

WORKING WITH BLENDED FINANCING/ SUBSIDY LAYERING WEBINAR

October 23, 2018

Sponsored by Florida Housing Finance Corporation

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Technical Advisors**

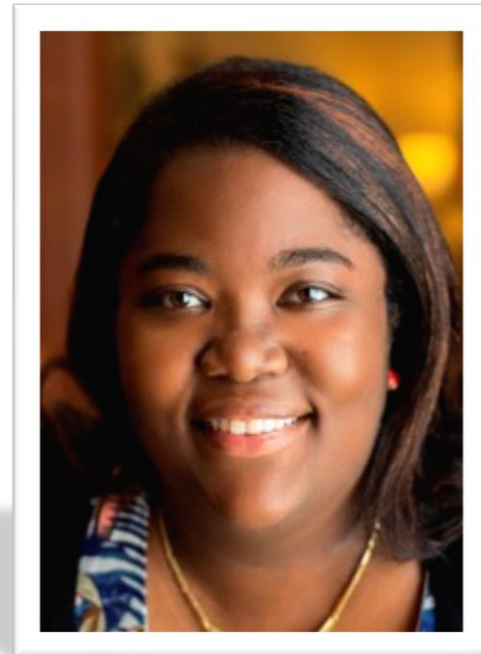
THE FLORIDA HOUSING COALITION



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Catalyst Training Schedule



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A Few Logistics

- Participants are muted but we encourage you to post questions and comments
- There are handouts attached to this webinar, which you can download
- PowerPoint and recording will be available on our website
- Additional questions? Just email or call!
 - spence@flhousing.org
 - [239-218-5008](tel:239-218-5008)
 - cook@flhousing.org
 - 813-830-3450

Overview

Monitoring is done to assess:

- Program Performance
- Financial Performance
- **Regulatory Performance**

We will cover:

- Review of Compliance Factors for Funding Sources
- Tenant Income Certification Requirements
- Record Keeping
- File Requirements
- Physical Inspections
- Next available unit
- Common Findings and Monitoring issues
- Best Practices
- Subsidy Layering Tools



But first, A few questions for you!

1. Who are you?
 - Local Gov staff?
 - Developer staff?
 - Property management staff?
 - Monitor?
 - Other?

Lets look at the major Multifamily Rental Programs

1. Housing Tax Credits (HC)
2. SAIL
3. HOME
4. SHIP
5. Housing Credits and Multifamily Revenue Bond (MMRB)

Things to Know for Each Source:

- ✓ Program rules- income setaside and max rent
- ✓ The content of the RFA or RFP
- ✓ The funding agreements- for each source of funding
- ✓ The CUR- Credit Underwriting Report
- ✓ The Recorded documents
- ✓ Monitoring reports
- ✓ Know the team:
 - ✓ The project underwriter
 - ✓ The property manager
 - ✓ Monitoring entities

HOUSING CREDITS (HC)

AKA- LOW INCOME HOUSING TAX CREDITS
(LIHTC)

Low Income Housing Tax Credits (HC)

