropriate to the above fees. | AA plus above fees as applicable |
|--|--|----------------------------------|

At the discretion of the UHC, any project receiving an 8823 reportable violation may be required to provided its manager with professional independent §42 training at its own cost within 90 days. The owner must provide proof of professional training for a new manager replacement.

The UHC reserves the right to revise the fee schedule (both Tier 1 and 2) from time to time, in its sole discretion, to offset the cost of conducting the compliance monitoring requirements of the Program.

\*Additional Compliance Fees may be charged in future years as is necessary to cover the cost of annual compliance reviews conducted by the UHC.

## 8. MANAGEMENT, MAINTENANCE AND SECURITY PERSONNEL UNITS

The owner may request permission to set aside a unit(s) for management, maintenance and other personnel critical to the successful operation of the project. The UHC permits one such set-aside-unit in projects that are greater than 20 units and up to two units in projects that are greater than 40 units. The request must be submitted in writing and must stipulate the following: (i) type of unit (manager, maintenance, etc.), (ii) reason for request (why is unit required, how it will enhance the project), (iii) designation of specific unit to be set aside. All permitted set-aside units shall be required to satisfy criteria established by the UHC on a case-by-case basis. All such set-aside units must: (i) be used solely by personnel whose primary employment is that work performed for the project and described in the applicant’s request; (ii) remain rent restricted under the terms of the LURA, and (iii) must be an unrestricted market rate unit, unless the project is 100% affordable, in which case the unit will come from the highest AMI tier of the appropriate size/type. The UHC will evaluate the request and respond in a reasonable period of time. A sample request form is available as Exhibit F of this section. (See Revenue Ruling 92-61 for further information.)

Security personnel units will require a more detailed needs analysis. Please contact the program administrator if you are considering setting aside a unit for this use.

## 9. MISCELLANEOUS ITEMS

### A. Certifications of Owner:

The following forms which are exhibits hereto shall be completed and submitted to the UHC by the owner for the purposes and at the frequencies indicated below. Owner shall also maintain a copy or original as appropriate on file at its business office or that of its agent.

1. Recordkeeping Form (Exhibit B) shall be completed at least annually, and more frequently if necessary, to compile and maintain the information and records for each qualified low-income building in a Tax Credit project as required under the Plan
2. Annual Tenant Income Certification (Exhibit C) shall be issued by an owner for purposes of the annual income certification of each low-income tenant per unit. The Annual

Tenant Income Certification form shall be completed by each low-income tenant per unit (18 years of age and older) prior to occupancy of any low-income unit and annually thereafter.

3. Owner's Annual Compliance Report and Certification (Exhibit D) shall be completed and signed by the owner and filed with the UHC by April 30<sup>th</sup> following the close of the preceding calendar year (January 1 - December 31). The Owner's Annual Compliance Report and Certification covers a full calendar year period.
4. Certification of Student Eligibility (Exhibit E) shall be completed by tenant and owner prior to occupancy of any low-income unit and annually thereafter.

## **B. Compliance Manual.**

To assist owners in carrying out their responsibilities under the Plan, the UHC has prepared a Tax Credit Compliance Monitoring Manual (the "Manual"). The Manual is supplemental to the Plan and does not supersede or replace the Plan. The Manual explains an owner's responsibilities under the Plan, and provides supplemental forms which may be used by an owner in satisfying the income verification, record keeping and other requirements of the Plan. The Manual may be revised by the UHC from time to time.

## **C. Waiver of Annual Income Recertification.**

Pursuant to Revenue Proclamation 94-64, an owner may apply for a waiver of the annual recertification of tenant income requirements for 100% low income buildings. Grant of such a waiver will be conditioned on compliance with all IRS requirements, and any additional requirements that the UHC may deem necessary. Revenue Proclamation 94-64 sets forth the procedures to be followed to request and be granted such a waiver. The UHC will notify owners when it establishes policy and procedures for implementing this waiver.

