

# IHCDA Compliance Manual Updates

## AHAIN Webinar 12/6/22

# SESSION OVERVIEW

- Explanation of Manuals
- Certification / Verification
- Nondiscrimination
- RHTC Requirements
- HOME Requirements



# EXPLANATION OF MANUALS

IHCDA released two updated compliance manuals on 11/30/22

## ***Rental Housing Tax Credit Compliance Manual- Revision 2022***

- Covers ongoing compliance requirements for tax credit projects during their compliance and extended use periods
- Last updated 2021

## ***Federal Programs Ongoing Rental Compliance Manual- Revision November 2022***

- Covers ongoing compliance requirements for HOME, CDBG, CDBG-D, NSP, and HTF projects during their affordability periods
- Last updated 2018

# CERTIFICATION / VERIFICATION

# UPDATED COMPLIANCE FORMS

RHTC-  
6.2  
FP- 5.2

RED Notice 22-41 July 27, 2022 announced updated compliance forms

- Form #8- Employment Verification
- Form #23- Income Certification Questionnaire
- Form #26- Under \$5000 Asset Certification
- Form #46- HOME & HTF Rent Update Form

Form #23 is **mandatory** and must be used for all move-ins and recertifications with an effective date of 1/1/23 or later

- Proposed modifications to Form #23 must be submitted to [cfarzetta@ihcda.in.gov](mailto:cfarzetta@ihcda.in.gov) and approved prior to implementation

# UPDATED FORM #23

Treat “gig economy” jobs as self employment = net income from business

I am self employed. (List nature of self-employment). This includes but is not limited to: **Rideshare companies** (e.g., Uber, Lyft), **app-based delivery services** (e.g., DoorDash, Grubhub, Shipt, etc.), **other gig economy jobs**, multi-level marketing companies (e.g., Mary Kay, Total Life Changes, Avon, etc.), social media income (e.g., YouTube, TikTok, etc.), 1099-contractors, etc.

List types:

1) \_\_\_\_\_

2) \_\_\_\_\_

(Use net income from business)

\$ \_\_\_\_\_

\$ \_\_\_\_\_

# UPDATED FORM #23

Digital wallet services and pay cards are assets. Use current balance.

<p>I have a digital wallet service(s) (e.g., Apple Pay / Apple Cash, Cash App, PayPal, Venmo, etc.)</p> <p># Of accounts held _____</p> <p>If yes, list services(s)</p> <p>1) _____</p> <p>2) _____</p> <p>3) _____</p>	<p>_____ %</p> <p>_____ %</p> <p>_____ %</p>	<p>CURRENT BALANCE</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p>
<p>I have a pay card for direct deposit of benefits or prepaid debit card(s).</p> <p># Of cards held _____</p> <p>1) _____</p> <p>2) _____</p> <p>3) _____</p>		<p>CURRENT BALANCE</p> <p>\$ _____</p> <p>\$ _____</p> <p>\$ _____</p>

# UPDATED FORM #23

Cryptocurrency/digital currency is an asset. Determine cash value and interest earned.

YES NO		INTEREST RATE	CASH VALUE
<b>25.</b> <input type="checkbox"/> <input type="checkbox"/>	I hold cryptocurrency/digital currency (e.g., Bitcoin, Dogecoin, Ethereum, etc.)  If yes, list currency types  1) _____  2) _____  3) _____	   _____ %  _____ %  _____ %	   \$ _____  \$ _____  \$ _____



# SS/SSI COLA

RHTC-  
6.3(C)(1)  
FP- 5.3(C)(1)

October 13, 2022 SSA announced 8.7% COLA for 2022

Increase is effective January 2023 for Social Security & Supplemental Security Income benefits

This is a known/verifiable increase in income

Must be used for income eligibility determinations (initial move-in or recertifications) with an effective date after October 13, 2022



