

**LOW INCOME HOUSING TAX CREDIT PROGRAM
EXTENDED USE PERIOD
COMPLIANCE MANUAL**



Strength, Dignity, Quality of Life

MISSOURI HOUSING

DEVELOPMENT COMMISSION

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PREFACE

The purpose of this manual is to explain the methods and procedures by which Missouri Housing Development Commission (MHDC) will evaluate compliance of Low Income Housing Tax Credit (LIHTC) properties during the Extended Use Period (EUP). Further, it is intended to be a reference guide to answer questions regarding the procedures, rules and regulations that govern LIHTC properties during the EUP in Missouri. This manual is intended as a supplement to existing laws and rules, and is not a comprehensive guide to the LIHTC Program, the EUP and all of its requirements.

This manual was produced for use by LIHTC Program participants in Missouri; it is to be used in conjunction with the LIHTC Manual and MHDC Regulatory Agreement. Upon request, MHDC will provide the latest federal rule changes and advise participants of internal processing requirements; however, MHDC will not make authoritative interpretations of the federal law.

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

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

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

CHAPTER 1: INTRODUCTION

1.1 Missouri Housing Development Commission

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

As the designated Housing Credit Agency for the State, MHDC is responsible for administering the LIHTC Program established by the Tax Reform Act of 1986. The responsibilities of a Housing Credit Agency are defined in Section 42(m) of the Internal Revenue Code. One of the statutory duties of the Housing Credit Agency is to monitor for and notify the IRS of any noncompliance with the provisions of the Code and/or any such State requirement documented in the Land Use Restriction Agreement (LURA).

MHDC's mission is strengthening communities and the lives of Missourians through the financing, development and preservation of affordable housing.

CHAPTER 2: DEFINITIONS

2.1 Compliance Period

The Internal Revenue Code Section 42(j)(1) defines the term “compliance period” as the period of 15 taxable years beginning with the 1st taxable year of the credit period. The first year of the compliance period is the first year in which the owner claimed credits. Owners should rely on the Form 8609, filed with the IRS, to determine the first year of credits.

2.2 Extended Use Period (EUP)

MHDC defines the term “extended use period (EUP)” as beginning on the 1st day following the initial “compliance period” and ending on the date specified by the LURA.

CHAPTER 3: RESPONSIBILITIES

3.1 MHDC

MHDC is responsible for administering the LIHTC Program which provides tax credits to developers for the acquisition and rehabilitation and new construction of rental housing for low- and moderate-income families. To be considered, all sponsoring entities and proposals must meet the regulations prescribed in Section 42 of the Internal Revenue Code. MHDC accepts applications in response to a Notice of Funding Availability (NOFA) published at specific times during the year. MHDC attempts to select applications that represent a fair geographic distribution, are consistent with the current Qualified Allocation Plan and are within the limits of the funds available.

MHDC monitors properties to ensure compliance with both IRS and MHDC requirements during both the compliance and EUP.

3.2 THE OWNER

The owner must ensure that the property meets certain requirements and Uniform Physical Condition Standards (UPCS) during the EUP. These requirements are to:

1. Ensure the property is managed in accordance with the LIHTC regulations and requirements agreed to during the allocation process for the duration of the EUP. Violation of the requirements may result in default of a loan and suspension of further utilization of MHDC resources.
2. Guarantee that all units are suitable for occupancy by meeting UPCS standards, local health, safety and building codes, and ensure that the on-site management team complies with all applicable rules, regulations and policies. This includes following policies and regulations pertaining to disclosure of lead-based paint and asbestos, and/or remediation where required.
3. Advise MHDC of and receive prior approval for any changes in ownership or management. Failure to obtain prior written approval of these changes is considered an act of noncompliance subject to issuance of an 8823 and may be considered grounds for suspension or debarment from future participation in MHDC programs. After receipt of MHDC approval for any changes, provide a Notice of Change in Ownership (Exhibit EUP 4) prior to ownership transfers. Such transfer agreement puts new ownership on notice that the property is subject to compliance restrictions and monitoring. Exhibit EUP 4 is located at http://www.mhdc.com/program_compliance/LIHTC/forms-documents.htm.
4. Ensure that a duly-executed management certification and management entity profile is in force at all times. The prior written approval of MHDC is required to implement changes to the management certification.
5. Certify that the property is being managed in accordance with all applicable federal, state and local fair housing laws.
6. Assume liability for any instances of noncompliance and the correction of such deficiencies.
7. Provide MHDC the EUP Certification of Owner Compliance (Exhibit EUP 2) and annual Occupancy Report (Exhibit EUP 3) through Certification On Line (COL) in accordance with the seasonal reporting schedule. Owners that do not report on line are to provide the EUP Certification of Owner Compliance (Exhibit EUP 2) and Annual Occupancy Reports (Exhibit EUP 3) for non-internet reporting in accordance with the seasonal reporting schedule. Exhibit EUP 2 is located at http://www.mhdc.com/program_compliance/LIHTC/forms-

[documents.htm](http://www.mhdc.com/program_compliance/LIHTC/forms-documents.htm) and EUP 3 is located at http://www.mhdc.com/program_compliance/LIHTC/forms-documents.htm.

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

SEASONAL REPORTING SCHEDULE			
<i>Placed-In-Service Date</i>	<i>Activity Period Covered</i>	<i>COL/ Exhibit EUP 3 Due Date</i>	<i>Exhibit EUP 2 Due Date</i>
1990, 1991, 1992, 1993, 2006, 2010, 2014, 2018, 2022, 2026, 2030, 2034, 2038, 2042, 2046	April 1 – March 31	April 15	April 30
1994, 1995, 1996, 1997, 2007, 2011, 2015, 2019, 2023, 2027, 2031, 2035, 2039, 2043	July 1 – June 30	July 15	July 31
1998, 1999, 2000, 2001, 2008, 2012, 2016, 2020, 2024, 2028, 2032, 2036, 2040, 2044	October 1 – September 30	October 15	October 31
2002, 2003, 2004, 2005, 2009, 2013, 2017, 2021, 2025, 2029, 2033, 2037, 2041, 2045	January 1 – December 31	January 15	January 31

3.3 THE MANAGEMENT AGENT

The management agent is responsible for properly implementing LIHTC and MHDC program requirements in the EUP, and must comply with all federal laws, rules and regulations governing certification and leasing procedures. The management agent is required to provide all necessary and required information to MHDC; this includes submission of various program compliance reports within specified time frames. Further, if the management agent determines that the property is not in compliance with LIHTC Program requirements in the EUP, the Asset Management Department must be immediately notified in writing to:

LIHTC Asset Manager-Physical Property Compliance
4625 Lindell, Suite 300
St. Louis, MO 63108

A duly-executed management certification, and management plan is required to be in place at the onset of leasing activity and continually throughout the affordability period. The prior written approval of MHDC is required to implement changes to the management certification.

3.4 MHDC ASSET MANAGEMENT DEPARTMENT

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

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

CHAPTER 4: EXTENDED USE PERIOD REQUIREMENTS

4.1 Summary of Extended Use Period Changes

The owner agreed to comply with the originally recorded LURA and during the EUP certain changes to the regulatory agreement may be allowed. Based on the requirements of the LURA, specified in Section 42 regulations and the agreement itself, MHDC has the authority to set policy for the certain criteria during the EUP. In summary, MHDC will require the following:

1. An annual recertification is no longer required on 100% Low Income Housing Tax Credit properties.
2. An annual recertification on mixed-use properties only. MHDC will accept, in lieu of income/asset verification, a self-certification from the household (acknowledged by management) attesting to continued compliance with income restrictions.
3. An initial income certification on all new move-ins as described in the MHDC Low Income Housing Tax Credit compliance manual.
4. Student rules, as defined by Section 42, will no longer apply.
5. Unit transfers from building to building are allowed.
6. Mixed-use properties will be required to monitor the set-asides of low income units.
7. The available unit rule no longer pertains to “comparable or smaller size”. The amended rule provides that if a household’s income goes over 140% of the applicable AMI, a currently vacant unit or the next unit in the same building must be rented to a qualifying household.
8. Rent increases will no longer be reviewed annually. Tax Credit Rent Limits will apply with a final Schedule II from MHDC.
9. Annual and financial statements will no longer be required by the tax credit program although loan requirements still apply.
10. Tax credit income restrictions will apply although MHDC may, as deemed necessary, authorize income waivers upon request.
 - A request for an income waiver to 80% of area median income adjusted for family size must be in writing, outline the factors the owner/owner agent believes contributed to the need to request the income waiver and provide support for the items outlined on the waiver request.

- Owners should note that properties which are in the 3-year decontrol period, the “opt out” process, or have additional restrictions or special circumstances may not be eligible for an income waiver.
- Please be aware that the 80% income limits will be determined solely by HUD. For the purpose of determining an income qualified household MHDC will only use the HUD 80% income limits found at: <http://www.huduser.org/portal/datasets/il.html> and more specifically <http://www.huduser.org/portal/datasets/il/il10/mo.pdf>.
- Income waiver requirements are located at http://www.mhdc.com/program_compliance/LIHTC/forms-documents.htm.
- The request for an income waiver is submitted by completing the Income Waiver Request Form (Exhibit EUP 6) located at http://www.mhdc.com/program_compliance/LIHTC/forms-documents.htm.

The Income Waiver Request Form (Exhibit EUP 6) and required documentation must be sent to:

Missouri Housing Development Commission
 Asset Management Program Compliance
 3435 Broadway
 Kansas City, MO 64111

This waiver only applies to LIHTC-designated units within the property. The owner/owner agent must ensure that residents in HOME, Section 8, Section 236 or other income restricted units continue to maintain those program specific guidelines.

11. Physical inspections and file reviews will be performed every 5 years or as deemed necessary by MHDC staff.
 - Physical Inspection - a minimum of 3 units chosen at random or a maximum of 10% of the low income units not to exceed 15 units in any development. Evidence of deficiency trends may trigger additional unit inspections.
 - File Review – MHDC will no longer limit the review to files related to the inspected unit. New move-ins will require income and asset verifications. Recertification files on mixed-use properties will require a self-certification at minimum. Files may be chosen at random. Evidence of deficiency trends may trigger additional file reviews.
12. MHDC will rely on Section 8 or Rural Development inspection reports for those properties with layered financing or rental assistance provided by either agency.

4.2 Consequences of Noncompliance during EUP

IRS Form 8823 has been amended to reflect agency-defined language. Evidence of noncompliance reported through an 8823 may result in suspension or debarment from participation in future MHDC programs, and may be reported to other agencies inquiring of the compliance status of the owner or manager.

MHDC’s mission is to provide strength, dignity, and quality of life through the partnerships that we have created in the affordable housing industry. It is our intent to create more relaxed compliance criteria during the extended use period as a means of reducing the administrative burden on the owners and managers of Low Income Housing Tax Credit properties. These efforts ensure the longevity of the affordable housing program and therefore provide quality affordable housing to the citizens of Missouri.

APPENDIX

All forms may be accessed in either Word or PDF formats under Extended Use Period Forms on the MHDC website at http://www.mhdc.com/program_compliance/LIHTC/forms-documents.htm

Exhibit EUP 2	EUP Owner Certification of Compliance
Exhibit EUP 3	Annual Occupancy Report (non-internet reporting only)
Exhibit EUP 4	Notice of Change of Ownership
Exhibit EUP 5	EUP Requirements for Income Waiver
Exhibit EUP 6	EUP Income Waiver Request Form

ADDITIONAL RESOURCES

HUD Uniform Physical Condition Standards Training

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/react/products/pass/pass_trng