HOME Program
Rental
Compliance Manual

P.O. Box 1237
Pierre, SD 57501-1237
605/773-3181
FAX 605/773-5154
Web site: www.sdhda.org

EQUAL HOUSING OPPORTUNITY

www.sdhousing.org

July 2014

PREFACE

This manual is a training and reference guide for the administration of the HOME Rental Program. It is intended to answer questions regarding the procedures, rules, and regulations that govern HOME properties. The manual should be used in conjunction with, and as a supplement to 24 CFR Part 92. If a determination is made that any provision of this manual is in conflict with 24 CFR Part 92, 24 CFR Part 92 will govern.

This manual may be superseded by changes in the Section 8 program and technical revisions in the HOME Program without notice.

This manual can be accessed at SDHDA website at: www.sdhda.org

The HUD HOME website is:
http://www.hud.gov/offices/cpd/affordablehousing/programs/home/index.cfm

EQUAL HOUSING OPPORTUNITY

Forms found at www.sdhda.org

AFHM
Annual Certification
Asset Verification
Authorized Representative Designation
Certification of Zero Income
Child Support Verification
Child Support or Alimony
Combined HOME Tax Credit Compliance Monitoring Status Report
Combined HOME Tax Credit Move-In\Move-Out
Citizenship Declaration
Document Viewed or Telephone Information Received
Education Assistance Verification
Eligibility Release
Employment Verification
Ethnicity and Racial Data
HOME Program Lease Agreement
Lead Base Paint Notification
Military Pay Verification
Pension or Workers Comp Verification
Railroad Retirement Verification
Retirement Verification
Section 8 Eligibility Verification
Social Security Verification
Social Services Verification
Student Verification
Tenant Income Certificate
Tenant Questionnaire
Trust Verification
Unemployment Applicant Affidavit
Unemployment Benefits Verification
Veteran's Administration Verification

INTRODUCTION

Properties that have been developed using HOME funds are subject to specific rules designed to ensure that they remain affordable to low and very low income households throughout their affordability period. This manual is designed to assist owners and agents to plan and maintain compliance with the HOME and Regulatory requirements associated with the utilization of HOME funds.

It is the responsibility of the South Dakota Housing Development Authority (SDHDA) to monitor the continuing compliance of all units that have received HOME funds in accordance with HUD regulations contained in 24 CFR Part 92. It is also SDHDA's responsibility to ensure that project owners retain the housing units as affordable to low and very low-income persons throughout the period of affordability. The following procedures apply to all rental properties which have received funds under the HOME program. Any violation of the requirements of the HOME program could result in full repayment of HOME funds received under the HOME program.

HOME Rental Program Objective

This Program provides loans to developers or owners for the construction, rehabilitation, or acquisition and rehabilitation of affordable rental housing.

COMPLIANCE REQUIREMENTS

HOME funded units are rent and income controlled for varying lengths of time depending upon the average amount of HOME funds invested per unit. Rent limits and income targeting requirements must be maintained during the period of affordability. Owners will be required to keep the property in compliance with HOME guidelines for the minimum of years specified below.

Period of Affordability

Rental Housing Activity	Minimum Years
Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under $15,000	5
$15,000 to $40,000 Per Unit	10
Over $40,000 or rehabilitation involving refinancing	15
New construction or acquisition of newly constructed housing	20

Owners should refer to the Declaration of Land Use Restrictive Covenants Agreement with SDHDA to determine specific terms and conditions which may govern their project.

Income Targeting Requirements

HOME program requirements with respect to the occupancy and affordability of the units apply both initially and over an extended period of time.

INITIALLY, rental housing will qualify as affordable if:

1. At least 20 percent of the HOME assisted rental units are occupied by families with annual gross incomes that are 50 percent or below the area median income. Rents for these units must be at or below the Low HOME rents.

2. At least 70 percent of the remaining HOME assisted rental units are occupied by families with annual gross incomes that are 60 percent or below the area median income. Rents for these units must be at or below the High HOME rents.

3. The remainder of the HOME assisted rental units are occupied by families with annual gross incomes that are 80 percent or less of the area median income. Rents must be at or below the High HOME rents.

SUBSEQUENT TO INITIAL OCCUPANCY, at least 20 percent of the HOME rental units must continue to be occupied by families with annual gross incomes at or below 50 percent of the area median income. Rents must be at or below the Low HOME rent. Those properties consisting of less than five HOME assisted units may be exempt from the 20 percent project rule.

The remaining 80 percent of the HOME rental units must be occupied by families with annual gross incomes at or below 80 percent of the area median income. Rents on these units must be at or below the High HOME rent.

HOME Program Income Limits based on family size are published annually by HUD. When HUD publishes the new income limits, SDHDA issues a memo and posts the new amounts and their effective date on the SDHDA website.

HOME units may be “fixed” or “floating” and are designated on a development-by-development basis.

<u>Fixed Units</u> – A property with ***fixed*** HOME units will have specific HOME units. These specific units may change from HIGH to LOW-HOME status, but they never have to change to non-HOME units, and non-HOME units at these projects are never subject to HOME restrictions.

<u>Floating Units</u> – HOME designated units may change over time as long as the total number of HOME units in the property remains constant and matches the bedroom size as stated in the development’s Declaration of Land Use Restrictive Covenants during the period of affordability. If there are fewer HOME units rented than the number allocated to the property, vacant units must be designated as HOME units and rented to an eligible household at either the Low or High HOME Rent, as applicable. If the approved number of HOME units are occupied by eligible households that are paying the appropriate HOME rent, then vacant units can be rented at a pre-approved market rent.

Student Rule for HOME Assisted Units

HOME Program Adopts HUD's Student Rule
With the publication of the HOME Final Rule, the HOME Program has adopted the Section 8 Program's student rule. No HOME unit shall be occupied by any individual who is enrolled either full or part-time at an institution of higher education for the purpose of obtaining a degree, certificate or other program leading to a recognized educational credential; and

1. Is under age 24; or
2. Is not a veteran of the US Military; or
3. Is not married; or
4. Does not have dependent children; or
5. Is not a person with disabilities; or
6. Is not living with his or her parents who are receiving Section 8 assistance; and is not individually eligible to receive Section 8 assistance and has parents who are not eligible to receive Section 8 assistance.