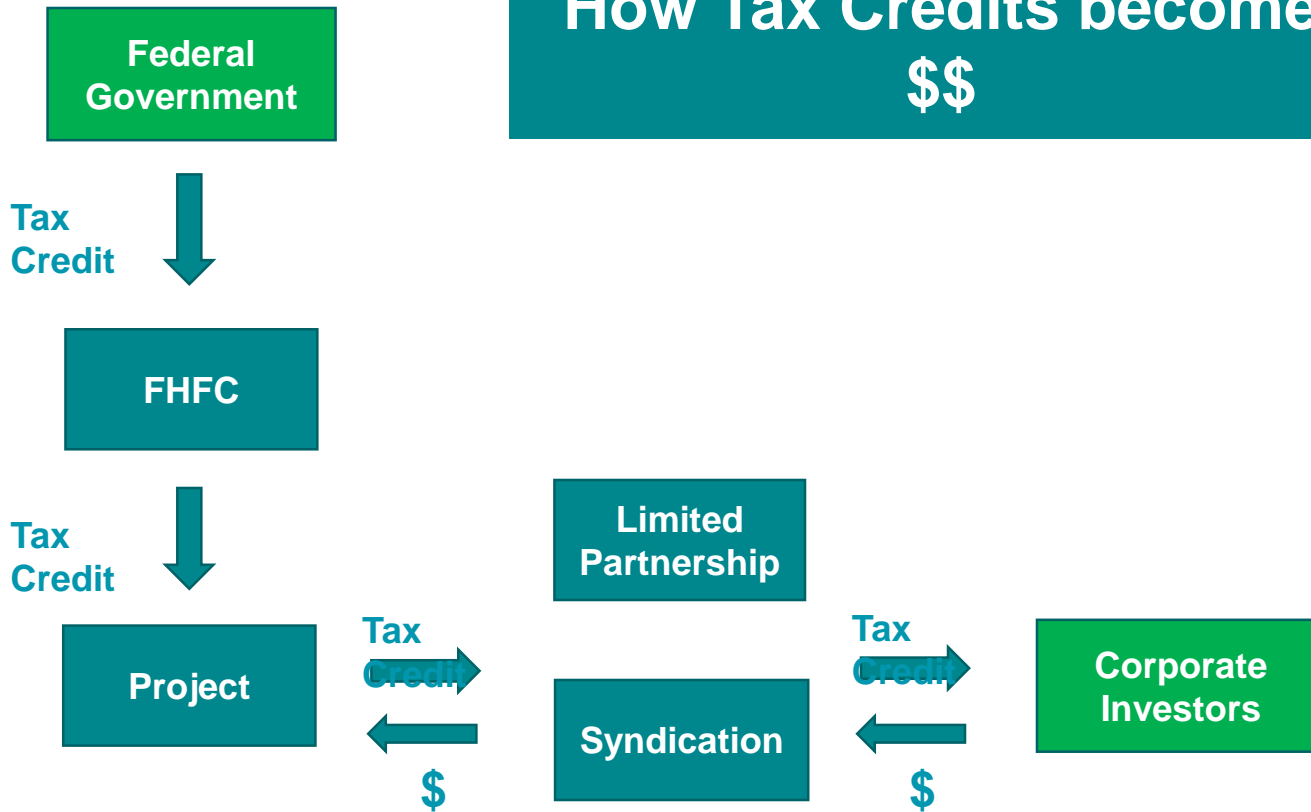
- Allocating agency – Florida Housing Finance Corporation
- Largest source of funding for rental development in the state
- Awarded to developers of affordable Multifamily rental
- Dollar for dollar reduction in federal tax liability
- Credits are “sold” to corporations to reduce their tax liability through syndication to become equity investments used to finance affordable rental units



Low Income Housing Tax Credits (LIHTC)

- Tax credits from US treasury become equity in multifamily housing development
- New construction & acquisition/rehab
- Usually 60+ units
- Usually ALL units serve <60% AMI
- Additional set aside for ELI (30-35% AMI)
- Two types of HC: 9% (Competitive) and 4% (Non-Competitive) combined with MMRB.

How Tax Credits become \$\$



9% Credit Example

- \$11,000,000 total development cost (TDC)
- \$1,000,000 land and other ineligible costs
- 100% of units are low income
- [\$10,000,000 eligible basis] X [.09 tax credit]
X [100% low income] = \$900,000 credit request
X [10 years] X [\$.95 syndication rate]
- = \$ 8,550,000 or 78% of TDC
- **Gap of \$2,450,000**

Magnolia Place – Pasco County Housing Credits + SHIP

Funding sources	Amount
LIHTC	\$10,811,779
Bank loan	\$ 1,500,000
SHIP	\$ 75,000
Deferred Developer Fee	\$ 434,881
TOTAL DEVELOPMENT COST	\$12,821,660

SET ASIDES
 80 units total
 72 for 60% AMI
 8 for 33% AMI - ELI



This is a snapshot of the Pasco County memo to agree to provide SHIP funds- it states clearly the income setasides

Project Name:	Magnolia Place Apartments	
Developer:	Nova Oaks Housing Limited Partnership	
Location:	6713 Congress Street, New Port Richey	
Number of Units:	80	
Property Size:	5.00 acres	
Unit Size:	40 1-bedroom units 40 2-bedroom units	
Rental Restrictions:	8 units affordable to 33% of the area medium income (AMI)	
	4	1-bedroom units \$298 estimated initial rent
	4	2-bedroom units \$362 estimated initial rent
	72 units affordable to 60% of the AMI	
	36	1-bedroom units \$617 estimated initial rent
	36	2-bedroom units \$745 estimated initial rent

There is a Land Use Restriction Agreement filed in the public records- find this LURA and keep in the files for monitoring.