## **D. Capital Needs Assessment.**

To assist the UHC in compliance monitoring and maintaining the integrity of LIHTC housing stock, the UHC will require Project Owners to submit Capital Needs Assessments every seven years, unless required more frequently by the investor or lender. Previously completed projects will be asked to submit the CNA with their next LIHTC annual certification (see Exhibit "M" in the Administrative Section for assessment requirements).

## **E. Compliance Training**

It is mandatory that managers and owners of projects that have market rate units mixed with LIHTC units in their project attend LIHTC Compliance Training from a Section 42 professional trainer, or attend one of UHC's training sessions offered twice annually. New property managers and owners are encouraged to also attend training sessions.

## **F. Casualty Loss**

Any casualty loss of \$1,000 or more encountered by a project must be reported, in detail, to UHC. A casualty loss is defined under the Internal Revenue Code as "the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual."

**H.U.D. DEFINITION OF ANNUAL INCOME**  
**24 CFR 813.106**

**§ 813.106 Annual Income.**

(a) Annual income is the anticipated total income from all sources received by the Family head and spouse (even if temporarily absent) and by each additional member of the Family, including all net income derived from assets for the 12-month period following the effective date of certification of income, exclusive of certain types of income as provided in paragraph (c) of this section.

(b) Annual Income includes, but is not limited to:

(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

(2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family;

(3) Interest, dividends, and other net income of any

kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as a deduction in determining net income.

An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Family has Net Family Assets in excess of \$5,000. Annual Income shall include the greater of the actual income derived from all Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see paragraph (c)(3) of this section);

(6) Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the

amount of Welfare Assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities plus

(ii) The maximum amount that the Welfare Assistance agency could in fact allow the Family for shelter and utilities. If the Family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph (b)(6)(ii) shall be the amount resulting from one application of the percentage;

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (but see paragraph (c)(7) of this section); and Any earned income Tax Credit to the extent it exceeds income tax liability.

(c) Annual income does not include the following:

(1) Income from employment of children (including foster children) under the age of 18 years;

(2) Payments received for the care of foster children;

(3) Lump-sum additions of Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement of personal or property losses (but see paragraph (b)(5) of this section);

(4) Amounts received by the Family, that are specifically for, or in reimbursement of, the cost of medical expenses for any Family member;

(5) Income of a live-in aide, as defined in section 813.102;

(6) Amounts of educational scholarships paid by the Government to a veteran, for use in meeting the cost of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student. Any amount of such scholarship or payment to a veteran not used for the above purposes that is available for subsistence is to be included in income;

(7) The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire;

(8)(i) Amounts received by a Disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS); or (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(9) Temporary nonrecurring of sporadic income (including gifts); or

(10) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility of benefits

under a category of assistance programs that includes assistance under the United State Housing Act of 1937. A notice will be published in the Federal Register and distributed to PHAs and owners identifying the benefits that qualify for this exclusion.

Updates will be published and distributed when necessary.

(d) If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.

(49 FR 19936, May 10, 1984, as amended at 50 FR 29591, June 24, 1985; 50 FR 39097, Sept. 27, 1985; 51 FR 21308, June 11, 1986; 52 FR 34113, Sept. 9, 1987; 53 FR 4388, Feb. 16, 1988; 53 FR 7734, Mar 10, 1988

**STATE OF UTAH**  
**LOW INCOME HOUSING TAX CREDIT PROGRAM**  
**RECORDKEEPING FORM**

Project Name: \_\_\_\_\_

B.I.N. No.: \_\_\_\_\_

For calendar year ending December 31, \_\_\_\_\_.

1. a. Total number of residential rental units in the building: \_\_\_\_\_.
- b. Number of bedrooms and the size in square feet of each residential rental unit in the building:

\_\_\_\_\_ units of studios/SROs with a total square feet of \_\_\_\_\_ per unit  
 \_\_\_\_\_ units with \_\_\_\_\_ bedrooms with a total square feet of \_\_\_\_\_ per unit  
 \_\_\_\_\_ units with \_\_\_\_\_ bedrooms with a total square feet of \_\_\_\_\_ per unit  
 \_\_\_\_\_ units with \_\_\_\_\_ bedrooms with a total square feet of \_\_\_\_\_ per unit