Rents

Every HOME-assisted unit is subject to maximum allowable rents based on bedroom size and Fair Market Rent (FMR) for the county in which the development is located. These maximum rents are referred to as the HOME Rents. There are two HOME Rents established for developments. Both the High and Low Home Rents represent the maximum that tenants can pay for rent and utilities combined and cannot exceed the FMR.

HUD publishes FMR's specific to the HOME Program on an annual basis. SDHDA issues a memo to owners/agents and posts on the SDHDA website when the new FMR's are released for the HOME Program. In the event Fair Market Rents decrease for an area, the owner may be required to reduce rents, but will not be required to lower rents below those in effect at the time of project commitment.

The owner may request a 2% rent increase one year from the date the project was placed in service and annually thereafter. When the owner requests a rent increase, the owner must submit along with the request to SDHDA, an updated utility cost analysis of tenant paid utilities. Actual utility use/cost per unit from the utilities provider or a current utility allowance schedule from the local Public Housing Authorities that administer the Section 8 Voucher Program may be used. Whichever source that the owner initially used to determine the tenant utility allowance, the same must continue to be used throughout the affordability period. Upon SDHDA approval of a rent increase, tenants must be given at least thirty (30) days written notice before implementation. Note that in accordance with the HOME lease agreement, rents may not be adjusted during the initial year of the lease.

Occasionally, due to an unavoidable increase in expenses to the development, a budget-based rent increase may be requested in order to maintain the viability of the development. In this case, the owner may submit a request to SDHDA for a budget-based rent increase accompanied with supporting documentation. Such request may, or may not, be approved at the sole discretion of SDHDA.

Owner Responsibilities

Project records must be maintained by the owner for a minimum of five years beyond the project's required period of affordability. Tenant records, including income verifications, development rents, and unit inspections must be retained for the most recent five year period, until five years after the affordability period terminates.

Tenant leases must be on file, specifying a term of at least one year, unless by mutual consent, the owner and tenant agree to a lesser term. Leases must not contain any of the prohibited lease terms as stated in Section 92.253 of the Final HOME rule, and any non-renewal or termination of leases must be within the accepted reasons for non-renewal or termination as stated in Section 18 of the SDHDA approved HOME Program Lease.

The owner/agent must comply with HOME requirements on evictions. The owner/agent must follow eviction procedures set forth in the State Civil Code and any local ordinances. There must be a written notice that gives a tenant 30 days to vacate his or her unit.

Under HOME, tenancy may be terminated only for:

- Serious or repeated violation of the terms & conditions of the lease;
- Violation of applicable federal, state, or local law;
- Completion of the tenancy period for transitional housing; or
- Other good cause.

All rent increases and utility allowances must have prior approval from SDHDA. Utility allowances must be reviewed and documented by the owner on an annual basis.

The owner must verify tenant eligibility at move-in and at least annually thereafter. Tenants must certify to their anticipated income, family size, and composition. Third party income verifications or other forms of documentation must be obtained by the owner and kept on file.

The owner must assure that any family whose income increases above the HOME income eligibility guidelines pays not less than 30 percent of their **adjusted** monthly income for rent or the owner may charge market rent. The unit must be marketed to eligible tenants when vacated. Those projects with Housing Tax Credits need not adjust rent to 30 percent of the family's income, if doing so would put the project out of compliance with the Tax Credit program. Under this scenario, the family may only be charged rent equal to or less than the maximum allowable Tax Credit rent.

The owner must keep all units in compliance with HUD Housing Quality Standards and other pertinent building codes to assure the units are decent, safe, and sanitary at all times.

The owner must adopt a written tenant selection plan for each HOME development and submit a copy to SDHDA for the development file.

Families receiving rental assistance, including Section 8 subsidy, must not be refused tenancy in a HOME assisted unit based on the rental assistance.

A separate security deposit account must be set-up for each HOME development.

The owner must maintain listings of all tenants residing in each unit at the time of application through the end of the compliance period and submit annual reports to SDHDA.

For rental properties built prior to 1978, the owner must assure that all tenants sign a Lead-Based Paint Notification.

Owners must make deposits into a separate Replacement Reserve Account as specified in the Regulatory Agreement. Disbursements of funds from this account are restricted for the specific purpose to cover the costs of non-routine repairs and replacements, such as roofs, appliances, and other capital improvements. Activity in this account must be recorded and available for SDHDA review.

Property insurance and tax escrow accounts must be maintained and notices paid when due as required by the Regulatory Agreement.

The owner must adhere to Equal Opportunity, Affirmative Marketing, and Fair Housing practices in all marketing efforts, eligibility determinations, and other transactions. The Equal Housing Opportunity logo or statement (*We do business in accordance with the Federal Fair Housing Law. It is illegal to discriminate against any person because of race, color, religion, sex, handicap, familial status, or national origin.)* must be used in all advertising of vacant units. The logo can be downloaded at http://www.hud.gov/library/bookshelf11/hudgraphics/fheologo.cfm

Affirmative Marketing

The owner of rental properties that contain five or more HOME-assisted units, regardless of the specific activity the HOME funds financed (e.g., acquisition, rehabilitation, and/or new construction) must develop and adopt affirmative marketing procedures. Owners must solicit applications for vacant units from persons in the housing market least likely to apply without special outreach efforts. These procedures must be in writing and consist of actions that provide information and otherwise attract eligible persons to available housing without regard to race, color, national origin, sex, religion, familial status (persons with children under 18 years of age, including pregnant women), or disability. The affirmative marketing requirements also apply to properties targeted to persons with special needs.

A file must be maintained with all marketing efforts related to the property including newspaper ads, social service contacts, photos of signs posted, etc. Records will be reviewed during on-site monitoring to ensure that all efforts are in compliance with federal requirements and are being adequately documented. Each year, the owner must submit a written narrative of the affirmative marketing efforts taken to market the development. The narrative must be submitted with the development annual reports due in March.

COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS (CHDOs)

CHDOs Responsibilities

All program requirements are the same for CHDO projects as for other HOME programs. In addition, CHDOs must assure that they continue to meet all pertinent guidelines specific to CHDOs.

SDHDA Responsibilities

SDHDA will monitor CHDOs to see that they continue to meet applicable CHDO requirements, more specifically, but not limited to, 501(c)3 or 501(c)4 status, Board Membership composition, and purposes of the Organization.

GENERAL OCCUPANCY GUIDELINES

Qualifications of Applicants

Applicants for low income, rent-restricted units shall be advised early in their initial visit to the property that there are maximum income limits which apply to these units. They shall also be made aware that the anticipated income of all persons expecting to occupy the unit must be verified and included on a HOME Tenant Questionnaire prior to occupancy, and that their financial status will be reviewed annually. It shall also be explained that if the tenant's household income goes above the income limits, they may continue to reside in the unit; but the rent will be equal to the lesser of 30% of the family's **adjusted** gross income or market rent. Tenants whose income exceeds the limits must not be permitted to move to any other low-income unit.

The Questionnaire

A fully completed Questionnaire is critical to an accurate determination of eligibility. The information furnished on the Questionnaire should be used as a tool to determine all sources of anticipated income and assets. SDHDA requires the use of the Home Tenant Questionnaire. It is recommended that roommates, other than the immediate family, complete separate Questionnaires.

After the household completes the HOME Tenant Questionnaire, the owner must have all income and assets certified either by a third party or by obtaining proof of income documentation. The Questionnaire, income verification, and lease are to be executed prior to move-in. All occupants in a low-income unit must be certified and have a valid lease on file. All tenants age 18 and over must sign the lease agreement.

Prior to each anniversary date of the tenant's move-in, a subsequent Questionnaire must be completed and all residents' anticipated income re-verified. This must be done to determine if the unit is still occupied by an eligible household. The owner/agent should begin the recertification process by obtaining verifications up to 120 days in advance of the initial lease anniversary date.

A unit does not lose its status as a low-income unit solely because of an increase in the household's income. Once a unit qualifies as a low-income unit it continues to qualify as such until the tenant's income exceeds the HOME applicable income limit. Even then, the unit remains a low-income unit as long as the tenant pays 30% of **adjusted** income towards rent and continues to occupy the same unit. The unit must be marketed to eligible tenants when vacated.

Change in Household Composition

In the event the tenant in a HOME assisted unit later wishes to have an additional person move into the unit, the following steps must be taken:

1. The prospective tenant must complete a HOME Tenant Questionnaire and allow for verification of income and assets as required of the initial tenant; and

2. The prospective tenant's income must be added to the current tenant's previously certified income and a determination made as to whether the household is still within the HOME income guidelines. If the anticipated household income exceeds the guidelines, the household must pay 30% of their **adjusted** income for rent or market rent, whichever is less.

The lease must include the legal name(s) of the parties to the agreement and all other occupants, a description of the unit to be rented, the term of the lease, the rental amount, the use of the premises, and the rights and obligations of the parties.

The lease shall also inform the tenant that fraudulent statements are grounds for eviction and that the tenant could become subject to penalties available under Federal Law.

The tenant file shall be documented when any household member vacates the unit. Should existing tenant(s) wish to transfer to a different low-income unit, the tenant(s) must be treated exactly as prospective tenants in a new move-in. Therefore, all application, verification and certification procedures must be completed for the transferring tenant(s) as of the transfer date.

House Rules

Developing a set of house rules is a good practice. The decision about whether to develop house rules for a property rests solely with the owner, and HUD’s review or approval is not required. House rules are listed in the lease as an attachment and must be attached to the lease. By identifying allowable and prohibited activities in housing units and common areas, owners provide a structure for treating tenants equitably and for making sure that tenants treat each other with consideration. House rules are also beneficial in keeping the properties safe and clean and making them more appealing and livable for the tenants. They are also extremely beneficial if it becomes necessary to evict a tenant for inappropriate behavior. For more information on House Rules, refer to Chapter 6-9 of the HUD 4350.3 REV 1, Change 4 Handbook.

Number of Persons Per Unit

There is no Federal Regulation governing the number of persons allowed to occupy a unit based on size. There may be local ordinances regarding unit occupancy. It is important, though, to be consistent when accepting or rejecting applications. It is recommended that the owner determine the minimum and maximum number of people that will be allowed to occupy each size unit and put that formula in writing as part of the **tenant selection plan**. The owner may refer to the HUD 4350.3 REV 1, Change 4 Handbook, Chapter 3, regarding occupancy standards. By following the standards described, owners can ensure that applicants and tenants are housed in appropriately sized units in a fair and consistent manner as prescribed by law.

There is no regulation governing the number of persons allowed to occupy a unit based on size. It is important, though, to be consistent when accepting or rejecting applications. It is recommended that the owner determine the minimum and maximum number of people that will be allowed to occupy each size unit and put that formula in writing as part of the management plan.

To determine the appropriate unit size for a household, owners may consider:

- all full-time members of the household;
- children who are away at school but live with the family during school recesses;
- children who are subject to a joint custody agreement but live in the unit at least 50% of the time;
- an unborn child or children in process of being adopted;
- foster children; and
- live-in attendants.

Some commonly accepted occupancy standards are:

- a maximum of two persons may occupy a bedroom;
- unrelated adults and persons of the opposite sex (other than spouses) may occupy separate bedrooms;
- children of the same sex may share a bedroom; and
- children should not share a bedroom with parents.

These principles would result in the following standards:

Unit Size	Minimum No. of persons in Household	Maximum No. of persons in Household
0 BR	1	1
1 BR	1	2
2 BR	2	4
3 BR	4	6
4 BR	6	8

Tenant Selection Plan

Owners must develop a formal written policy that clearly states the procedures and criteria the owner will consistently apply in drawing applicants from the waiting list, screening for suitability for tenancy, and implementing income targeting requirements. The Tenant Selection Plan must include whether or not there is an elderly restriction or preference in the admission of tenants, citing supporting documentation to ensure nondiscrimination in the selection of tenants. Owners may refer to the HUD 4350.3 REV 1, Change 4 Handbook, Chapter 4, on developing a tenant selection plan. The owner must submit a copy of the Plan to SDHDA.

