



Compliance Manual

Restore Main Street Loan (Act 15)

Vacancy to Vitality Loan (Act 18)



**RESTORE
MAIN STREET**



VACANCY-TO-VITALITY

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Compliance Monitoring Process Preface

The purpose of this manual is to provide guidance for partners who have not layered Act 15 or Act 18 with one of our other Affordable Housing products. Compliance for layered developments will be conducted following the requirements established for those products and will not require additional reporting requirements from this manual beyond the annual submission of the Owner's Certificate of Continuing Program Compliance for Act 15 or Act 18, as applicable.

WHEDA will monitor all Completed Projects to determine whether they are complying with the requirements of the Program.

All Completed Projects that create rental housing are required to comply with the following regulations. The owner of a Completed Project must keep records for each year in the compliance period. These records must include:

1. The owner of a Completed Project must certify annually to WHEDA under penalty of perjury, on forms and in a manner prescribed by WHEDA, that:
 - a. the owner has received an initial Resident Income Self-Certification prior to lease execution from each qualifying resident (may require documentation to support that certification);
 - b. each qualifying unit in the Completed Project is rent restricted to not exceed 30 percent of 100 percent of AMI, as published by WHEDA annually;
 - c. all units in the Completed Project are for use by the general public (as defined in §1.42-9), including the requirement that no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, occurred for the Completed Project;
 - d. the owner has not refused to lease a unit to an applicant based solely on their status as holder of a Section 8 voucher;
 - e. the buildings and each residential unit in the Completed Project are suitable for occupancy (considering applicable health, safety, accessibility, building codes and regulations or other habitability standards), and the government unit responsible for making health, safety, or building code inspections did not issue a violation report for any building or residential unit in the Completed Project;
 - f. all qualifying units in the Completed Project are used on a non-transient basis, requiring an initial lease term of at least six months
 - g. there has been no change in the ownership or management of the Completed Project or any such changes have been reported to WHEDA;
 - h. rent charged to existing tenants (excluding households receiving rental assistance) has not increased by more than 5% annually, including due to changes in utility allowance calculations; and
 - i. rent increases have not occurred mid-lease.
2. WHEDA requires that an owner of a Completed Project submit to WHEDA during the compliance period, at times and in a manner prescribed by WHEDA, which may include transmission via e-mail or through a website, the following information:
 - a. owner's certification as described in Section (a) above;
 - b. an annual rent roll;
 - c. utility allowance documentation; and
 - d. other documentation as required.

3. WHEDA has the right to perform inspections of any Completed Project through the end of the compliance period. An inspection includes a physical inspection of any building and units in the Completed Project, as well as a review of the records described in Sections (a) and (b) above.
 - a. WHEDA will provide prompt written notice to the owner of a Completed Project if WHEDA does not receive the required certifications or discovers through inspection, review or any other manner, that the Completed Project is not in compliance with the Program. In general, the owner will have an opportunity to correct noncompliance within 90 days from the date of notification to the owner. However, in the case of non-submission of reports or fees, the owner will have 30 days from the date of written notification in which to submit any missing report(s), information, or documentation.
4. Compliance with the requirements of the Program is the responsibility of the owner of the Completed Project. WHEDA is relying solely on the quality and accuracy of the information presented by the owner or owner's agent.
5. Annual monitoring fees will not be charged to the Owner for this Program; however, late charges will be assessed for documentation not received by the due date as outlined on the Program's landing page on WHEDA's website. Late fees will follow the Late Fee Policy as outlined in WHEDA's HTC Monitoring Manual. WHEDA will only accept payment via ACH agreement. All Completed Projects must complete and keep current an ACH agreement with WHEDA.

Compliance Definitions and Forms

Compliance Period

Act 15 – Restore Main Street Loan. The compliance period will begin on the date of the loan closing and will conclude 10 years following the initial occupancy of all of the rental units of the housing rehabilitated with loan proceeds. The full amount of the loan shall become due upon the owner’s sale of the rental housing rehabilitated with loan proceeds.

Act 18 – Vacancy to Vitality Loan. The compliance period will begin on the date of the loan closing and will conclude 10 years following the initial occupancy of all of the rental units of the housing constructed in connection with loan proceeds. The full amount of the loan shall become due upon the developer’s sale or transfer of all residential housing constructed in connection with the loan.

Compliance Forms

The following WHEDA Forms must be used to be in compliance with the program.