2. The percentage of residential rental units in the building that are low-income units: \_\_\_\_\_%
3. The rent charged on each residential rental unit in the building (including any applicable utility allowance):

\_\_\_\_\_ units of Studios/SROs: \$ \_\_\_\_\_ (rent) + \$ \_\_\_\_\_ (utility allowance) = \$ \_\_\_\_\_ (total)  
 \_\_\_\_\_ units of \_\_\_ Bedroom: \$ \_\_\_\_\_ (rent) + \$ \_\_\_\_\_ (utility allowance) = \$ \_\_\_\_\_ (total)  
 \_\_\_\_\_ units of \_\_\_ Bedroom: \$ \_\_\_\_\_ (rent) + \$ \_\_\_\_\_ (utility allowance) = \$ \_\_\_\_\_ (total)  
 \_\_\_\_\_ units of \_\_\_ Bedroom: \$ \_\_\_\_\_ (rent) + \$ \_\_\_\_\_ (utility allowance) = \$ \_\_\_\_\_ (total)  
 \_\_\_\_\_ units of \_\_\_ Bedroom: \$ \_\_\_\_\_ (rent) + \$ \_\_\_\_\_ (utility allowance) = \$ \_\_\_\_\_ (total)  
 \_\_\_\_\_ Total units in Building

4. For Tax Credit projects whose rent is determined by the number of occupants in each unit under IRC § 42(g)(2) (pre-1990 projects), attach a schedule showing the number of occupants in each low-income unit.
5. Attach a schedule showing the low-income unit vacancies in the building and information that shows when and to whom the next available units were rented.
6. Attach a copy of the annual low-income certification of each low-income tenant (18 years and older) per unit.
7. Maintain a separate file per unit which contains sufficient documentation to support each annual low-income certification of each low-income tenant (for example, copies of federal tax returns, Form W-2, or certification of income from third parties such as employers or state agencies paying unemployment compensation).
8. The eligible basis and qualified basis of the building at the end of the first year of the credit period is:

Eligible Basis Amount: \$ \_\_\_\_\_ Qualified Basis Amount: \$ \_\_\_\_\_

9. Set forth the character and use of the nonresidential portion of the building included in the building's eligible basis under IRC § 42(d) (for example, tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for such, or facilities reasonably required by the Tax Credit project)

**THIS FORM MUST BE FILED WITH THE UHC BY APRIL 30, OF EACH COMPLIANCE YEAR**

UTAH HOUSING CORPORATION
ANNUAL TENANT INCOME CERTIFICATION

Project Name: \_\_\_\_\_ B.I.N No. \_\_\_\_\_

Address : \_\_\_\_\_

Name of All Occupants: \_\_\_\_\_ Unit #: \_\_\_\_\_

(1) \_\_\_\_\_ (2) \_\_\_\_\_ (3) \_\_\_\_\_

(4) \_\_\_\_\_ (5) \_\_\_\_\_ (6) \_\_\_\_\_

(A) TO BE COMPLETED BY TENANTS (Note: Project Owner must verify the information below)

Anticipated Annual Income for the Next Twelve Months determined as of Occupancy Date \_\_\_\_\_

AMOUNT OF ANTICIPATED ANNUAL INCOME
OF ALL TENANTS OVER 18 YEARS OF AGE

1. Income from salary, wages, commissions, self-employment, etc.: 1) \$ \_\_\_\_\_

2. Income from Net Family Assets ("NFA"):

- (i) If NFA is LESS than \$5,000, then check "NO" on line (a); and enter the amount of Annual Income from NFA on line 2;
(ii) If NFA is GREATER than \$5,000, then check "YES" on line (a); enter total amount of NFA on line (b); enter amount of Actual Annual Income from NFA on line (c); complete the calculation of imputed Annual Income from NFA on line (d); and finally, enter the GREATER of line (c) or (d) on line 2.

a) Tenant's NFA exceeds \$5,000: YES [ ] NO [ ]

b) Tenant's NFA equals: \$ \_\_\_\_\_

c) Tenant's Actual Annual Income from NFA: \$ \_\_\_\_\_ or;

d) Imputed Annual Income from NFA: line (b) x (2%): \$ \_\_\_\_\_

Greater of line c or d 2) \$ \_\_\_\_\_

Total Income: \$ \_\_\_\_\_

The undersigned tenant(s) hereby represents and certifies, under penalty of perjury, that the anticipated annual income and NFA amounts set forth above are true and correct to the best of his or her knowledge and belief.