INCOME VERIFICATION REQUIREMENTS

At initial occupancy, owner/agents must determine whether perspective tenants of HOME-assisted units qualify as low-income households. Income eligibility is based on anticipated income as defined at 24 CFR 5.609. When collecting income verification documentation, owner/agents must consider any likely changes in income. Owners/agents must follow appropriate steps in determining whether tenants are eligible prior to admittance.

The steps are provided below:

1. Determine household size.
2. Calculate annual income through the use of third-party verifications
3. Determine that annual income does not exceed income limits
4. Certify to Tenants Qualification

Annual Income

Family income for households living in HOME-funded developments shall be determined in a manner consistent with Section 8 of the U.S. Housing Act of 1937. HUD 4350.3 REV 1, Change 4 Handbook , Chapter 5, provides clarification of income and assets as defined at 24 CFR 5.609 and is summarized below.

A determination of annual income must include all of the types of income listed below in the amount **anticipated** to be received by all adult members (18 years of age and older) of the household in the 12 months following certification. However, the head of household and spouse may never be considered minors. All annual income (as defined in this section) of the head of household and spouse must be counted as income regardless of their age.

Annual Income Includes:

1. The gross amount (before payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services of all members of the household, ages 18 and over. (Includes income received from a family-owned business);

2. Net income, salaries, and other amounts distributed from a business;

3. The gross amount (before deductions for Medicare, etc.) of periodic Social Security payments. (Includes payments received by adults on behalf of minors or by minors for their own support);

4. Annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts;

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay. Any payments that are anticipated during the next 12 months must be included;

6. Welfare assistance;

7. Alimony and child support. Child Support must be counted as income unless the applicant certifies that payments are not being received **and** has made reasonable effort to collect the amounts due, including filing with courts and/or South Dakota Office of Child Support Enforcement. Due diligence by management to verify alimony and support payments includes obtaining copies of court documents, third party verifications, and notarized statements regarding amounts awarded and being collected;

8. Interest, dividends, and other income from assets (including income distributed from trust funds). On deeds of trust or mortgages, only the interest portion of the monthly payments received by the applicant is included;

9. Amount by which education grants, scholarships, or Veteran's Administration benefits are intended as a subsistence allowance to cover rent, utility costs, and board of a student living away from home. (No part of a student loan or Title IV scholarship can be included as annual income);

10. Recurring monetary contributions or gifts regularly received from persons not living in the unit. (Excludes rent or utility payments regularly paid on behalf of the family by a government agency);

11. Lump-sum payments received because of delays in processing unemployment, welfare, or other benefits, excluding Social Security and SSI.

Annual Income Excludes:

1. Employment income of members of the household, (including foster children) that are under 18. Head of household and spouse may never be considered minors. (Unearned income such as Social Security payments on behalf of minors must be included as income);

2. Meals on wheels or other programs that provide food for the needy; groceries provided by persons living in the household;

3. Income associated with persons that are living in the unit but are not regular household members, such as payments received for care of foster children or income of live-in attendants;

   (A live-in attendant is defined as a person who lives with an elderly, disabled, or handicapped individual and is essential to that individual's care and well-being, is not obligated for the individual's support and would not be living in the unit except to provide the support services);

4. The principal portion of payments received on mortgages or deeds of trust;

5. Scholarships or veteran benefits used for tuition, fees, books or equipment, or student loans, regardless of how they are spent;

6. Lump-sum additions to family assets such as inheritances, cash from sale of assets, one-time lottery winnings, insurance settlements under health and accident insurance and workmen's compensation, settlement for personal or property losses;

7. Nonrecurring or sporadic gifts;

8. Annual rent credits or rebates paid to senior citizens by government agencies;

9. Hostile fire pay to a family member in the military;

10. Payments received under HUD-funded Comprehensive Improvement Assistance Program;

11. Payments received under Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, and Foster Grandparents Program);

12. The value of the allotment made under Food Stamp Act of 1977;

13. Payments, rebates or credits received under Federal Low-Income Home Energy Assistance Programs (LIHEAP);

14. Payments received under programs funded in whole or in part under the Workforce Investment Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, State job training programs, career intern programs);

15. Scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs Student assistance programs, or veteran's benefits that are made available to cover the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses. Examples include Pell Grants, Supplemental Opportunity Grants, State Student Incentive Grants, College work-study, and Byrd Scholarships;

16. Payments received under Title V of the Older American Act (Green Thumb, Senior Aides, Older American Community Service Employment Program);

17. Lump-sum payments received because of delays in processing Social Security or SSI;

18. Earned income tax credit refund payments received on or after January 1, 1991; or

19. Child care assistance received under the Child Care and Development Block Grant Act of 1990.

All regular anticipated income sources, including asset income, must be verified. Income verification forms may be used for obtaining third party written verification and will be reviewed by SDHDA staff during an on-site review.

Written verification of income directly from the source (third-party verification) or supporting documentation of income must be obtained. When using third-party verification:

* Applicants must be asked to sign two copies of each verification form. The second copy may be used if the first request has not been returned in a timely manner.

* Income verification requests must be sent directly to and from the source, **not** through the tenant. It is suggested that a self-addressed, stamped envelope be included with the request for verification.

* When written verification is not possible prior to move-in, direct contact with the source will be acceptable to the SDHDA but must be followed up by written verification. The conversation must be documented in the applicant's file to include all the information that would be included in a written verification. The name and title of the contact, the name of

the management representative accepting the information and the date must be included. Document Viewed or Telephone Information Received Form, page 34, may be used for documentation of a direct contact.

* Management shall give the applicant the opportunity to explain any significant differences between the amounts reported on the application and amounts reported on third-party verifications in order to determine actual income. The file must be documented to explain the difference.

