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income averaging

compliance monitoring guidance 12.1.18

note

The Income Averaging (IA) Compliance Guidance summarized here is merely provided as a highlight of some of the federal requirements as of the date of this guidance and is not intended to provide, and should not be relied on for, tax, legal or accounting advice. Additionally, the guidance is based on information obtained from publicly available sources, the completeness and accuracy of which have not been independently verified; reflects current conditions; and CHFA's views as of this date, all which are subject to change. You should consult your own tax, legal, accounting, and other advisors before engaging in any transaction.

eligible developments

Effective January 1, 2019 the IA election may be requested for 9% federal LIHTC, 4% federal LIHTC, and 4% federal/state LIHTC applications for 100% affordable new construction or acquisition/rehabilitation projects. Only 4% non-competitive 100% affordable developments that previously received an award of LIHTC and the project has not yet placed in service (IRS 8609 not executed) are permitted to elect IA prior to January 1, 2019.

unit designations

Unit designations may float with the following restrictions:

- A household's unit designation may be changed to a higher designation only if household income at annual recertification exceeds 140 percent of the current income limit for the original designation.
- Unit designations may not be changed to a higher designation during a household's lease term.

multiple building elections

- Owners of multiple building developments that elect IA as the minimum set aside are required to do so for all buildings in the development rather than making different elections for different buildings.
- Owners must elect to treat each building as part of a multiple-building project on line 8b of the IRS form 8609.

compliance monitoring

- CHFA's preliminary monitoring will start during the Initial Inspection.
- Formal monitoring will begin with the first year of the Credit Period.

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- Ongoing compliance will be monitored semi-annually based on occupancy as of June 30 and December 31 of each calendar year.
- Compliance will also be monitored as part of each three-year program compliance review conducted by CHFA.

non-compliance

Noncompliance with IA will be the same as with other minimum set-asides. Failure to meet the IA standard for the first year of the credit period results in the permanent loss of the entire credit. Failure to maintain the IA standard for any year after the first year of the credit period results in no allowable credit for that tax year.

Compliance testing and reporting requirements are as follows:

Testing

- The owner and/or agent will utilize CHFA's tracking sheet to demonstrate compliance with the income averaging set aside.
- The owner and/or agent will be required to submit CHFA's tracking sheet for June 30 to CHFA for review by July 15 and for December 31 by January 15 of each calendar year.

Reporting Owner Certifications

- Using CHFA's Income Averaging owner certification form, owners must document their compliance of the IA minimum set aside.
- The owner will be required to submit the owner-signed certification to CHFA along with the tracking sheet by July 15 and January 15 of each calendar year.
- For the first two years of the Credit Period, the owner is required to engage a third-party LIHTC consultant to review the project's tenant files and certify IA compliance as of December 31.

Annual resident recertifications

- IA developments will continue to follow CHFA's existing annual recertification policy for 100 percent low-income developments.

unit parity

- Refer to CHFA's QAP for further guidance on unit parity.
- Compliance with unit parity will be monitored via the semi-annual tracking and submission of the Income Averaging owner certification.

training

- A Colorado-specific I/A training must be completed before the IRS form 8609 is issued. Training certificates must be submitted to CHFA prior to issuance of the IRS 8609. Refer to CHFA's QAP for additional guidance. Colorado-specific IA training is required for all onsite staff, staff involved in compliance and file preparation as well as members of the ownership and management teams.

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- Colorado-specific IA training is also required annually thereafter and upon any change in compliance staff, owner, and or management agent.

for more information

For additional information including CHFA's Frequently Asked Questions (FAQs) please visit chfainfo.com/arh/lihtc/income-averaging