Annual Owner’s Certificate of Compliance

As required by the program, an Owner's Certificate of Continuing Program Compliance (Act 15/Act18 Form 100) must be submitted annually to WHEDA. The Certification is due no earlier than January 1 and no later than January 31 of each year and covers the preceding calendar year from January 1 (or the date project entered the program) through December 31st. An owner's original signature and date of signature is required on the Act 15/Act 18 Form 100.

The Act 15/18 Form 100 Annual Owner’s Certificate of Compliance is located at

<https://www.wheda.com/globalassets/documents/developers/competitive-loan-financing/act-15-18-form-100.pdf>.

Certified Rent Rolls

Certified rent rolls are due by January 31 of the compliance period for the prior calendar year. If this date falls on a weekend the due date will be on the next business day.

Utility Allowance Documentation

When utilities are paid directly by the tenant, a utility allowance must be used to determine maximum eligible unit rents. If all utilities are paid by the owner, no utility allowance is required.

This program will utilize the Utility Allowances that are published by the local or county Public Housing Authority (PHA) unless the building is regulated by RD (Rural Development) or HUD project-based subsidy following Section 42 guidelines. Each PHA has a regularly scheduled publication date, but in some years, this can vary depending on utility fluctuation rates. Most PHAs will publish in January of each year. The new Utility Rate must be effective at the property within 90 days of the publication effective date. The documentation from the PHA must be attached to a completed Act 15/Act 18 Form 205 A&B and submitted to WHEDA.

The Act 15/18 Form 205 is located at: <https://www.wheda.com/globalassets/documents/developers/competitive-loan-financing/act-15-18-form-205.pdf>

The Utility Allowance is used to calculate the Gross Rent for the unit. The tenant portion of rent plus the Utility Allowance must not exceed the Maximum Rent allowed for the development. All utility allowance information must be updated at least annually, or when the PHA publishes new rates.

If the owner pays all utilities, complete Form 205 A&B showing zero tenant utility allowance for the first reporting cycle. Subsequent reporting is not required unless there is a change to tenants paying all or part of the utilities.

Hints or Tips

Generally, you will include the following charges in your Utility Allowance.

- Heating (Electric or Gas) if unit has a separate HVAC unit and the resident pays for the charges.
- Water Heating (Electric or Gas) if the unit has a separate water heater and the tenant pays for the charges.
- Cooking (Gas or Electric)
- (Unit) Electric
- If the PHA allowance has Air Conditioning or AC as a separate category, then include AC in the calculation if the owner provides an AC unit.
- Only include the extra Refrigerator or Stove charge in the calculation if residents are required to supply their own appliance.
- Fixed Charges (Gas and/or Electric depending on above fuel sources).

Contact your local PHA to obtain a copy of the current PHA Utility Allowance.

Housing Choice Voucher Program Agent List: <https://www.wheda.com/globalassets/documents/property-managers/housing-choice-voucher-program-agent-list-1-2023.pdf>

Automated Clearing Housing (ACH)

Annual monitoring fees are not a part of this program. However, late fees will be assessed for missing or late submissions of required documents. Owners are required to have an active ACH agreement on file with WHEDA. ACH forms are found on our website located at www.wheda.com. A link to the form is at https://www.wheda.com/globalassets/documents/forms-manuals-resources/mf-financing-forms/ach_ahhc.pdf.

Maximum Income and Rent Limits

Maximum Income and Rent limits are found on the WHEDA website:

- Restore Main Street Loan: <https://www.wheda.com/globalassets/documents/about-wheda/legislative-policies/restore-main-street-income-rent-limits.pdf>
- Vacancy-to-Vitality: <https://www.wheda.com/globalassets/documents/about-wheda/legislative-policies/vacancy-to-vitality-income-rent-limits.pdf>

Qualifying households must meet the income and rent restrictions as of the date of move-in. In the event published income limits decrease in any year, projects are held harmless and may continue to use the highest income limit the property has achieved since it was placed in service.

Gross Rent

The gross rent is the sum of the tenant portion of rent, the Utility Allowance and any non-optional charges that are a condition of occupying the unit, such as renter's insurance.

Gross Rent Floor

The Gross Rent Floor will be established as of the date of the Award or Carryover Letter to serve as a floor against subsequent reductions in rent that can result from a decrease in county median income.

Tenant Income Certification Affidavit (TIC)

The Tenant Income Certification Affidavit is a form whereby the household certifies their annual income and income from assets and the owner or owner representative certifies the household qualifies for the program. Each qualifying household must complete this form at move-in. (See additional instructions under Qualifying Tenants.)

