

Combining LIHTC with Project Based Section 8 Properties

(04/19)

Project Based Section 8 Projects with Tax Credits must follow Section 8 Requirements.

1. Applicants for Project-based Section 8 Rental Assistance (PBRA) units that are also subject to Low-income Housing Tax Credit restrictions must meet the requirements of both programs. Where there are conflicting requirements, such as income limit requirements or student-rule requirements, the more restrictive requirement must apply.
2. The Tenant Selection Plan (TSP) must clearly indicate the applicant must meet both Section 8 and LIHTC eligibility requirements. **Sample Statement:** *Units which receive both Project Based Section 8 Rental Assistance and Tax Credits must qualify under the requirements of both programs. Units not receiving Project Based Section 8 Rental Assistance may qualify under Tax Credit Requirements only.*
3. For existing tenants at a PBRA property that becomes subject to LIHTC requirements, owners may **not** terminate the tenancy of current HUD-assisted tenants who do not meet LIHTC eligibility guidelines. In many cases, owners of LIHTC properties have offered an incentive to HUD-eligible households who become over-income for LIHTC or do not meet other LIHTC requirements, to move voluntarily. Owners may do so as long as the incentive is not paid from Section 8 or FHA project funds. In such cases, owners should first inform tenants in writing that they have the option of remaining in occupancy as HUD-assisted tenants under the terms of their lease, in order to ensure that the choice of moving with incentives is truly voluntary. For more information on this, see the Memorandum from Benjamin T. Metcalf, Assistant Secretary for HUD Multifamily Programs, dated January 12, 2015, or contact NDHFA.
4. For units subject to both LIHTC and PBRA requirements, the HUD Model Lease is **required** to be used. Additionally, the HUD Model Lease and any of its addendums may **not** be altered or modified unless expressly approved by HUD in writing. LIHTC lease addendums are not to be used along with the HUD Model Lease.
5. The following forms are to be discontinued and removed from the tenant files for all units included in the HAP Contract:
 - a) Annual Household Tenant Certification Update (SFN 59066)
 - b) Under \$5000 Asset Certification
6. Tenant files are to be retained in compliance with HUD Regulations regarding tenant file documents for all Project Based Section 8 units. EIV documents must be included in the tenant files as indicated in *Notice H 2013-06; Subject: Enterprise Income Verification (EIV) System*.
7. EIV data cannot be used for LIHTC purposes. For LIHTC; the agent must obtain 3rd party verification, which may include the tenant's SSA award letter or other appropriate documentation. For PBRA; the EIV income report must be used to calculate the tenant's Social Security income unless the tenant disputes the SSA data in the EIV system, or there is no SSA in the EIV system, then the agent must obtain 3rd party verification.
8. Tenant rent may differ slightly between *form HUD-50059* and the *TIC* since you must use other forms of Social Security benefit verification for the *TIC*. It will NOT affect the compliance review for either program.
9. Files for the Tax Credit Compliance Reviews are submitted electronically; thereby eliminating the possibility of EIV documents being on file for the review. However; if you prefer, you can maintain 2 sets of files. *NDHFA does not recommend this practice since the duplication of documents is added workload and can contribute to errors or omissions.*
10. If new applications and/or new leases were completed with the addition of Tax Credits, these must be retained in a separate section of the Project Based tenant file. They are not part of the *original* move-in documents and do not pertain to Project Based Section 8.