

Verification of Information

Presented by: Anita Moseman



Verification Procedures

- Verification is a very important step



Verification Procedures

- Need to verify all information that determines income, assets, family composition and eligibility



Types of Verification

- Written third party
 - Most desirable
 - Only time you can use review of documents is when the 3rd party is delayed by more than 2 weeks or impossible to obtain
 - Must document why no 3rd party and efforts to obtain



Verification

- Verification form should have authorization statement
 - Complete who it is to and from
 - Should be sent to third party
 - Keep a copy in file until verification is returned
 - Ask enough questions to get the answers you need



Verification

- Written third party verifications are good for 120 days from the date you receive them back



Types of Verification

- Oral third party



Types of Verification

- Electronic Verification



Types of Verification

- Review of documents
 - Bank statements
 - Check stubs
 - Grant award letters



Types of Verification

- Self affidavits



Incomplete Verifications

- Information should be complete



Incomplete Verifications

- If not, contact the source



Incomplete Verifications

- Ask the questions you need clarified and use a clarification form



Compliance Challenges for Multi-financed Properties

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Gross Rent (Maximum) Rents

- Can charge HUD tenant portion in excess of Tax Credit tenant portion as long as resident receives at least \$1 in subsidy for Section 8 Project Based
- When you terminate assistance a problem is created because your HUD contract requires you to charge contract rent which is usually higher than Maximum Rent
 - If you have a mixed property it may be possible to switch subsidy on units
 - If you have a 100% HUD property, you need to call CHAFA for guidance



ELIGIBILITY

- HUD
 - All information reported by the family is subject to verification
- TAX CREDIT
 - Confusing because State Agencies may have additional requirements or less restrictive requirements
 - IRS says you do not need to verify other than a self certification assets if they total less than \$5,000
 - Cannot have EIV in the file



Required Verification Language

- HUD
 - Must clearly state in a prominent location that the applicant or tenant may not sign the consent if the form does not clearly indicate who will provide the requested information and who will receive the information
- TAX CREDIT
 - Not required by IRS



Required Verification Language

- HUD
 - Language in Figure 5-5, Page 5-54 must appear on all verification consent forms
- TAX CREDIT
 - Not required by IRS



ELIGIBILITY

- HUD
 - Various subsidy or insurance programs may impose additional occupancy restrictions
- TAX CREDIT
 - Need to be aware of to be in compliance with Tax Credit



Determining Eligibility of Students who are Head or Co-head

- HUD
 - Applies to both part-time and full-time students
- TAX CREDIT
 - Not required by IRS



Determining Eligibility of Students who are Head or Co-head

- HUD
 - Must first determine if individual is under 24 and enrolled at an institution of higher education
 - If a student must determine if they are
 - A veteran
 - Married
 - Have dependent children
 - If not veteran, married or have dependent children
 - Student must be eligible
 - Parents must be eligible
 - Unless student can show independence from parents
- TAX CREDIT
 - Not required by IRS



DETERMINING INDEPENDENCE FROM PARENT

- HUD
 - A student must meet one or more of the following criteria:
 - Be at least 24 years old by 12-31 of the award year for which aid is sought
 - Be an orphan or a ward of the court through the age of 18
 - Be a veteran of the U.S. Armed Forces
 - Have legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
 - Be a graduate or professional student or
 - Be married
- TAX CREDIT
 - Not required by IRS



Determining Independence from Parent

- HUD
 - Must be of legal contract age under state law
 - Must have established a household separate from parents or legal guardians for at least 1 year prior to application or meet definition of an independent student
 - Must not be claimed as a dependent by parents or legal guardians
 - Must obtain a certification of amount of financial assistance provided by parents, guardians or others providing support. This is required even if no assistance will be provided and must be counted as income
- TAX CREDIT
 - Not required by IRS



SECTION 8 STUDENT INCOME CALCULATION

- 24 or older student with dependent children
 - Don't count financial aid as income
- All other students
 - Count amounts of scholarships, grants and work study in excess of tuition
 - Don't count student loans



Full-time Student Household

- HUD
 - Not required
 - Will not allow lease provision
 - Doesn't feel it is reason for eviction
- TAX CREDIT
 - Required by IRS
 - Should have a lease provision
 - Should evict



Full-time Students

- HUD
 - The educational institute defines the # of hrs.
- IRS
 - Anyone attending school 5 mos. or more during the calendar year