Effective Term of Verification

Written verifications of income are valid for 120 days prior to move-in and annual recertification. After this time a new written verification must be obtained. Verbal updates must be documented in the tenant's file on the Document Viewed or Telephone Information Received Form or a similar form.

Acceptable Forms of Verification

The annual income for a household receiving housing assistance payments under Section 8 may be verified by obtaining a statement from the Public Housing Authority (PHA). The owner must submit the Section 8 Eligibility Verification to the PHA for completion. If the form shows that the tenant's income does not exceed the applicable income limit, the household is eligible to occupy a rent-restricted unit.

Acceptable forms of verification for other specific types of income situations are as follows:

A. <u>Employment Income</u>

1st choice: Employment Verification completed by the employer, or statement from employer on company letterhead

2nd choice: Check stubs or earnings statements showing the employee's gross income per pay period and frequency of income, and a certification from the applicant stating their anticipated income for the 12 months following certification

B. <u>Self-Employment Income</u>

1st choice: Federal tax return (Schedule C or F) or accountant's statement of net income

2nd choice: Current financial statements of the business and a certification from the applicant giving the anticipated income for the 12 months following certification (this method to be used only for the first year of self-employment)

C. <u>Social Security</u>

1st choice: Social Security Administration Verification completed by the agency providing the benefits

2nd choice: Most recent award or benefit notification letter prepared and signed by the authorizing agency

3rd choice: Social Security Check Verification completed by the manager and tenant

D. Railroad Retirement

1st choice: Railroad Retirement Verification completed by the firm providing the benefits

2nd choice: Most recent award or benefit notification letter prepared and signed by the authorizing firm

E. Unemployment Compensation

1st choice: Unemployment Benefits Verification completed by the unemployment compensation agency

2nd choice: Records from the unemployment office stating payment dates and amounts

F. Workers Compensation or other Pension

1st choice: Pension or Workers Comp Verification completed by the agency providing the benefits

2nd choice: Most recent award or benefit notification letter prepared and signed by the authorizing agency

G. Veterans Benefits

1st choice: Veterans Verification completed by the agency providing the benefits

2nd choice: Most recent award or benefit notification letter prepared and signed by the authorizing agency

H. Military Pay

1st choice: Military Pay Verification completed by the employer, or statement from employer on business letterhead

2nd choice: Check stubs or earnings statements showing the employee's gross pay per pay period and frequency of pay

I. Child Support and/or Alimony

1st choice: Child Support and/or Alimony Verification completed by the Clerk of Court for court ordered support

2nd choice: Child Support and/or Alimony Verification completed by spouse

3rd choice: Copy of separation or divorce decree stating the amount and type of support payment schedule and a copy of the latest support check

J. Welfare (TANF)

1st choice: Social Services Verification completed by the agency providing the benefits

2nd choice: Copy of TANF budget, signed and dated by caseworker

K. Recurring Contributions and Gifts

1st choice: Certification signed by the person providing the assistance, giving the purpose, dates and value of the gifts, or a verification letter from the bank, attorney, or a trustee administering the contribution

2nd choice: Certification from the applicant giving the purpose, dates and value of the gifts

L. Scholarships, Grants, VA Educational Benefits

1st choice: Educational Assistance Verification completed by the school

2nd choice: Educational institution's written confirmation (award letter) of amount of assistance and amount designated for rent, utilities, or room and board

3rd choice: Copies of latest benefit checks, canceled checks or receipts for tuition, fees, books, and equipment, (if such income and expenses are not expected to change for the next 12 months)

Unemployed Applicants

The income of unemployed household members with regular income from any source such as Social Security, pension, recurring gifts, etc., must be verified as covered previously.

If a household member is currently unemployed and claiming zero (0) income, the tenant must provide evidence of anticipated income for the certification year by completing an Unemployed Applicant's Affidavit and provide a signed copy of the prior year's tax return. Unemployed applicants with no verifiable income (those who check 2(b) on the affidavit) may not be counted as low income, but may occupy a market rate unit if permitted by the management plan. The exception to this would be an applicant whose rent is being paid by a government agency; these applicants may be counted as low income.

Calculating Annual Income

Owners must convert all verified incomes to annual amounts. To annualize full-time employment, multiply:

1. Hourly wages by 2080 hours;

2. Weekly wages by 52;

3. Bi-weekly amounts by 26;

4. Semi-monthly amounts by 24;

5. Monthly amounts by 12.

To annualize income from other than full-time employment, multiply:

1. Hourly wages by the number of hours the family expects to work annually;

2. Average weekly amounts by the number of weeks the family expects to work;

3. Other periodic amounts (monthly, bi-weekly, etc.) by the number of periods the family expects to work.

Use an annual wage without additional calculations. For example, if a teacher's aide is paid $27,000 a year, use $27,000 whether the payment is made in 12 monthly installments, 9 installments or some other payment schedule.

Adjusted Gross Income

When determining eligibility to occupy a HOME unit, the household's gross income must always be considered. However, if a tenant *goes over the income guidelines after move-in*, the owner must charge the tenant 30% of their <u>adjusted</u> income for rent. To determine adjusted income, the following allowances may be given.

1. $480 allowance for each dependent. A dependent may not be a head of house, co-head, spouse, foster child, or a live-in attendant. A dependent must be younger than 18, or handicapped or disabled, or a full-time student.

2. Allowance for child care expense. This may not include child support payments or expenses for the care of a handicapped or disabled family member age 13 or older. Child care may only be deducted if the care enables a family member to attend school, work, or seek employment, there is no adult in the household capable of providing the care during these times, the amount deducted is reasonable, not paid to a family member living in the household, or is not reimbursed by any other person or agency.

3. Allowance for handicap assistance expenses. The allowance is the lesser of:

    a. the amount of these expenses which exceeds 3% of annual gross income, OR

b. the employment income adult members of the household earn because the handicap assistance is available.

4. Allowance for medical expenses. This allowance is permitted only for those households whose head or spouse is age 62 or older, handicapped, or disabled. If the household has no handicap assistance expenses, the allowance is limited to the total of medical expenses that exceed 3% of annual gross income. If the household also has handicap assistance expenses, the amount is limited to the amount by which the total of the two expenses exceeds 3 percent of gross income.

