



Special Attention of:

Notice PIH 2002-22 (HA)

HAs with Section 8 Project-Based Assistance under the Housing Choice Voucher Program, HAs with Housing Choice Vouchers, Office Directors of Public Housing;

Issued: November 1, 2002

Expires: November 30, 2003

Subject: Units with Low-Income Housing Tax Credit Allocations Combined with Housing Choice Voucher Assistance under the Tenant-Based and Project-Based Programs

1. **PURPOSE:** This Notice provides instructions to Public Housing Agencies (PHAs) for calculating rent amounts under the tenant-based and project-based housing choice voucher programs when a project has been allocated a low-income housing tax credit (LIHTC).
2. **APPLICABILITY:** This Notice applies to units assisted under either the project-based or tenant-based components of the housing choice voucher program that have been allocated a LIHTC.
3. **DEFINITIONS:**
 - A. **Fair Market Rent:** The rent, including the cost of utilities as established by HUD for units of varying sizes, that may be paid in the housing market area to lease privately owned, existing, decent, safe, and sanitary rental housing of modest nature with suitable amenities.
 - B. **Payment Standard** - The maximum monthly subsidy paid on behalf of a family assisted under the housing choice voucher program. PHAs establish payment standard amounts by unit size between 90 and 110 percent of the published Fair Market Rents (FMRs).
 - C. **Exception Payment Standard Amount** – A payment standard amount approved by HUD that exceeds 110 percent of the published FMR.
 - D. **Low-Income Housing Tax Credit** - The LIHTC is a tax incentive intended to increase the availability of low-income housing. Section 42 of the Internal Revenue Code of 1986 (I.R.C.) authorizes an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing properties.

The dollar amount of the LIHTC available for allocation by each state (the “credit ceiling”) is limited by population. Each state is allocated credit based on a statutory formula specified at section 42(h)(3) of the I.R.C.. States may carry forward unused or returned credit derived from the credit ceiling for one year; if not used by then, the credit goes into a national pool to be allocated to states as additional credit. State and local housing agencies allocate the state’s credit ceiling among low-income housing properties whose owners have applied for the credit.

E. **Qualified Census Tract** - Under section 42(d)(5)(C) of the I.R.C., as amended by the Community Renewal Tax Relief Act of 2000, a Qualified Census Tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income less than 60 percent of the Area Median Gross Income (AMGI) or, where the poverty rate is at least 25 percent and where the census tract is designated as a Qualified Census Tract by the Secretary of Housing and Urban Development.

To determine the census tract number for a particular address, visit any of the following sites: the Federal Financial Institutions Examination Council (FFIEC): <http://www.ffiec.gov/geocode/default.htm> the Census Bureau: <http://tier2.census.gov/ctsl/ctsl.htm> or the Small Business Administration (SBA) <http://map1.sba.gov/hubzone/>

To determine whether a census tract has been designated as a qualified census tract, please visit the following site:

<http://www.huduser.org/datasets/lihtc.html>

4. **LIHTC and Rents Under the Tenant-Based Program**

If a family participating in the tenant-based option of the housing choice voucher program chooses to lease a unit in a development that receives a LIHTC, the rent to owner for the unit shall be determined in accordance with procedures outlined in 24 Code of Federal Regulations Section 982 Subpart K. Tax credit units within the building, as well as other units receiving tax credits, shall not be used to determine comparability since the units are considered assisted units.

5. **LIHTC and Rents Under the Project-Based Program**

A. **Projects Within a Qualified Census Tract** –The gross rent for a unit assisted under the project-based voucher program located in a project that receives a LIHTC, but is located inside of a qualified census tract, may not exceed the lower of 110 percent of the FMR (or any HUD-approved

exception payment standard) or the rent charged for unassisted comparable units.

When determining comparability, the units in the building receiving a LIHTC (or units in other LIHTC assisted properties) shall not be used since the units are considered assisted units. Section 8(o)(10)(A) of the United States Housing Act requires the rent for dwelling units under a housing assistance payment contract be reasonable in comparison with rents charged for comparable dwelling units in the private unassisted local market.

B. Projects Outside of a Qualified Census Tract Where the Tax Credit Rent is Equal to or Less than 110 Percent of the FMR or any HUD Approved Exception Payment Standard – If a unit assisted under the project-based voucher program is located outside a qualified Census tract in a project that receives a LIHTC and the tax credit rent is equal to or less than 110 percent of the FMR (or any HUD-Approved Exception Payment Standard Amount), the maximum gross rent is calculated in accordance with paragraph 5. A. above.

C. Projects Outside of a Qualified Census Tract Where the Tax Credit Rent is Greater than 110 Percent of the FMR or any HUD Approved Exception Payment Standard. – If a unit assisted under the project-based voucher program is located outside of a qualified census tract in a project that receives a LIHTC and the tax credit rent exceeds 110% of the FMR (or any HUD-Approved Exception Payment Standard Amount), the gross rent shall not exceed the lower of the tax credit rent (i.e. the rent charged for comparable units in the building that also receive the low-income housing tax credit but do not have additional rental assistance) or the rent charged for unassisted comparable units in the private market.

6. For Further Information

Inquiries concerning this Notice should be directed to the Office of Public Housing and Voucher Programs, Housing Voucher Management and Operations Division in HUD Headquarters. The Division telephone number is (202) 708-0477.

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Assistant Secretary
for Public and Indian Housing