



# 2025 Compliance Refresher & Common Issues

for Owners & Managers of  
HDC-Financed LIHTC Developments

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# INTRODUCTION

The New York City Housing Development Corporation (HDC) monitors properties that have been financed with 4% Low Income Housing Tax Credits allocated by the New York City Department of Housing Preservation and Development (HPD) and tax-exempt bonds issued by HDC.

In the course of monitoring these properties, we have identified a number of recurring issues which may delay our review process and/or result in the property owner being cited for noncompliance with the federal LIHTC requirements and/or the HDC Regulatory Agreement. This document is intended to remind owners and managers of these recurring issues, so that they may be avoided and internal processes corrected. *(This document is not all-encompassing and does not substitute for the more thorough direction furnished elsewhere by HDC, the Internal Revenue Service (IRS) and the U.S. Department of Housing and Urban Development (HUD).)*

## I. ANNUAL OWNER CERTIFICATION SUBMISSIONS

- All properties must use the appropriate template (LIHTC or EUP) when preparing AOC submissions. If you are unsure which template is necessary, please contact [ownercerts@nychdc.com](mailto:ownercerts@nychdc.com).
- For mixed-income projects, the Final Cost Certification must be submitted at least once to document reporting requirements.
- For mixed-income and deep-rent skewed projects, the Next Available Unit Rule (NAUR) tracker must be submitted annually to document ongoing compliance and reporting requirements.

## II. INCOME CERTIFICATIONS:

### Income Verification & Audit File Documentation

#### 1. **Income Verification:**

##### *Payday Loans, Cash Advances, and Credit Building Accounts:*

- As payday loan, cash advance, and credit building applications (“apps”) have become popular, it is important to note that many of these accounts can hold a balance and therefore are subject to asset verification requirements.

##### *Insurance Policies:*

- If any transactions with an entity that offers life insurance are identified, clarification and/or verification of the type of insurance policy that the household has is required. The cash value must be verified for any Whole Life Insurance policies.

##### *Undisclosed Accounts, Income, and Household Members:*

- Management must review all file documentation to determine if there are any discrepancies that need to be addressed prior to lease signing. This includes reviewing all income and asset documentation (e.g. pay stubs, tax returns, budget letters, deposits, withdrawals, and transfers on the bank statements, etc.) for any undisclosed accounts, sources of income, or household members. All discrepancies must be clarified with an Acceptable Form of Verification outlined in HUD Handbook 4350.3 Appendix 3.

#### 2. **Audit Documentation:**

##### *Documentation Submitted to HDC for File Review:*

- If documentation has been submitted to HDC, it must be reviewed. Even if the total assets were under the applicable asset threshold and statements did not need to be included, if included, they will be reviewed. Any findings or discrepancies found on these statements will not be waived/nullified.

##### *Altering Documents:*

- Verification documents that have been noted as insufficient by HDC **may not be retroactively altered** or tampered with (e.g. text should not be edited or added on a document [or copy of a document] that was previously submitted). Documentation must be updated in a manner consistent with HUD’s acceptable forms of verification. New verifications are required in such cases.

##### *Document Security:*

- Documentation signed by the tenant, notably Tenant Income Certifications (TICs) and Student Status Certifications, must be **sufficiently secured**. This means that the documents are not easily editable, and there is a **means of preserving the integrity of the document as it was signed**.

### III. RECERTIFICATIONS

#### 1. Documentation:

- If a full-income recertification is needed for LIHTC properties, a recertification questionnaire is required as part of the income recertification.

#### 2. Student Status:

- Student Status Certifications must include an effective date at the top of the form. If the effective date is missing, the form will be treated as a missing certification for the review year.
- If all household members are students (full-time or part-time), enrollment verification must be obtained for each household member to confirm the student status. As a reminder, Student Status is determined by the educational organization.
- If all household members are full-time students and claim to meet one of the allowable exceptions, verification of the exception must be included with the student status certification form for the certification to be considered complete.

#### IV. ELECTRONIC SIGNATURES

Electronic Signatures (E-Signatures) are acceptable for initial certifications as well as ongoing recertifications so long as these signatures adhere to the standards outlined on the attached *10.10.1 IRS Electronic Signature (e-signature) Program* memorandum. These include, but may not be limited to:

- The signer(s) using an acceptable form of electronic signature(s)
- The signer(s) consenting to the electronic signature(s) protocol
- The electronic signature(s) being attached to or associated with the electronic record being signed
- There is a means to identify and authenticate the person(s) as the signer(s)
- **There is a means of preserving the integrity of the signed electronic record**

Owners and managers are responsible for developing policies and procedures to ensure electronic signatures obtained meet the aforementioned requirements as all signatures must be authenticated and have a date and time stamped by the software being used to collect the e-signature. **The software must also produce a tamper-proof completion certificate or equivalent record of signature.** Most e-sign software contains built-in processes that implement these requirements, however, Owners seeking to utilize electronic signatures should confirm their software's compatibility with all requirements.