Full-time Students

- HUD
 - Doesn't apply
- TAX CREDIT
 - Cannot rent to households comprised totally of full-time students unless they qualify for an exception
 - If a household's status changes & they don't qualify for an exception, they are ineligible



Full-time Student Household

- Options
 - If mixed property, it's possible to switch units
 - Don't take credits on the unit during the time when the household doesn't qualify
 - Owner might pay resident to move
 - Interview resident and discuss situation



Resident Screening

- Application fees?
 - Tax Credit
 - HUD
- Minimum Income Requirements?
 - Tax Credit
 - HUD



Income Calculations

- Hourly ranges?
 - Tax Credit
 - HUD
- Anticipated income?
 - Tax Credit
 - HUD



Tenant Certification

- What form to use?
 - Tax Credit
 - HUD



Set-Asides

- Mapping the property
 - Tax Credit
 - HUD
- Floating or switching units
 - Tax Credit
 - HUD



Leasing Requirements

- Term of initial lease?
 - Tax Credit
 - HUD
- Lease renewal?
 - Tax Credit
 - HUD
- What lease to use?
 - Tax Credit
 - HUD



Fair Housing and 504

- Fair Housing Act?
 - Tax Credit
 - HUD
- Section 504?
 - Tax Credit
 - HUD
- ADA?
 - Tax Credit
 - HUD
- Age Discrimination Act?
 - Tax Credit
 - HUD



Managing Resident Files

- Separate files?
 - Tax Credit
 - HUD



Record Retention

- How long do I keep resident files?
 - Tax Credit
 - HUD



Violation(s) of the Available Unit Rule

- 8823 Guidebook – page 14-1, regarding Category 11i, under Section 42(g)(2)(D)(ii)



Available Unit Rule

- Is defined as any vacant unit, or any unit that is subsequently vacated in the same building, of comparable or smaller size.

8823 Guide – Page 14-2



Available Unit Rule

- Also known as the 140% rule
 - If an initially eligible household's income increases in excess of 140% of the current applicable income limit, the Available Unit Rule (aka 140% rule) applies.



Example:

- An household moves into a community, the household qualified under the applicable income limit of \$24,000.
- At time of recertification, the household's income has increased to \$27,000 **AND** the current applicable income limit is \$26,000...



Example:

- To determine the correct amount of 140%, calculate on the current applicable income limit X 140%.
- $\$26,000 \times 140\% = \$36,400$
- If the resident's income is over \$36,400, the 140% rule applies.



Available Unit Rule

Key concepts

–The Available Unit Rules is used to replace over-income units with new low-income units as available units are rented. Alternately, over-income units may be returned to low-income status if the household's income decreases or the AMGI increases.



Available Unit Rule

Key concepts

- In a project containing more than one low-income building, the Available Unit Rule applies separately to each building.



Available Unit Rule

Key concepts

- If any comparable or smaller unit is available or that subsequently becomes available is rented to a nonqualified resident, all over-income units within the same building for which the Available Unit is comparable or larger lose their status as low-income units.

Available Unit Rule

Key concepts

- The Available Unit Rule should not be confused with the Vacant Unit Rule, which applies without regard to the income of existing tenants.

8823 Guide – Page 14-3



Available Unit Rule

- A building is in compliance when the current applicable fraction is a the applicable fraction on which credit is based.

8823 Guide – Page 14-3



Available Unit Rule

- Conditions to satisfy rule:
 - Unit must be kept rent restricted;
 - Next available unit of equal or smaller size must be rented to qualified household.



Available Unit Rule

- Noncompliance occurs when a comparable or smaller unit than the over-income unit is rented to a nonqualified household when the current applicable fraction is less than the applicable fraction for which the credit is based.

8823 Guide – Page 14-4



Available Unit Rule

- The Available Unit Rule is also violated when an owner of 100% LIHC project fails to rent a unit to an income-qualified household and cannot demonstrate due diligence when completing the initial income certification. The rule is also violated if the owner deliberately rents a unit as a market-rate unit.

Available Unit Rule

Back in Compliance

- Once the Available Unit Rule has been triggered, the noncompliance can be corrected by renting any combination of market rate units, over-income units, and out of compliance low-income units as rent restricted units to income qualified households until the applicable fraction upon which the credit amount is based is restored.