**LAND USE RESTRICTION AGREEMENT
BETWEEN
PASCO COUNTY AND
NOVA OAKS HOUSING LIMITED PARTNERSHIP
STATE HOUSING INITIATIVE PARTNERSHIP PROGRAM**

Housing Credits Income Set Aside

- **Minimum Set-Aside per IRS is 20% at 50% of AMI or 40% at 60% AMI.**
- **Competitive HC are 100% of tenants at 60% and with least 10% of tenants at 30% of AMI. (referred to as “Extremely Low Income”)**
- **Mixed Income Units- must have other source of funding**

Housing Credits Compliance Period

- Compliance period is **15** years with an extended use period of an additional **15** years per IRS, creating an extended use period of **30** years but...
- Florida Housing requires **50** years compliance.
- Development owners may agree to a longer extended use period in order to qualify for preference in the award of credits.

SAIL

State Apartment Incentive Loan Program

- Administered by FHFC- Rule 67-48.009; FS. 420.507(22) and FS 420.5087.
- Rents- 30% of AMI per income level
- Affordability period based on application - not less than 15 yr
- Setaside w HC= 10% ELI; without HC= 5% ELI
- 20% of units for 50% AMI' or
- 40% for 60% AMI (only with HC)
- RFAs
 - Construction/acquisition/rehab
 - Part of gap (HC/HOME deals) or Stand alone (special needs, special programs, workforce -new!)
 - 0-1% - cash flow loan

HOME

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HOME Investment Partnerships Program General Info

- Governed by 24 CFR Part 92
- Funding exclusively to create affordable housing
- Participating jurisdictions (PJ)
 - States
 - Local governments, and
 - Consortia
- Emphasizes partnership with local nonprofit and for-profit organizations, developers, lenders
 - CHDO Set-aside – 15% of allocation

HOME Timeframe and Match

- **Timelines**

- 2 year commitment deadline
- 9-month homebuyer sales deadline
- 18-month lease up for rental housing
- 4 year project completion deadline
- 5 year expenditure deadline (eliminated for FY 2015 and later appropriations)

- **Match**

- 25% match of HOME funds expended during the fiscal year
- Non-federal sources

HOME Income Targeting

- **Low-Income Targeting**

- **100% of HOME funds for households <80% AMI**
- **Rents that can be charged are minus tenant paid utilities**
- **Rental properties**
 - **Initially 90% of units for $\leq 60\%$ AMI**
 - **5+ units – 20% of units $\leq 50\%$ AMI**

- **Income Limits**

- **<https://www.hudexchange.info/programs/home/home-income-limits>**

HOME Compliance Period

- **Affordability**
 - Homebuyer assistance and rental projects
 - Depends on activity type and funding amount
 - Period of affordability = Period of compliance

HOME Assistance per Unit or Buyer	Length of Affordability Period
Less than \$15,000	5 Years
\$15,000 - \$40,000	10 Years
More than \$40,000	20 Years
New construction of rental housing	20 Years
Refinancing of rental housing	15 Years

HOME Compliance Factors

- Rent Limits- High/Low
- Unit Quality- physical inspections- based on # of units
- Minimum Investment Per Unit- \$1,000
- Maximum Subsidy Limit
- Maximum Property Value
- Ongoing Monitoring per schedule
- No Double-dipping (no additional HOME during compliance period for rental properties)

HOME Income Set Aside Compliance Program & Project

- At INITIAL lease up 90% of all PJ's rental households must be @ or below 60% AMI
- Balance may be up to 80% AMI
- If project has more than 5 HOME assisted units 20% must be rented to households @ or below 50% AMI (LOW HOME units , use LOW HOME rents- 30% of household income)
- HIGH HOME rents are lesser of Section 8 FMR or equal to 30% of household income for family 65% AMI
- Applies throughout affordability period.
- Affordability period is 15 years for a rehabilitation project, 20 years for new construction.