Date: \_\_\_\_\_ 1) \_\_\_\_\_ 2) \_\_\_\_\_
Tenant Tenant
3) \_\_\_\_\_ 4) \_\_\_\_\_
Tenant Tenant

(B) TO BE COMPLETED BY PROJECT OWNER

Project Owner is required to verify the tenant(s) anticipated annual income for: [ ] initial; or \_\_\_\_\_ year occupancy.

Maximum income level for \_\_\_\_\_ (number of tenants) is \$ \_\_\_\_\_.

The undersigned Project Owner hereby represents and certifies, under penalties of perjury, that the proceeding maximum income level is true and correct to the best of his or her knowledge and belief.

Tenant complies with all student rules. Yes [ ] No [ ]

Project Manager/Owner: \_\_\_\_\_ Date: \_\_\_\_\_

## UTAH HOUSING CORPORATION

### PROJECT OWNERS ANNUAL COMPLIANCE REPORT AND CERTIFICATION

Project Name: \_\_\_\_\_

Year of certification: 2000

B. I. N. Numbers: \_\_\_\_\_ through \_\_\_\_\_

Date Completed: \_\_\_\_\_

Completed By: \_\_\_\_\_

*Complete the following questions by placing a check  next to a "Yes" or "No", indicating compliance or non-compliance with the question.*

1. Does the project owner keep records of the total number of residential rental units in the building, including the number of bedrooms and the size in square feet of each residential rental unit? YES  NO
2. Does the project owner keep records of the percentage of residential rental units in the building that are low-income units? YES  NO
3. Does the project owner keep records of the rent charged on each residential rental unit in each building (including utility allowance)? YES  NO
4. Does the owner keep records of the number of occupants in each low-income unit? YES  NO
5. Does the project owner keep records of the low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented? YES  NO
6. Does the project owner keep records of the annual income certification of each low-income tenant per unit? YES  NO
7. Does the project owner keep records of documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, IRS Form W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation)? YES  NO
8. Does the project owner keep records of the eligible basis and qualified basis of the building at the end of the first year of the credit period? YES  NO
9. Does the project owner keep records of the character and use of the nonresidential portion of the building included in the building's eligible basis (e.g., tenant facilities that are available on a comparable basis to tenants and for which no separate fee is charged for use of the facilities)? YES  NO
9. Does the project owner retain records described in the pervious questions for at least six years beyond the due date (with extensions) for filing the federal income tax return for that year? YES  NO
11. Does the project owner retain records of the first year's credit period for at least six years beyond the due date (with extensions) for filing the federal income tax return of the last year's compliance period for the building? YES  NO
12. The project owner certifies to UHC that, for the preceding 12 month period, they did meet the following requirements:
  - a. That the LIHTC project had met the requirements of the 20-50 test or the 40-60 test, whichever minimum set-aside test was applicable to the project? YES  NO
  - b. That there was no change in the applicable fraction and eligible basis of any building in the project, or if there was a change, that a description to the change was provided? YES  NO

- c. That the project owner has received an annual income certification from each low-income tenant, and documentation to support that certification? YES  NO
- d. That each low-income unit in the project was rent restricted as stated under IRC Section 42 (g) (2), and in the "Low-Income Housing Credit Commitment Agreement and Declaration of Restrictive Covenants?" YES  NO
- e. That all units in the project were for use by the general public and used on a non-transient basis? YES  NO
- f. That each building in the project was suitable for occupancy, taking into account local health, safety, and building codes and that if violation(s) have occurred, the project owner has officially notified the UHC and corrected the violation? YES  NO
- g. That if a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income? YES  NO
- h. That if the income of tenants of a low-income unit in the project increased above the limits allowed in IRC Section 42 (g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income? YES  NO
- i. That all tenant initial and annual re-certifications include a disclosure by the tenant regarding the student status and changes in household composition. YES  NO

Attach explanations of any exceptions to the above questions.