8823 Guide – Page 14-3



Violation(s) of the Vacant Unit Rule

- 8823 Guidebook – page 15-1, regarding Category 11j, under Reg. 1.42-5(c)(1)(ix)



Empty Unit vs. Vacant Unit

- Empty Unit:
 - A Low Income Housing Credit unit that has *never* been rented.
- Vacant Unit:
 - A Low Income Housing Credit unit that a qualified household has vacated.



Vacant Unit Rule

- Requires that once a qualified Housing Credit unit is vacated, no other unit of smaller or comparable size in the building can be rented to non-qualifying households.



Vacant Unit Rule

- The definition of an available low-income unit for purposes of the Vacant Unit Rule is the same as used for the Available Unit Rule.

8823 Guide – Page 15-1



Vacant Unit Rule

- When a qualified household occupies a Housing Credit unit, the unit becomes part of the Applicable Fraction.
- When a qualified household vacates a Housing Credit unit, the unit will continue to maintain its position in the Applicable Fraction as long as the Vacant Unit Rule is followed.



Example

- Total Housing Credit Units = 50
- Occupied Units = 30
- Empty Units (never leased) = 20
- Vacant Units = -0-

One household vacates a Housing Credit unit, you now have...



Example

- Total Housing Credit Units = 50
- Occupied Units = 29
- Empty Units (never leased) = 20
- Vacant Units = 1

The Applicable Fraction will not change as long as the Vacant Unit Rule is followed.



Vacant Unit Rule

- As long as reasonable attempts are being made to rent to qualified low-income households before renting units to non-qualifying tenants, vacant Housing Credit units will continue to be included as qualified low-income units for purposes of determining the Minimum Set-Aside & calculating Applicable Fraction.

Vacant Unit Rule

- What constitutes reasonable attempts to rent a vacant unit is based on facts and circumstances, and may differ for project to project depending on factors such as the size & location of the project, tenant turnover rates and market conditions.

8823 Guide – Page 15-1



Vacant Unit Rule

- Remember, the number of occupied units and the number of vacant units both count toward the Applicable Fraction.



Vacant Unit Rule

- A project is in compliance when reasonable attempts are made to rent vacant low-income units (comparably sized or smaller than the vacated units) to tenants having a qualifying income before any units are rented to non-qualifying tenants.

8823 Guide – Page 15-2



Vacant Unit Rule

- A unit is not available for purposes of the Vacant Unit Rule when the unit is not longer available to rent due to contractual arrangements that are binding under local law, such as a reservation entered into between a building owner and a prospective tenant.

8823 Guide – Page 15-2



Vacant Unit Rule

- Non-compliance occurs when the owner does not make reasonable attempts to rent vacant low-income units and rents units to non-qualified tenants.