When using electronic signatures, Owners and Agents must continue to ensure that they collect all required supporting documentation for initial certifications and/or ongoing recertifications and that certifications are made under the penalty of perjury.

## V. SELF-DECLARATIONS

- Due to changes under HOTMA, some notarization requirements have been lifted for certain HPD/HDC forms effective after 4/1/25. This does not apply to certifications prior to 4/1/25 and is not a blanket waiver for all notarization requirements.
- HDC and HPD have updated our standardized forms to remove the notarization requirement and include the following certification language: “I/WE THE UNDERSIGNED, CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I have not withheld, falsified, or otherwise misrepresented any information. I fully understand that any and all information I provide during this certification process is subject to review by the New York City Department of Investigation (DOI), a fully empowered law enforcement agency which investigates potential fraud in City-sponsored programs. I understand that the consequences for providing false or knowingly incomplete information in an attempt to qualify for this program may include the disqualification of my application, the termination of my lease (if discovery is made after the fact), and referral to the appropriate authorities for potential criminal prosecution.”
  - **If the above language is not included on a self-statement, then the self-statement would need to be notarized.**
- All self-declarations must be accompanied by a detailed explanation as to why third-party verification was unobtainable, including the specific reasons, such as time constraints, lack of access to required sources, or the absence of an appropriate verifying entity.



## VI. RESPONSES TO AUDIT AND AOC FINDINGS

### 1. General

- The TIC must be revised and re-executed whenever new information or updated documentation is added to the file to ensure that all data on the certification accurately reflects the household's current income.
- When providing a response to the Audit and/or AOC Findings, Management must upload documentation separately by unit number and must not combine multiple units into a single PDF.
- Management must ensure that current documentation provided in a response does not result in an income combination issue (i.e. income verified post effective date and assets verified prior to the effective date). The entire file must be reviewed prior to re-submission to ensure that no new discrepancies are present.
- Responses uploaded to the SharePoint Online folder must be clearly named to identify which unit the response is for.
- Responses should only be combined on the unit level:
  - If the recertification was incomplete and the rent ledger was not provided for unit 1A, these items can be combined into one pdf file when uploaded.
  - If 10 rent ledgers were not provided, the rent ledgers must be uploaded in separate pdf files for each unit.
- For projects subject to a LIHTC Audit Review for the certification year, HDC will notify the Project of all findings from the LIHTC Audit and AOC Review at the same time. The Project must respond to all noted findings on the LIHTC Audit Report and the AOC Findings Report.
  - HDC has seen several instances where a Project will only address the findings from the LIHTC Audit Report and not the AOC Findings Report or vice versa.
  - Responses must also be uploaded to the appropriate folders in SharePoint Online as indicated in HDC's Notification of Findings email.

## 2. AOC Findings Report

### VUR (Vacant Unit Report):

The following information is needed for this report:

- **Previous Tenant Information**

- Name of the previous tenant
- Move-out date

Vacate Record →	
Former Tenant	Vacate Date
Smith, John	12/1/2024
Wilson, James	

- **Unit Status**

- Indicate whether the unit was taken offline or deemed suitable for occupancy.
- If yes, provide a detailed explanation.
- Include the date management took possession of the unit or, if the unit was unsuitable for occupancy, the date it was taken offline.
- Include the date the unit was made suitable for occupancy.
- If there is a large gap between the date the unit went offline and the date the unit was ready for occupancy, then an explanation is required.

Offline Period & Unit Preparation for Occupancy →			
Was this Unit Taken Offline OR Deemed Unsuitable for Occupancy During Any Period of the Vacancy?	Reason Unit Went Offline or was Deemed Unsuitable for Occupancy <i>Please use the Additional Comments/Notes section to describe any damage</i>	Date Owner Received Possession of the Unit OR the Date Unit Went Offline for Repairs	Date All Repairs Were Completed and the Unit was Available for Occupancy
Yes	Ex: Extensive repairs, Leaks, unit sealed etc.	12/2/2024	3/1/2025
No			
Yes			

- **New Tenant Information**

- Complete the report with the new tenant's name.
- Include the approval date and move-in date.
- Add any additional notes or comments as necessary.

Re-Rental			Additional Comments/Notes (HDC and Management)
New Tenant	Approval Date	Move-in Date	
Johnson, Joe	4/1/2025	4/15/2025	

### Re-rental Report:

The following information is needed for this report:

- **Previous Tenant Information (If not provided with the VUR (Vacant Unit Report))**
  - Name of the previous tenant
  - Move-out date
- **New Tenant Information (If not provided with the VUR (Vacant Unit Report))**
  - Complete the report with the new tenant's name.
  - Include the approval date and move-in date.
  - Add any additional notes or comments as necessary.

Vacate Record		Re-Rental		
Former Tenant	Vacate Date	New Tenant	Approval Date	Move-in Date
Smith, John	12/1/2024	Johnson, Joe	4/1/2025	4/15/2025

- **Waitlist Information:**

- The date the unit vacancy was publicly advertised
- The date initial outreach efforts began to identify an eligible applicant.