HOME Specific Rules

- HOME assisted units may be Floating or fixed units in a project. Fixed units must be comparable to others.
- High HOME rent versus Low HOME rent.
- Subsidy Layering- prior to award
- Cross Cutting Regs apply:
 - Davis Bacon, Section 3
 - Uniform Relocation Act (URA)
 - ETC.

HOME at FHFC

- **Competitive application for Rural Areas Only**
- **Non-amortized, low interest loans**
- **Acquisition and/or new construction or rehabilitation of affordable rental housing to low income families.**
- **Financing for first or subordinate mortgages with a simple interest rate of zero percent to nonprofit applicants and 1.5% per annum interest rate to for-profit applicants.**
- **Loan terms are generally for 15 years for rehabilitation and 20 years for new construction.**
- **CHDO setaside applies**
- **FHFC HOME 80% @60% AMI (67-48.014)**
- **See Rule 67-48.014**

What is subsidy layering?

- Projects financed with HOME funds must be evaluated in part by a subsidy layering test.
- Subsidy layering is required by 24 CFR Part 92 to assure that Federal resources are neither duplicative nor wasteful when used for affordable rental housing.
- Subsidy layering is a tool to use in making sure that the amount of public funds, in particular HOME funds, are the least amount required.
- HUD establishes the amount of HOME funds that can be invested on a per unit basis.
- The borrower is expected to “layer” funds committed to a project so that HOME funds are used only to fill a gap in sources and that the amount of HOME investment does not exceed the maximum subsidy amount.

Key principle: Don't invest more than necessary; but make sure project can operate for compliance period

- Each project must be evaluated to ensure that public investment fills a gap and is least amount needed
- Two sides of the same coin
 - Underwriting v. Subsidy Layering
 - CPD Notice 98-1
 - CPD Notice 15-11

When To Do Subsidy Layering

- Required for all projects using HOME funds with other governmental assistance
- All projects:
 - Includes multifamily AND single-family projects
- Other governmental assistance defined broadly:
 - Any direct or indirect assistance
 - Federal, State or local
 - Includes
 - ◆ Loan
 - ◆ Insurance
 - ◆ Subsidy
 - ◆ Grant
 - ◆ Payment
 - ◆ Credit
 - ◆ Guarantee
 - ◆ Rebate
 - ◆ Tax benefit

Don't Loan too Much: Use the Loan to Value Ratio Tool

Loan to Value Ratio	The relationship between the appraised value of the total project and the loan. Generally, lenders will not exceed 100% of appraised value.	LTV First Position Loans: LTV= $\frac{\text{LOAN AMOUNT}}{\text{FAIR MARKET VALUE}}$ Example: LTV= $\frac{\\$100,000}{\\$140,000} = 71\%$ Also: 80% = $\frac{\text{Loan Amount}}{\\$140,000} =$ $\frac{\\$112,000}{\\$140,000}$
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Does project revenue cover debt? Use Debt Service Coverage Ratio

Debt Service Coverage Ratio (DSCR) or (DCR)	The relationship between Net Operating Income (NOI) and Annual Debt Service. Generally, the acceptable DCR for affordable housing projects is no less than 1.15 and no more than 1.3.	NOI/DS=DSCR
		$\$100,000/90,000 = 1.11$ $\$100,000/85,000 = 1.25$ $\$100,000/75,000 = 1.33$

What is the right size loan?