8823 Guide – Page 15-3



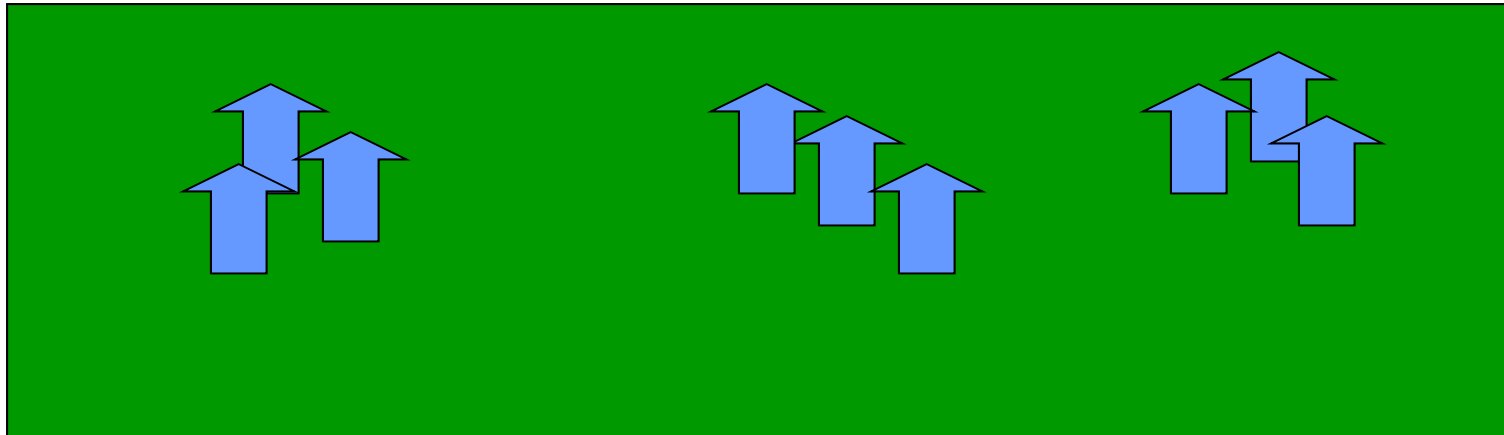
Vacant Unit Rule

- If the Vacant Unit Rule is violated, all vacant units previously occupied by qualified households lose their low-income status & are not considered qualified units.

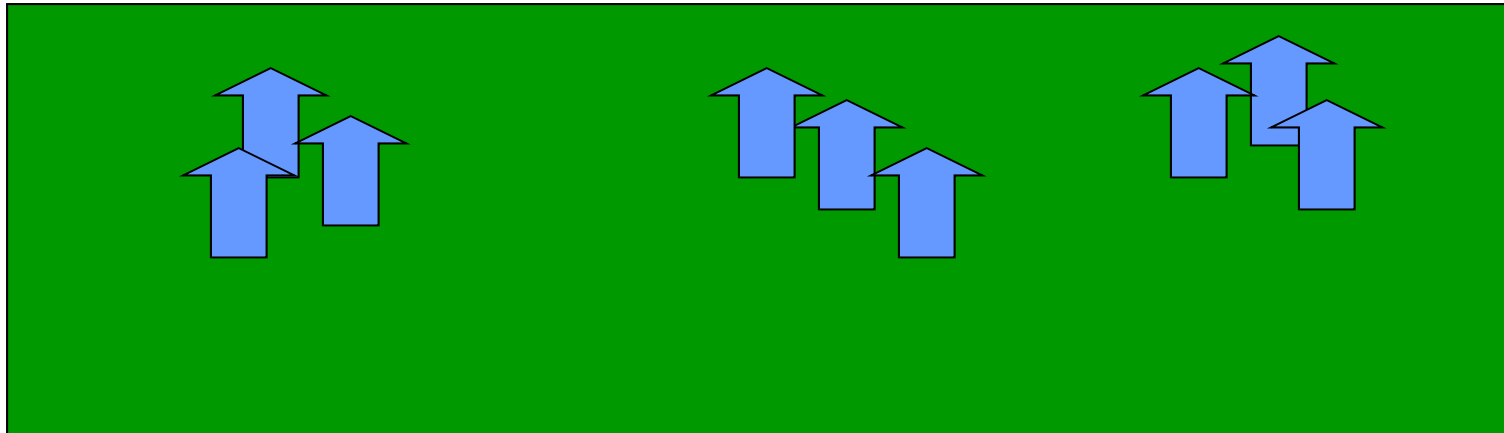
8823 Guide – Page 15-3



Defining The “Project”