5. $400 allowance per household if the head or spouse is age 62 or older, handicapped or disabled.

ASSETS

Assets, other than necessary personal items, are considered along with verified income in determining the eligibility of a household. HOME rules require third party verifications, regardless of the amount, to verify all assets claimed by applicants/tenants at certification.

Valuing Assets

In computing assets, owners must use the cash value of the asset - the amount the family would receive if the asset was converted to cash. Cash value is the market value of the asset less reasonable costs that were or would be incurred in selling or converting the asset to cash. SDHDA considers 10% as a reasonable basis for the costs of conversion.

Example: An applicant owns a home with a market value of $30,000 and a loan against the home of $18,000. The cash value of the asset would be shown as $9,000 ($30,000 less 10% less $18,000).

If assets are owned by more than one person, prorate the assets according to their percentage of ownership. If no percentage is specified, prorate the assets evenly among all owners.

Assets Include:

1. Cash held in savings and checking accounts, safety deposit boxes, homes, etc;

2. Trusts - include the principal value of any trust available to the household. (Do not include irrevocable trusts, i.e. ones that no household or family member can control);

3. Equity in rental property or other capital investments. Include the current market value less

   a. Any unpaid balance on any loans secured by the property, and

   b. Reasonable costs that would be incurred in selling the asset - penalties, broker fees, etc.

4. Stocks, bonds, treasury bills, certificates of deposits, money market funds, etc;

5. Whole Life Insurance – cash value of life insurance policies available to the individual before death (e.g., the surrender value of a whole life policy or a universal life policy). This does not include **term** insurance, which has no cash value to the individual before death.

6. IRA, 401(k) and Keogh Accounts – these are included when the holder has access to the funds, even though a penalty may be accessed.

7. Retirement and pension funds:

   a. Include amount the family can withdraw without retiring or terminating employment.

   b. At retirement or termination of employment: if benefits will be received in a lump sum, include the benefits in Net Family Assets. If benefits will be received through periodic payments, include the benefits in annual income;

8. Lump sum receipts - include inheritances, capital gains, one-time lottery winnings, settlements on insurance and other claims;

9. Personal property held as an investment - include gems, jewelry, coin collections, or antique cars held as an investment. An applicant's wedding ring and other personal jewelry is not counted as an asset; or

10. Assets disposed of within two years before effective date of certification/recertification:

    a. If the cash value of the disposed assets exceeds the actual amount the family received by more than $1,000, include the whole difference between the cash value and the amounts received. Do not include if the difference is less than $1,000.

    Example: A couple gave $2,000 to each of their three grandchildren and deeded a home to their son. The home had a cash value of $40,000 and the son paid his parents $12,000 for the home. $34,000 ($40,000 less $12,000 plus $2,000 x 3) is counted as an asset until such time as the household can certify on an Income Certification form that they did not dispose of any assets during the two years preceding the certification date. (The $12,000 paid by the son may also be counted as an asset, depending on what was done with the payment.)

    b. Do not consider assets disposed of for less than fair market value as a result of a foreclosure, bankruptcy, or a divorce or separation agreement.

    c. Do consider:

       i) Assets put into trusts,

       ii) Business assets disposed of for less than fair market value. (Business assets are excluded from net family assets only while they are part of an active business.

Assets Do Not Include:

1. Necessary personal property (clothing, furniture, cars, etc.);

2. Term life insurance policies;

3. Assets that are part of an active business. "Business" does not include rental of properties that are held as investment and not a main occupation;

4. Assets that are not effectively owned by the applicant - i.e., when assets are held in an individual's name but:

    a. The assets and any income they earn accrue to the benefit of someone else; and

    b. That another person is responsible for income taxes incurred on income generated by the assets.

    Example: Assets held pursuant to a power of attorney because one party is not competent to manage the assets or assets held in a joint account solely to facilitate access to assets in the event of an emergency.

5. Assets that are not accessible to the applicant and provide no income to the applicant.

    Example: A battered spouse owns a house jointly but because of the domestic situation receives no income from the asset and cannot convert the asset to cash.

Asset Verification Guidelines

Checking accounts, savings accounts, certificates of deposit and money market accounts may be third party verified using Asset Verification Form. Checking accounts must use the average balance for the last 6 months, while savings accounts, CD's, etc. must use the current balance or value. Those assets and others such as bonds, stocks, IRA's and retirement funds may also be verified by documentation provided by the tenant, such as copies of statements.

After arriving at a total value of the assets, if the asset value is $5,000 or less, add the actual amount of income to be derived from the assets to the other verified household income. When assets exceed $5,000, add the greater of 1) the actual annual income to be derived from these assets, or 2) the imputed income using the passbook interest rate (currently set at 2.00%) to the total verified household income. The household's combined total income cannot exceed the applicable low-income limits at move-in.

ANNUAL RECERTIFICATION OF TENANTS

All households occupying a rental unit in a HOME-funded development must be recertified at least annually from the date of occupancy. Interim recertifications are not required under the HOME Program. Although management may at their own option, choose to process interim recertifications, SDHDA only requires annual recertifications from the date of occupancy. If a development owner/manager chooses to process interim recertifications, it must be done consistently for all tenants, and, they must also process annual recertifications that coincide with the date of occupancy.

Annual recertifications must be effective on or before (but not more than 30 days before) the occupancy anniversary date. Verifications may be obtained up to 120 days prior to the recertification date. In no event will a period of twelve (12) months pass without a recertification being completed.

REPORTING REQUIREMENTS

The following reports are due to SDHDA in March of each year. The forms can be found on the pages noted. They can be copied or downloaded from the SDHDA website.

1. Annual Owner Certification
2. Tax Credit/HOME Compliance Monitoring Status Report
3. Move-In, Move-Out Report
4. Designation of authorized representative
5. Narrative on Affirmative Marketing outreach efforts

1. Annual Owner Certification

The Annual Owner Certification certifies to the activities of the past calendar year. The Annual Owner Certification form was revised by SDHDA in 2013 and combines the HOME reporting form with the Housing Tax Credit Program reporting form.