Loan Sizing by LTV and DCR

<p>Loan Sizing: two methods</p> <p>Based on Loan to Value Ratio (LTV)</p> <p>Based on Debt Coverage Ratio (DCR)</p>	<p>The lender uses the lesser result of LTV or DCR methods</p> <p>Lenders use LTV based on real estate appraised value</p> <p>Lenders use DCR to determine amount available for debt services</p>	<p>Standards Example</p> <p>LTV < 80%</p> <p>DCR < 1.25</p> <p>Example using LTV</p> <p>Appraised Value= \$5,000,000</p> <p>LTV= 80%</p> <p>Maximum loan amount = \$4,000,000</p> <p>\$5,000,000 x .80% =</p> <p>Example Using DCR:</p> <p>NOI = \$400,000</p> <p>Maximum loan amount= \$400,000/1.25*12 = \$3,722,000</p>
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SHIP

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SHIP Set Asides

- **30% of all funds for very low (Less than 50% AMI)**
- **60% of all funds very low and low (up to 80% AMI)**
- **Balance up to 140% AMI**
- **75% construction (distribution and recaptured funds)**
- **65% homeownership (distribution and recaptured funds)**
 - **Construction and Homeownership Exclude PI**

SHIP Set Asides (continued)

- 20% for special needs as defined by rule
- No more than 10% for admin (exception 2013-2014)
- No more than 5% of program income for administrative expenses

SHIP Specific Rules

- Tenant income of projects that receive more than \$10,000 must be monitored annually.
 - Used to be \$3,000
- **New** - Can rely on the monitoring report of another entity that is governmental or corporation even if periodic.
- Annual property inspection not required, but considered a best practice.
- Does not require utility allowances

SHIP and Housing Credits

- **If both an award under the local housing assistance plan and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in the SHIP Statute and the requirements of s.42 of the Internal Revenue Code of 1986, precedence is given to the requirements in the IRC.**

SHIP Program Income

All moneys of a county or an eligible municipality received from its share of the local housing distribution, program income, recaptured funds, and other funds received or budgeted to implement the local housing assistance plan shall be deposited into the trust fund; however, local housing distribution moneys used to match federal HOME program moneys may be repaid to the HOME program fund if required by federal law or regulations.

SHIP Statute 420.9075

MMRB

MULTIFAMILY MORTGAGE REVENUE BONDS

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Non-Competitive

- Multifamily Mortgage Revenue Bonds issued by local housing finance agency or FHFC
- MMRB with or without 4% credits
- Uses both taxable and tax-exempt bonds to provide below market rate construction loans to nonprofit and for-profit developers of affordable housing.
- Can apply for SAIL for gaps



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Income Set Asides and Rent Levels

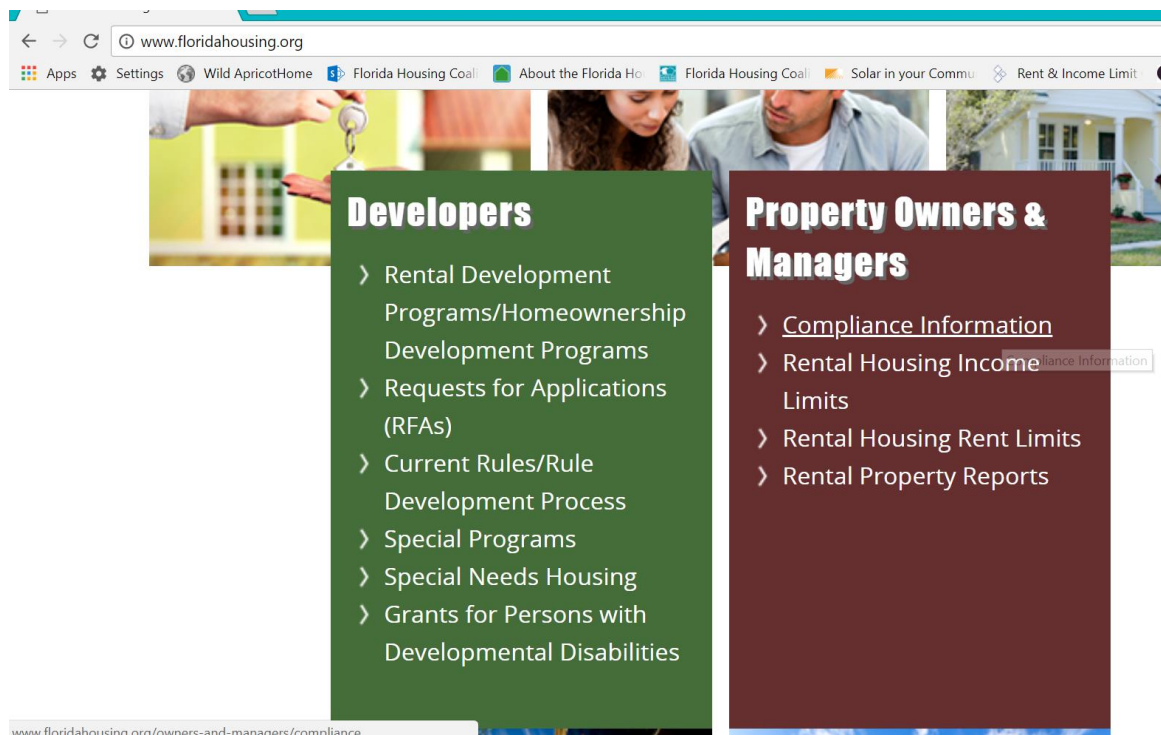
Let's compare the different charts for HC, HOME, and SHIP that are posted on the Florida Housing website.