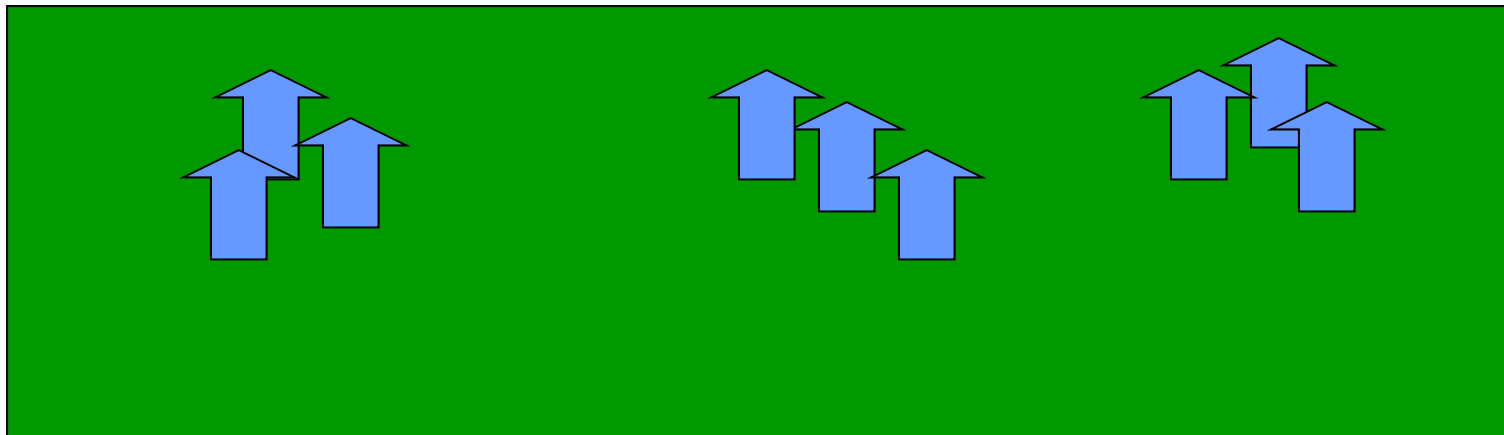


- Each low-income building is considered a separate “project” under IRC 42(g)(3)(D)
- May elect to include low-income buildings in multi-building project
- Election made on Form 8609, Line 8b



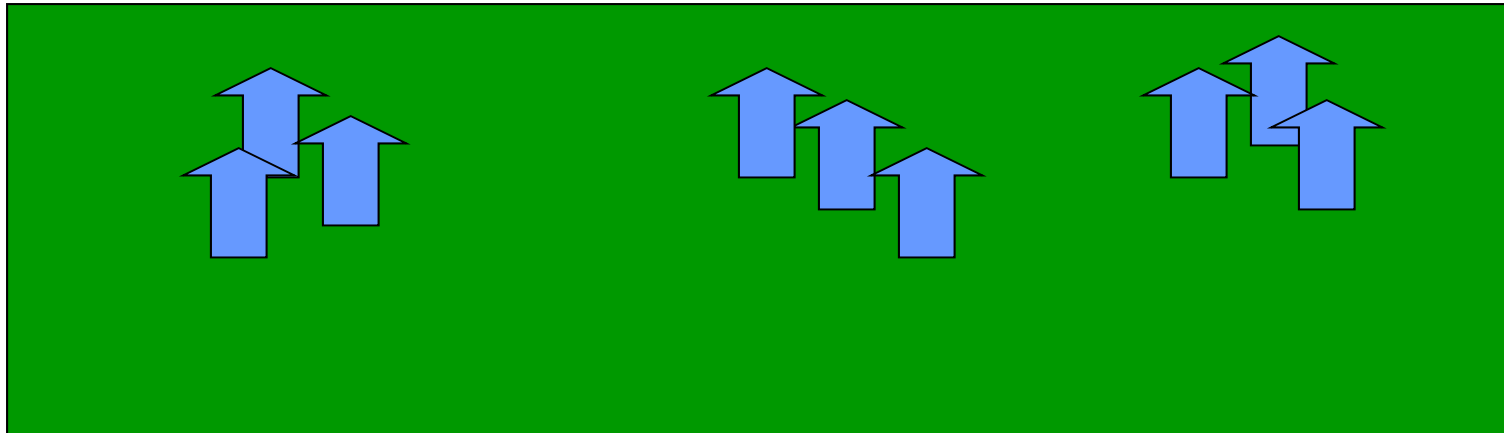
Low-income buildings in the “project” must be:

- Located on the same tract of land, unless all units are low-income units.
- Owned by the same person for federal tax purposes.
- Financed under common financing plan
- Similarly constructed housing units