The Form 300 - Act 15/18 Tenant Income Certification Affidavit (TIC) is located at <https://www.wheda.com/globalassets/documents/developers/competitive-loan-financing/act-15-18-form-300-tenant-income-certification.xlsx>

Qualifying Tenants

Potential tenants for rent-restricted units must be advised early in the application process that there are maximum income limits that apply to these units. Management must explain to potential tenants that the anticipated gross income of each household expecting to occupy the unit must be certified on a Tenant Income Certification Affidavit (Act 15/Act 18 Form 300) prior to occupancy.

The Tenant Application

A fully completed application is necessary to determine tenant eligibility. The information furnished on the application must be used as a tool to review all sources of income, including total assets and assets disposed of for less than fair market value during the previous two years and actual and/or imputed income from assets. In the event the management agent's application does not include a section for use in collecting asset and asset income information, HTC Form 305, "Tenant Income Questionnaire" may be used.

At the time of application, it is the management agent's responsibility to obtain sufficient information on all prospective tenants to completely process the application. To facilitate this process, WHEDA recommends that roommates complete separate applications.

The application must include:

- The name, birth date, age, and social security number of each person that will occupy the unit. The applicant's legal name must be given just as it will appear on the lease and tenant income certification.
- All sources and amounts of current and anticipated annual income expected to be derived during the twelve-month certification period. This includes assets now owned and the income from those assets as well as any assets disposed of for less than fair market value during the previous two years.
- The signature of the applicant and the date the application was completed.

Tenant Income Verification

All regular sources of income, including income from assets, must be certified by the household as being true and correct on the Tenant Income Certification Affidavit (Act 15/Act 18 Form 300). Tenant files should contain appropriate verification documents to support the income. Examples include 2 recent paystubs, Social Security Award Letters, Self-employment tax documents, etc., as appropriate. Income and assets which are certified may be subject to verification at a later date.

Annual Income

Annual Income is the gross income the household anticipates it will receive in the 12-month period following the effective date of certification of income for all residents 18 years or older commencing with the occupancy or lease date which includes, but is not limited to: wages, overtime, bonuses, commissions, tips, bonuses, self-employment income, and/or income from assets or investments, social security, pensions, and public assistance. Also included in the total anticipated gross income is other income which includes, but is not limited to: monetary gifts, reimbursements for medical expenses, scholarships, alimony, child support, worker's compensation, severance pay, unemployment compensation, or earned income tax credit to the extent it exceeds income tax liability, regular and special pay and allowances of members of the Armed Forces (whether or not living in the dwelling).

There will be situations where it will be difficult to estimate income. For example, the tenant may work sporadically or seasonally. If the household's income cannot be determined based on current information because

the household reports little to zero income, or income fluctuates, income may be determined based on actual income received or earned within the last twelve months before the certification of annual income. In such cases, owners are expected to make a reasonable judgment as to the most reliable approach to estimating what the tenant will receive in the coming year. Owners must use due diligence by asking follow-up questions when the income certification process reveals unusual circumstances suggesting additional sources of income.

See [Income and Income Exclusions Resource Sheet \(hudexchange.info\)](#) for a more complete listing of income.

- If a household indicates that income might not be received for the full 12 months (e.g. unemployment insurance benefit is expected to terminate), the income must still be annualized.

Assets

Assets are items of value, other than necessary personal items. Income from assets is taken into consideration when determining the eligibility of a household. Asset information (asset value and income from the asset) must be obtained at the time of application. The applicant will affirm that this information is correct by executing the Tenant Income Certification Affidavit (Act15/Act18 Form 300).

Net family assets include, but are not limited to the following: cash on hand, savings and checking accounts, trusts, equity in real estate and other capital investments, stocks, bonds, treasury bills, certificates of deposit, money market funds, , lump sum receipts (i.e. lottery winnings), and personal property held for as an investment (i.e. gem or coin collections, paintings, antique cars, etc.). Retirement IRA's & Keogh Accounts, retirement and pension funds are not counted as assets.

Calculate actual income of all assets and include in total income. Impute the income of individual assets at the HUD Passbook Rate where actual income cannot be calculated if total assets are greater than the Imputed Asset Threshold. (Imputed Asset Threshold and Passbook Rate adjusted annually by HUD at [Annual Inflationary Adjustments and Passbook Rate | HUD USER](#)). Refer to [HOTMA Assets, Asset Exclusions, and Limitation on Assets Resource Sheet \(hudexchange.info\)](#) for a more complete listing of assets.