2. Tax Credit/HOME Compliance Monitoring Status Report

A Tax Credit\HOME Compliance Monitoring Status Report calculated as of the last day of the month, must be completed on a monthly basis and retained in the project's files. When completing the Monthly Occupancy Report, enter either 50%, 60%, or 80% under the column entitled "% Median Income." For projects with less than 100% low-income dedication, enter NR in this column for the non-restricted units. The actual income for households occupying rent-restricted units shall be entered under the "Income" column. Income for non-restricted units shall be designated by N/A.

Copies of these monthly reports must be submitted to SDHDA along with the Annual Owner Certification each year. The 12 reports submitted shall be for the preceding calendar year.

3. Move-In, Move-Out Report

A Move-In Move-Out Report must be kept for each year. List each unit under the "Unit" column and enter R (restricted) or N (non-restricted) under the "Unit Type" column. When someone moves in, enter the last name in the appropriate month's column. When someone moves out and the unit is vacant, enter the letter "V" in the appropriate monthly column.

This report tracks the project's vacancies and rentals. A copy of the report must be submitted with the other required documentation each year.

4. Designation of authorized representative

If the owner wishes to designate the management agent or someone else to complete these required forms, the Designation of Authorized Representative if applicable, must be submitted to SDHDA with the Annual Owner Certification. Once this form is submitted, it will not need to be completed again unless the Authorized Representative changes or the owner chooses to revoke the original submission. Without this authorization form, the required certifications will not be accepted without the owner's signature.

5. Narrative on Affirmative Marketing outreach efforts

The owner must submit a written narrative of the affirmative marketing outreach efforts taken to market the development in the past year. There is no specific form for this report. Details of marketing and copies of advertisements should be attached.

SDHDA will monitor for Program compliance by reviewing annual owner certifications of compliance reports. Failure to submit reports as required will put the development into a noncompliance rating.

HOME COMPLIANCE TRAINING REQUIREMENTS

Prior to project completion, owners must complete a minimum of two hours of compliance training with the SDHDA HOME Compliance Officer. Owners are responsible for calling SDHDA to make the necessary arrangements.

The individual who completes the tenant files must attend HOME compliance training prior to the Placed in Service Date of the property, and at a minimum of once every three years thereafter. A certificate of attendance will be required. Completion of a Professional HOME certification course is recommended.

ON-SITE COMPLIANCE REVIEWS

Based on the **total number of units in the property**, on-site reviews, both the building inspection and management review, will be conducted every 3 years for projects of 1-4 units, every 2 years for projects with 5-25 units and each year for projects with 26 or more units. Reviews may be conducted more frequently if determined necessary based on concerns raised during a previous review.

SDHDA staff will contact the owner/agent in advance to schedule both the building inspection and management compliance review. The building inspection and management office compliance review will be conducted separately.

The goal of the development inspection is to ensure that the building is being well-maintained, and that the units are in compliance with HUD Housing Quality Standards and other pertinent building codes to assure the units are decent, safe, and sanitary.

A management compliance review is a structured review conducted where program and project records are maintained. The three monitoring goals are to:

- Ensure production and accountability
- Ensure compliance with HOME and other Federal requirements; and
- Evaluate organizational and project performance

During a management office compliance review, SDHDA staff will review tenant income certifications, third party verifications or other forms of income documentation, leases, and other management information, and a review of the marketing file and efforts of the owner. Other areas may be reviewed for compliance, according to specific written agreements between the owners and SDHDA at the time of commitment.

SDHDA staff will look at the following:

- Preventive Maintenance Schedule
- List of property damages and if chargeable to residents, fee charged
- Written rent collection policy and procedures
- Written (UPDATED) tenant selection plan, including application
- Current lease, house rules, eviction procedures, pet policy (if applicable
- Copies of all forms being used for applications and recertifications
- Copies of all verification forms used
- Affirmative Fair Housing Marketing Plan (HUD Form 935.2A), page 69
    - Advertising
    - Equal Housing Opportunity Posters
    - Correspondence, logos
    - Marketing plans
- Sample of rejection letter
- Written rules for use of community space (if applicable)
- Copies of all advertising efforts for the past year
- Management Agreement
- Current copy of Rent Roll (if applicable)
- Copy of first mortgage current loan balance
- Copies of operating and security deposit account balances
- Copy of Replacement Reserve account balance and withdrawal records
- Copy of paid real estate taxes and property insurance
- Work order journals or logs for each property
- Tenant ledger with current rent portion
- Aged resident receivable
- Waiting list of prospective residents
- Resident, Rejection and Eviction files and records
- Policies and procedures manual
- HUD 4350.3 REV 1, Change 4 Handbook
- Police reports, property plan, task force information
- Current copy of Rent Schedule and SDHDA approval letter
- Lead Base Paint Disclosure

TENANT FILES

Each HOME qualified household must have their own file. All permanent documents must be kept together so they are accessible at each compliance review (e.g. birth certificates, HOME lease agreement, move-in inspection report, etc.). Annual recertification information, including the tenant questionnaires, release forms, verifications, and annual inspection reports must be grouped together by year, with the most recent year on top for review.

The tenant files must contain the following:

- Tenant Application (must be time and date stamped)
- Tenant Questionnaire w/summary format for computing 24 CFR Part 5 Income & Assets (to be completed annually)
- Tenant signed release forms (all adults age 18 & over) must be signed annually
- Government issued photo I.D. or birth certificate
- Documentation of social security numbers
- Verifications of income (obtain annually)
- Move-in inspection, annual inspection reports, and if applicable, move-out inspection
- HOME Program Lease Agreement
- Declaration of Section 214 Status or Citizenship Form
- Race/Ethnic Data Reporting Form
- Credit/Criminal background check
- Lead based paint acknowledgements (rental rehabilitation only; built pre-1978)
- If applicable, Section 8 HUD 50059 tenant family certification form

HOME forms can be found at the websites referenced in the front of this manual.