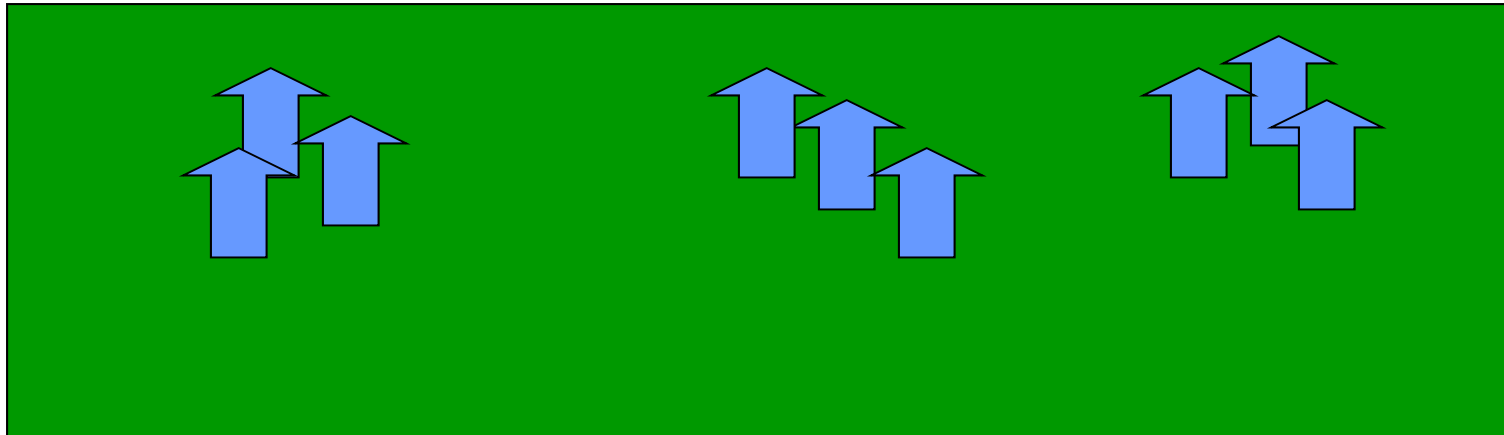


Why LIHC Buildings are Grouped into “Projects”

- Developed in phases
- Timing of completion, when PIS, and lease-up
- Meeting requirements
- Maximizing LIHC for investors



Requirements & Rules



Low-Income Households

- Swapping Rules are “project” based
- Annual Recertification Exception is “project” based (100% LIHC projects)
- Student Exception Rules are “unit” based
- Utility Allowances are “building” based
- Transient Use is “unit” based
- Eviction/Rent Protection Rules are “household” based



Suitability for Occupancy

Neither “project” or “building” based

- Rental Units
- Buildings
- Common Areas & Facilities
- Property Site

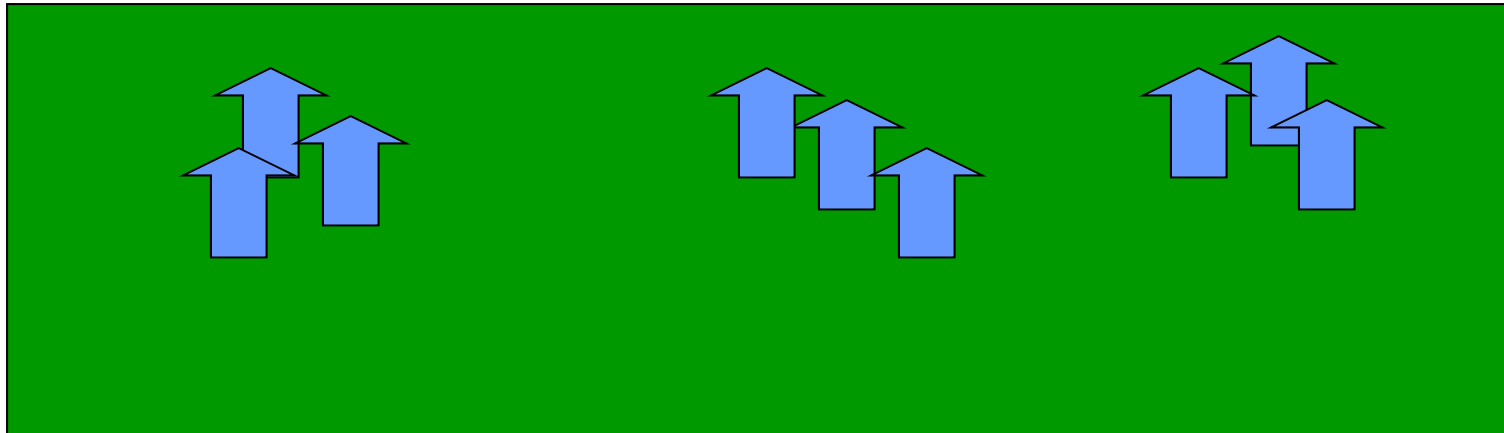


Technical Requirements

- Federal grants are traced building-by-building
- General Public Use Rule is “unit” based
- Next Available Unit Rule is “building” based
- Vacant Unit Rule is “project” based
- Extended Use Agreement is “building” based
- “No Longer Participating” is “building” based
- Nonprofit Participation is “project” based