For your convenience both Rent and Income limits are on the same table.

Amounts are not identical- must use the most stringent rule – i.e. lowest income level and lowest rents

FHFC website link to Compliance Documents

<http://www.floridahousing.org/owners-and-managers/compliance>



Record Retention

1. **HC:** Files to be kept for at least 6 years after move-out.
2. **MMRB:** Files to be kept for at least 6 years after move-out.
3. **HOME:** Files to be kept for at least 5 years after move-out.
4. **SHIP:** Files to be kept for at least 5 years after move-out/audits have been released/annual report submitted (whichever is later).

General Tenant File Review-Summary

1. Tenant Income Certification
2. Application
3. Verification of Income
4. Tenant Rent Ledgers
5. Lease
6. Student Verification

File Documentation for Blended Funding

- Application for assistance
- Award Letter
- Written Agreement
- Lien Documents Recapture Provisions
- Monitoring Plan
- Notes to file on how each funding source is to be monitored
- Past monitoring reports

Physical Inspection

- **Uniform Physical Condition Standards (UPCS) 24 CFR 5.703**
- **Decent, safe, sanitary**
- **For example, smoke detectors, broken appliances, bed bugs, uninhabitable.**
- **SHIP doesn't require annual inspection but it's a best practice**

Certification Requirement

1. **HC: Every resident must be certified annually. Annual Owner Certification.**
2. **MMRB: Every resident must be certified annually Certificate of Continuing Program Compliance (CCPC)**
3. **HOME: Every 6 years all units;**
4. **SHIP – certify income annually, units are fixed so don't use all SHIP for entire building/project**

Annual Recertification

WHO?

All programs require that tenants be recertified.



What?

- SHIP
 - Full income recertification or
 - Certification from another govt. program
 - Projects receiving over \$10K annual monitoring for 15 year compliance period
- HOME Only – 92.203
 - Full income certification or
 - Written Statement from tenant or
 - Statement from another govt. program
 - Full recertification every 6th year
- HC and other FHFC programs
 - Requires full income certification every year for the term of the affordability period

Check Developer Agreement

- Amount of the award
- Number of SHIP assisted units
- Number of HOME assisted units
- Fixed or floating units?
- Monitoring Plan
- Required SHIP/other setaside
 - ELI, VLI, LI, MI
 - Special needs

What Gets Monitored?

- Annual recertification
 - Monitor for unit affordability (use rent limit chart)
 - Monitor for tenant eligibility (income)
 - Monitor for setasides (special needs, other demo)
- Maximum rents and adjusted household incomes published annually by FHFC

Annual Recertification

WHAT?

The same items verified at Initial Certification

Annual Recertification

WHEN?

When required, it is suggested that the recertification be completed by the 1st day of the anniversary month of initial occupancy.

***Next Available Unit
Rule and Documentation
FIX THE MIX
FIX THE RENT***



Next Available Unit Rule Who?

All programs require that the next available unit go to an income eligible person

Next Available Unit Rule When?