All move-out files must contain the following:

- Written 30-day notice to vacate apartment (if not available – document in file).
- Move-out inspection report (both parties signed & dated).
- Security deposit refund (check # & date) or letter of intent to withhold security deposit within 14 days of move-out.
- Itemized list of costs to tenant within 45 days.

Tenant records, including income verifications, development rents, and unit inspections must be retained for the most recent five year period, until five years after the affordability period terminates.

SDHDA HOME Program Risk Assessment Policy

Purpose: To determine the appropriate frequency of site visits for HOME-assisted projects using factors related to the project and its market to identify relevant risks and the potential impact of those risks.

Introduction: HOME Projects will be assessed using the risk assessment policy described below. The frequency of inspection will be revised accordingly. No project subject to an annual inspection will be moved to a three year rotation, without first being subject to an inspection on a two year rotation.

Process: Program Compliance will apply the risk assessment policy to all existing Home-assisted projects. The risk assessment will be applied to each new HOME project after closing out the lease up inspection. After each assessment, the Compliance Manager will evaluate the scores and determine if the recommended scheduling frequency is appropriate. If the score is accurate based on project knowledge and professional expertise, the project will be assigned the appropriate rotation.
Using the scale below, projects will be assigned a monitoring frequency, which will then be evaluated annually using this policy as well as other tools. Projects will be notified of the anticipated monitoring frequency. Based on information received, or analysis by, the Agency, a project may be monitored more frequently than the risk assessment policy indicates.

Monitoring Frequency Points Scale:

A. 0-7 points = 3 year cycle
B. 8-20 points = 2 year cycle
C. 21-50 = 1 year cycle

1. Is the project on the Watch List: (Y/N) (Automatic 1 year or less review/0) – projects identified for the Watch List have potential compliance and/or performance issues. (Extremely High)

2. Is the developer, owner, or manager considered not in good partnership with SDHDA programs? Project participants considered not in good partnership pose a significant risk owing to documented performance issues. (High)
   a. Developer – Y/N (10/0) (newly Placed in Service projects only)
   b. Owner of Manager – Y/N (10/0)

3. Total numbers of units in the project – projects with a small number of units are often self-managed, while larger projects present challenges to even the most capable management companies. (medium)
   a. Under 30 (3)
   b. 31-80 (2)
   c. Over 81 (3)

4. Number of assisted units – the higher the number of Assisted Unites, the more HOME funds at risk. (Low)
   a. Four or fewer (1)
   b. 5-9 (2)
   c. 9 or more (3)

5. Property type – while projects of any type can encounter issues, the nature of rehabilitation indicates a potential for physical condition issues. (Medium)
   a. New construction (0)
   b. Rehabilitation (1)

6. Target population – the population residing in an apartment community can impact property conditions as well as create potential compliance issues through the process of certifying resident income (Low)
    a. Elderly/Permanent Supportive Housing (0)
    b. Family/Other (1)

7. Rural Development and/or HUD subsidy (Section 8) (Y/N) (0/2) – both HUD and RD conduct inspections and engage in asset management. The involvement of these entities reduces the overall risk. (Low)

8. LIHTC (Y/N) (0/2) - owing to the involvement of private investors with a significant interest in the continued availability of Housing Credits, projects with Housing Credits generally pose less risk than those without credits, (Medium)

9. Property Status Report Score – Prior Review - The Property Status Report score takes into account a variety of compliance and marketability issues in order to derive an overall performance score. (High)
    a. Unsatisfactory, Response Required = 10 points
    b. Satisfactory, Response Required = 5 points
    c. Satisfactory, No Response Required = 0 points

10. Physical Property Review Report Score – Prior Review – The Physical Property Review Report score takes into account the condition of the grounds, building(s) and associated systems as well as health and safety concerns in order to derive an overall performance score (High)
    a. Unsatisfactory, due to life/safety citations = 5 points
    b. Unsatisfactory = 3 points
    c. Below Average = 2 points
    d. Satisfactory = 1 points
    e. Superior = 0 points

11. Vacancy rate (most recent rate as reported during an inspection in the current Fiscal Year, or an reported in the Annual Owner Report) – a high vacancy rate impacts the cash flow of the project, putting the project at financial risk. (High)
    a. 0-10% = 0
    b. 11-25% = 2
    c. 26-40% = 3
    d. 41%+ = 4

12. Has the project changed management/onsite management/ownership within the past 12 months? (Y/N) (10/0) (High)

13. Is the Reserve for Replacement Account as per the Regulatory Agreement fully funded? (Y/N) (0/10) (High)

14. Has the project recently requested an amendment to its gap financing agreement or restrictive covenant based on market or related issues? (Y/N) (5/0) – A request for a modification

indicates that some aspect of the original project is not working as originally intended. (Medium)

15. Issuance of IRS Forms 8823 (Y/N) (maximum of two points) – a significant number of SDHDA HOME projects have Housing Credits. When the Credits are at risk, as implied by the issuance of Forms 8823m the overall project is at risk. (High)
    a. No forms issued (0)/NA
    b. Corrected (1)
    c. Uncorrected (2)

16. Other (describe the issue or consideration that indicates the project should be monitored more frequently) (maximum of 5 points) (Medium)

Additional criteria for the financial risk assessment (Watch List) of the property will be added at a later date.

Non-compliance

If SDHDA does not receive the required certifications when due or if SDHDA discovers on audit, inspection, or review, or in some other manner that the project is not in compliance with HOME regulations, SDHDA will notify the owner as soon as possible.

The owner will have an opportunity to supply missing certifications or to correct noncompliance within a specified correction period, not to exceed 30 days from the date of the notice to the owner. At the sole discretion of SDHDA, the correction period may be extended for a period of up to 6 months if there is good cause for granting an extension.

Failure to correct regulatory noncompliance issues could result in an increase in loan interest rate to market rate, accelerating the payment schedule, or recall of the development loan.

LIABILITY

Compliance under the requirements of the HOME Program is the responsibility of the owner of the property. SDHDA's obligation to monitor for compliance with the requirements of the Program does not make SDHDA liable for an owner's noncompliance.