<b>If the Project Did Not have an Active Waitlist, Provide the Date Vacant Unit was Advertised</b>	
<b>Date of <u>First</u> Outreach for this Vacancy</b>	

- **Referrals (If applicable):**

- Identifying agency responsible for submitting referrals.
- Date the agency was notified of the vacancy.
- Date the initial referral was received for consideration.

Referrals Only	Referral Agency	
	Date Referral Agency was Notified of this Vacancy	
	Date <u>First</u> Referral was Received for this Vacancy	

- **Re-Rental Attempts:**
  - List of all applicants contacted during the re-rental process.
  - Date the first notification was sent to applicants.
  - Date the second notification was sent.
  - Dates of any further notifications sent beyond the second.

Re-Rental Attempts				
#	Applicant Name	First Notice of Eligibility Appointment	Second Notice of Eligibility Appointment	Additional Contact Dates <i>*If more than one, enter all dates in mm/dd format (i.e.: 1/16, 1/21, 1/30)</i>
1	Doe, Jane	3/15/2025	3/25/2025	4/4
2	Greene, Mark	3/15/2025	3/25/2025	
3	Miller, Joseph	3/15/2025	3/25/2025	4/4
4	Jackson, Will	3/17/2025	3/17/2025	
5	Waller, Mary	3/17/2025	3/17/2025	4/6
6	Johnson, Joe	3/17/2025	3/17/2025	

- **Re-Rental Attempts (Continued):**
  - Date each applicant was scheduled for an interview or notified of the documentation deadline.
  - If applicable, the date the applicant was rejected or canceled.
  - The specific reason for the rejection or cancellation.
  - Any further notes, observations, or context relevant to the applicant's status.

Re-Rental Attempts			
Date of Eligibility Appointment or Document Submission Due Date, If Applicable.	Date of Rejection/Cancellation	Reason for Rejection/Cancellation	Comments/Additional Relevant Details Related to This Project
	4/14/2025	No Response	
4/7/2025	4/2/2025	Over Income	
	4/14/2025	No Response	
	3/24/2025	Not Interested	Applicant wants bigger unit
4/9/2025	4/19/2025	No Show	
3/24/2025		N/A	Moved In

## VII. DUE DILIGENCE

- For tenants who fail to provide a complete recertification by the required effective date, management should have diligently pursued action to bring the unit back into compliance and, when necessary, commenced a holdover case to correct the noncompliance. If the recertification has not been completed, Management must provide:
  1. A **detailed timeline of the events** from the time the recertification was due.
  2. In such cases, a copy of the **executed Holdover Petition (with an index/docket number) filed with the court no later than 120 days post the certification's effective date** must be provided.
  3. All relevant **court documents** and a **current status** of the case.
    - *Note: If the owner initiates an eviction proceeding in a timely manner and the household vacates the unit, no recertification is necessary. If for any reason, it is determined that the household will not vacate the unit as anticipated, **recertification or diligent action is required within 120 days of the determination**.*
  4. If there was a **delay** with the commencement of the holdover case or the Holdover Petition was not filed, **management must advise as to the circumstances** that prevented the holdover case from being brought to court and provide **supporting documentation** (i.e., restrictions resulting from protections under the Emergency Rental Assistance Program [ERAP]).
    - *Note: If an eviction proceeding was not initiated in a timely manner, the unit will remain out of compliance until it is occupied by a qualified household. This could mean that the existing household completes a valid retroactive certification, or that the unit becomes occupied by a newly qualified, eligible household.*
  5. Copies of all communication, documentation, and any other supporting documents or relevant details related to the late or missing recertification must be provided (e.g. all notices to recertify, all notices to cure, etc.).

When a recertification remains missing at the time of audit, it is critical that HDC receive the above-noted documents, including the timeline of events and any petition filed with the court (including the Index/Docket number).

## VIII. RENT LEDGERS

Rent ledgers must be submitted for all files selected for audit and for all units included on the Rent Discrepancies tab of the Annual Owner Certification (AOC) Findings Report. The guidance below can help address concerns HDC has had with the ledgers provided:

- All transactions on rent ledgers should be clearly labeled.
  - Subsidy charges and payments must be labeled.
    - Management must differentiate between tenant payments (credits) and subsidy payments (credits).
    - Rental subsidy sources must be clearly noted for each month when subsidy is received. If subsidy records are reflected in a separate ledger, both ledgers must be provided. In cases where ongoing rental subsidy is not apparent from the ledger, Management must include documentation that supports ongoing subsidy receipt (e.g. copies of rental subsidy checks). Please note that subsidy eligibility letters are insufficient confirmation of subsidy receipt.
  - Plain language should be used, or a key must be provided.
  - All transactions and adjustments should contain the date range(s) they pertain to.
  - Rent concessions (to reach a preferential rent) should be clearly labeled.
  - Label all optional and non-optional fees.
  - Please note that utility charges, even if labeled separately, are considered part of a unit's gross rent.