With respect to the above referenced LIHTC project, the undersigned Project Owner hereby represents and certifies under penalty of perjury, that, for the calendar year ending December 31, 2000, the answers to the preceding questions are true and correct to the best of its knowledge and belief.

|                |       |         |                              |
|----------------|-------|---------|------------------------------|
| Project Owner: | _____ | Date:   | _____                        |
| By:            | _____ | Phone:  | _____                        |
| Print Name:    | _____ | Fax:    | _____                        |
| Its:           | _____ | E-mail: | _____                        |
| Address:       | _____ | City:   | _____ State: ____ Zip: _____ |

THIS FORM MUST BE FILED WITH THE UHC BY APRIL 30 OF EACH COMPLIANCE YEAR

UTAH HOUSING CORPORATION

CERTIFICATION OF STUDENT ELIGIBILITY

Unit #: \_\_\_\_\_

If all members of the household are full-time students, then the owner / manager must complete this form and obtain verification to document the household's eligibility under Tax Credit regulations.

Statement of Applicant / Resident:

In the household to occupy this unit, {Check the true statement(s)}

- A. At least one member of the household receives assistance under Title IV of the Social Security Act (for example, payments under AFDC).
B. At least one member of the household is currently enrolled in a job training program that receives assistance under the Job Training Partnership Act (JTPA) or is funded by a state or local public agency.
C. The head of the household is a single parent with children and neither the parent nor the children is the dependent of another individual.
D. The members of the household are married and file a joint federal tax return.
E. None of the four exceptions listed above are applicable.

I/we hereby certify that the statement above is true and complete to the best of my knowledge.

(Applicant/Resident signature) (date) (Applicant/Resident Signature) (date)

(Printed Name) (Printed Name)

TO BE COMPLETED BY PROPERTY OWNER OR MANAGER:

The unit may be eligible, if all other Tax Credit eligibility requirements are met (Item A, B, C, or D applies).

The unit is not eligible (Item E applies).

I have verified and possess documentation supporting the applicant / resident's statement. Nothing has come to my attention that would cause me to believe that this information is inaccurate.

(Signature of Owner or Authorized Representative) (Date)

(Printed Name) (Printed Title)

WARNING: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to willfully falsify a material fact or make a false statement in any matter within the jurisdiction of a federal agency.

## SAMPLE MANAGER UNIT DESIGNATION REQUEST FORM

[LETTERHEAD]

DATE

W. Robin Kemker  
Tax Credit Administrator  
554 South 300 East  
Salt Lake City, Utah 84111

Re: XXXXX Apartments, XXXXX, Utah

Dear Mr. Kemker,

We are requesting the consent of the Utah Housing Corporation (the "UHC") to our proposed change of a low-income housing tax credit unit to a manager's unit to service the XXXXXX Apartments (the "Project"). With respect to this proposed change, we represent to the UHC as follows:

- Based on our past operating experience, there is a need for a full-time, onsite (management OR maintenance employee).
- The manager will work on a full-time basis for the project.
- The manager will not otherwise be employed on a full-time basis by another person or entity.
- The manager will not provide any significant management services to any other non-low income housing tax credit project.
- The unit occupied by the manager will continue to be rent restricted and must be taken from the highest rent and income set-aside tier.
- Once the unit is no longer utilized by a manager, it will be returned to the set-aside for use by the qualifying low income housing tenants according to our application, low income housing reservation agreement and the Land Use Restriction agreement.

The manager unit will be number \_\_\_\_\_ .

We understand that the UHC's consent to this change is not a representation or warranty by the UHC as to the affect this change may have on the eligibility of the Project to receive the low income housing tax credits. We also understand that a manager's unit is acceptable as a qualified unit by the IRS.

Sincerely,

Project Owner Signatory's Name  
Title