# VERIFYING SECTION 8 ASSISTANCE

RHTC- 4.2H,  
6.1A  
FP- 3.2F, 5.1A,  
6.4A

To verify household has a Housing Choice Voucher, obtain either:

- A copy of the Housing Assistance Payment Contract and current HAP Amendment; or
- Copy of the current HUD Form 50058

No longer need to obtain both documents

For household in a Project Based Voucher (PBV) unit obtain the current 50058

For household in a Project Based Rental Assistance (PBRA) unit obtain the current 50059

# ZERO INCOME HOUSEHOLDS

RHTC-  
6.3E  
FP- 5.3E

Revised language

If an entire household is claiming zero income, the household **must** complete IHCDA Form #27 “Zero Income Certification and Basic Needs Questionnaire” or a similar form.

# ***RHTC COMPLIANCE MANUAL- PAYSTUBS***

RHTC- 6.3(B)(2),  
6.3(C)(4)

For RHTC compliance, changed number of paystubs needed from “four to six” to four in order to streamline requirement and match IHCDA’s HCV program requirements

No change for programs covered by *Federal Programs Manual*. Number of paystubs obtained for those programs must cover a full, consecutive two months of pay.

# ***FEDERAL PROGRAMS MANUAL***

FP- 5.1(A),  
5.3(C)(4)

The following changes were made last year in the 2021 *RHTC Manual* and IHCDa had announced they were applicable to all programs. They are now codified in the *Federal Programs Ongoing Rental Compliance Manual*.

- IHCDa does not require YTD calculations
- If a verification indicates a range of hours worked, IHCDa will use the average, not highest in the range
- IHCDa accepts electronic signatures from tenants, owner agents, and third-party verifiers

# NONDISCRIMINATION

# VAWA REAUTHORIZATION 2022

RHTC-  
5.3G  
FP- 4.2G

Violence Against Women Act (VAWA) Reauthorization of 2022 signed 3/11/22

- HTF added as statutorily covered program- was already covered by HUD regulation
- Blanket language to cover future federal housing programs
- Adds new provisions prohibiting retaliation and coercion
- Adds new provision providing protection of right to report crimes and prohibiting penalties for reporting

“The Secretary of Housing and Urban Development and the Attorney General shall implement and enforce consistent with, and in a manner that provides, the same rights and remedies as those provided for in title VIII of the Civil Rights Act of 1968”

**NOTE: While VAWA was not reauthorized in 2018, this just affected grant funding. VAWA protections never stopped!**

# VAWA- NEW PROTECTIONS

RHTC-  
5.3G  
FP- 4.2G

## Nonretaliation Provisions

- Owner agent may not discriminate against any person because they have opposed any act or practice made unlawful by VAWA or testified, assisted, or participated in a VAWA matter

## Noncoercion Provisions

-Owner agent may not coerce, intimidate, threaten, interfere with, or retaliate against a person who exercises VAWA protections, assists another person in exercising VAWA protections, or participates in a VAWA investigation or enforcement

## Protection to Report Crimes from Home

-Owner agents, residents, guests, and applicants have the right to seek law enforcement or other emergency assistance and shall not be penalized for making such a request  
- Prohibited penalties = fines, eviction, refusal to rent or renew, nuisance penalties to property, etc.



# UPDATED VAWA LEASE ADDENDUM FORMS

RHTC- 5.3G,  
6.8A  
FP- 4.2G, 5.6A

[RED Notice 22-48](#)- Updated VAWA Lease Addendum Forms – Must be used for move-ins effective 1/1/23 and after

- Appendix I of the *Rental Housing Tax Credit Compliance Manual*
- Appendix H of the *Federal Programs Ongoing Rental Compliance Manual*

VAWA Lease Addendum for LIHTC (Use for LIHTC **w/o** HOME or HTF)

VAWA Lease Addendum for HOME & HTF (NOTE: Use this version for LIHTC **w/** HOME or HTF)

HUD-approved VAWA Lease Addendum may be used for HUD-assisted properties in lieu of IHEDA versions