Minimum Set-Aside Requirement (IRC 42(g)(1))

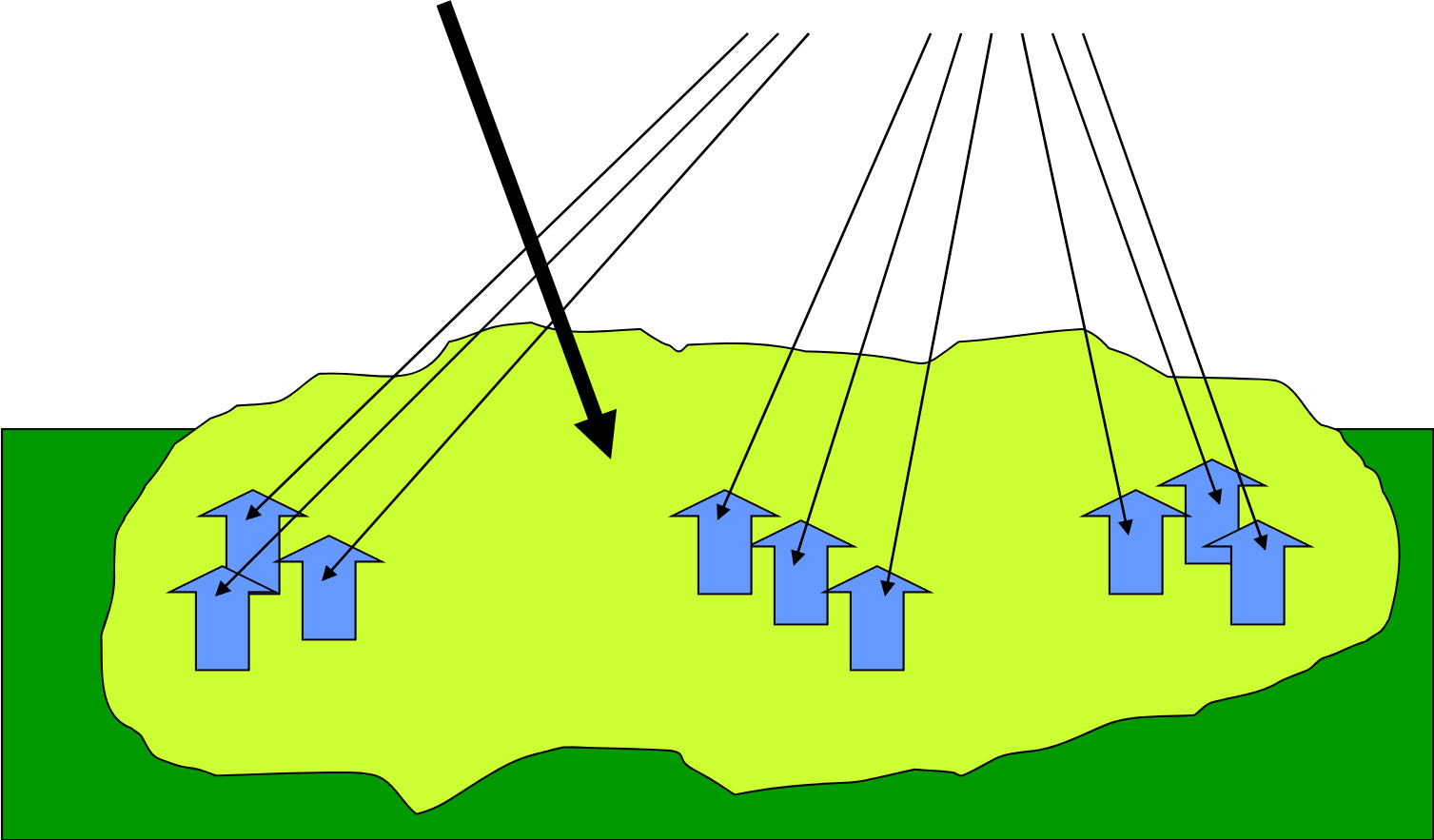


Minimum Set-Aside Requirement:

- “Project” based
- Minimum number of low-income units required to qualify for any LIHC.
- Irrevocable election (Form 8609)
- Determines AMGI used to identify qualifying households
- Determines Gross Rent Limit



Minimum Set-Aside = Applicable Fraction



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Thanks