- If a certified household vacates a unit
 - If, at recertification, a household's aggregate income exceeds **140%** of the low-income limit (SHIP, MMRB, SAIL, HC)
 - or exceeds the applicable **80% HOME** income limit (HOME).

Next Available Unit Rule

How to comply?

An over-income household shall continue to qualify if:

- **All comparable units that become available are rented to a low or very-low income household HOME and SHIP, or**
- **All units of same or smaller size in the building that become available are rented to a low-income household (MMRB, HC,), or**

Next Available Unit Rule

How to comply?

The over-income household shall continue to qualify if:

- All comparable units that become available are rented to a very-low income household (SAIL) or a low-income household (MMRB).
- Rent remains restricted (HC, HOME, and only) according to program rules.

Contracts and Agreements

- Formal agreement of schedule and work plan, performance measures, payment terms, and non-performance sanctions
- Use standard legal language adopted by awarding entity (legal department)
- Usually includes Scope of Services
- *Becomes basis for monitoring!!*

Subrecipient Agreement

Any **contract** or document establishing the relationship between a SHIP eligible local government and a non-state organization which is a Sub Recipient receiving SHIP funds shall contain the standard audit language on Form DFS-A2-CL (Effective 7/05) of the **Florida Single Audit Act** in the document.

<https://apps.fldfs.com/fsaa/statutes.aspx>

67-37.019 Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds.

Best Practices

1. Strong enforcement language in regulatory agreement.
2. Create and maintain database of loans including income and special needs set-asides.
3. Set one annual deadline for ALL SHIP compliance reports. For example, all reports due March 31st.
4. In cases of non-compliance, recognize that private owners are less savvy on compliance issues.
5. Best course of action is compliance and not foreclosure !

Best Practices

Example of language in Regulatory Agreement:

AFFORDABILITY

“Each RESIDENCE that is for rent must meet the affordability requirements of the SHIP program. Rents, including utilities may not exceed the rent allowed for 80% of the area median income based on the unit size as determined by the Florida Housing Finance Corporation. The RECIPIENT must ensure that each BENEFICIARY annually will provide evidence that they are eligible for the SHIP program.” *City of Sarasota Office of Housing and Community Development*

Common Findings

- Rental units not being monitored annually
- Noncompliant with initial rent limits
- Noncompliance with income limits
- Noncompliance with set asides
- LHAP, Agreement, LURA, mortgage terms conflict
- Income certification completed incorrectly

Other Monitoring Issues

- Does Owner have amenities and tenant programs as committed?
- Are there special needs units?
- ***VERIFY REGULATORY AGREEMENT*** make sure these are detailed on monitoring checklist to make sure these are checked

Problem Resolution and Corrective Action

- In accordance with the written agreement
- Clearly communicated and agreed upon
- Documented in writing
- Time frames for correction/resolution
- Follow-up as necessary



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Upcoming Workshops and Webinars

- **Webinar: Effective Written Agreements** October 30
2 pm
- **Webinar: Monitoring SHIP Assisted Rental Housing**
November 5 2 pm
- **Workshop: LHAP Preparation & Strategy Design PART 2** November 14 Riviera Beach
- **Webinar: Working with Nonprofits, Sponsors, and Subrecipients** November 29 2 pm

REGISTRATION LINK:

<http://www.flhousing.org/events/>

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Visit us at www.flhousing.org to find housing workshops, webinars, and publications!

FHC RESOURCES

FLORIDA HOUSING COALITION

Affordable Housing Resources

Available Online 24/7

CREATING AFFORDABLE HOUSING IN FLORIDA

HOME MATTERS

AFFORDABLE HOUSING

AFFORDABLE HOUSING RESOURCE GUIDE

RESIDENTIAL REHABILITATION GUIDE

LANDLORD COLLABORATION GUIDEBOOK

BUILDING PERMIT REPORT

HOW WE GET THERE

CLT PRIMER

Access these valuable resources and more under the publications tab at FLhousing.org

Access these valuable resources and more under the publications tab at FLhousing.org



Technical Assistance is Available

Hotline: Call us at 800-677-4548

- Complete free training schedule can found at www.flhousing.org
- Spence@flhousing.org
- cook@flhousing.org



Thank You.



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