# LIVE-IN AIDES

RHTC-  
5.2F  
FP- 4.1D

Court case *Johnson v. Guardian Management* overturned HUD FHEO guidance that a spouse can never be considered a live-in aide

Spouses can now be considered live-in aides, depending on the specific fact pattern

Must still meet HUD-defined live-in aide requirements:

- Essential to the care and well-being of the person
- Not obligated for the support of the person
- Would not be living in the unit except to provide necessary supportive services

# TENANT SELECTION PLANS

RHTC- 5.3E, 5.7C,  
5.7D

FP- 4.2E, 4.6

- Clarified all projects must have a written tenant selection plan and that IHEDA will monitor the plan. This was existing policy, but language was strengthened.
- Minimum income requirements cannot be applied to applicants with tenant-based rental assistance or for units with project-based rental assistance
- Minimum income requirements, credit history, previous landlord history (including previous evictions), and history of substance use cannot be used in screening for PSH units for persons experiencing homelessness
- For RHTC projects funded as “Community Integration”- expanded population to include persons with traumatic brain injury and added clarifying language on verification requirements

# RHTC REQUIREMENTS

# AVERAGE INCOME TEST

RHTC- 3.3(E)

Updated language to match new regulations released October 2022

Added definitions of “qualifying group of units”

IHCDA policy highlights:

- IHCDA will consider the owner to have “designated” a unit based on the AMI level being (1) recorded on the TIC and (2) reported through IHCDA’s online reporting system as part of the AOC
- IHCDA allows unit designations to float
- IHCDA will work with owners to allow reasonable corrections to restore compliance with AIT requirements, including redesignating units or adding/removing units from the qualifying group of units

# UTILITY ALLOWANCES

RHTC- 4.4(D)(5-7),  
4.4(E)

Updated manual language for Energy Consumption Model, HUD Utility Schedule Model, and Qualified Engineer Estimate

- At the time the owner submits the request for approval to IHCDA, they must also make the proposed utility allowance available to all tenants. The owner may not implement the utility allowance until the later of (1) the date of IHCDA approval or (2) at least 90 days from the date the proposed utility allowance was submitted to IHCDA and made available to the tenants.
  - UA request letters and approval letters are being modified to reflect this language
- Allowances must be updated at least once per calendar year. Removed language about only being valid for 12 months.

# 2023-2024 QAP REQUIREMENTS

RHTC- 2.2N, 5.3(A)(3),  
5.7A

Developments funded under the 2023-2024 or later QAP must:

- Create an Affirmative Fair Housing Marketing Plan
- Operate as smoke-free housing
  - \*NOTE: IHCDA will release a smoke-free lease addendum in 2023

# CASUALTY LOSS

RHTC-  
5.6B

When a casualty loss occurs, the HFA must define the “reasonable period” to restore and avoid recapture

IRS defines reasonable period as up to two years following the end of the tax year in which the casualty loss occurred

IHCDA has clarified in the manual that it will allow the owner the maximum reasonable period in all situations and will not establish a case-by-case deadline



# HOME REQUIREMENTS

# REDESIGNATING OVER-INCOME HOME UNITS

FP- 3.2D,  
4.3F

Existing language stated that for a unit that is both RHTC and HOME-assisted, the HOME over-income rule for a household that exceeds 80% AMI does not apply- i.e., rent is not adjusted based on adjusted income.

Added clarification that while that is true, the unit may still need to be redesignated from a low-HOME to high-HOME unit.

# HOME & HTF FINANCIAL REVIEW

FP-  
6.4C

IHCDA is required to conduct an annual financial review for HOME or HTF projects with 10 or more total units

Changed policy to state that if Annual Owner Certification submission includes all necessary financial information for the project, then IHCDA will not request additional financial statements

This policy streamlines the HOME & HTF financial review process and incentivizes owners to completely fill out the AOC information

# QUESTIONS?

## CONTACT INFO

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