The Tenant Income Certification Affidavit (Act15/Act18 Form 300) will correctly calculate income from assets as long as actual asset income is provided by entering the Interest Rate in Column E or Annual Income Amount in Column F. If the asset does not generate income, leave Column E and F blank and the imputed income will be calculated if total assets equal or exceed the Imputed Asset Threshold.

Computing the Total Household Income

After all income and asset information has been obtained and computed for a household, all qualified sources of income are added together to derive the total household income. WHEDA recommends rounding up to the next dollar amount to provide the most conservative estimate of annual income. In order for the household to qualify, the total household income must be less than or equal to the maximum allowable qualifying income in effect at the time of tenant certification. If the total household income is greater than the maximum allowable qualifying income, the household cannot be certified for a unit under this program. The TIC will indicate on page 2 if the household meets the income and rent restrictions.

Owners must use due diligence by asking follow-up questions when the income certification process reveals unusual circumstances suggesting additional sources of income. If the tenant manipulated the income limitation requirements, then the unit cannot be treated as a low-income unit as of the date the household initially occupied the unit.

Initial Tenant Income Certification Guidelines

Once all the income and asset information has been obtained and computed, management personnel must complete the Tenant Income Certification Affidavit (Act 15/Act 18 Form 300) for each household. The form is a legal document which, when fully executed, qualifies applicants to live in the unit, The Tenant Income Certification Affidavit (TIC) must be executed along with the lease prior to move-in.

The following guidelines apply:

- No one may live in a low-income set-aside unit in the project unless he or she is certified and under lease.
- Owners or managers must review all documentation and calculations, as necessary. If all requirements for eligibility are met, the applicant is qualified.
- Management must instruct the prospective tenant(s) to sign the TIC exactly as their name appears on the form.
- It is preferred that the TIC be executed on the date of move-in.

Adding a New Member to an Existing Household

In the event a new member is added to a qualifying household, the following steps must be taken:

- The prospective tenant must complete an application for residency and verifications of income and assets must be completed in the same manner as the initial move-in.
- The prospective tenant's income must be added to the current household's TIC. The combined household income must be compared to the maximum allowable income limit in effect at the time, based on actual (projected) household size. If the household still qualifies no further steps are required beyond signing the TIC. However, if the household exceeds the income restriction, then the household may not qualify for the housing if moving another person into the unit at a later date was done deliberately to bypass the requirements. If a period of time, such as 6 months has passed from the initial move-in, existing household will still qualify, even if the income now exceeds the income restriction.

Note: If at any time the household composition changes and none of the original household members live in the unit, then the household is considered a new household. The new household must meet all initial qualifying income limitations and requirements to be eligible for a low-income unit unless the remaining tenants were independently income qualified at the time they moved into the unit.

Subtracting a Member from the Existing Household

Decrease in family size does not trigger the immediate income certification of a new household.

Miscellaneous Rules Governing Low-Income Eligibility of Units

Live-in Care Attendant

If a tenant in a unit requires a live-in care attendant, the attendant is not included as a household member for purposes of determining the eligible income and rent limits. (The attendant is considered for purposes of determining the appropriate unit size.) The need for a live-in care attendant must be certified. The live-in care attendant must abide by the lease agreement but has no survivorship rights to the apartment. If the tenant who requires assistance moves (or no longer requires assistance), the attendant must vacate as well.

Pregnant Woman or Household in the Process of Adoption

A pregnant woman or a household in the process of adopting a child must include the additional person(s) for the purpose of determining the maximum allowable income. Applicant/tenant self-certifies to pregnancy. Owner may not verify further than self-certification.

Section 8 Rental Voucher or Certificate

With the passage of the Omnibus Budget Reconciliation Act of 1993, owners are prohibited from refusing to lease to a prospective tenant based solely on the fact that the applicant holds a Section 8 rental voucher or certificate. Additionally, language prohibiting discrimination based on Section 8 status is included in the extended use agreement (Land Use Restriction Agreement) entered into by the owner and WHEDA.

Leases and Rent Limits

Rents on the set-aside units may not exceed the amounts allowed by the legislation and published in the Income and Rent limits as of the effective date of the lease. All residents occupying set-aside units must be certified and under lease.

At minimum, the lease must include:

- The legal name of parties to the agreement and all other occupants;
- A description of the unit to be rented;
- The date the lease becomes effective;
- The term of the lease;
- The rental amount plus any other amounts paid by the tenant for parking, pets, air conditioning, etc.;
- The use of the premises;
- The correct date of move-in or date tenant takes possession of the unit.

Initial Lease Term

There must be an initial lease term of at least 6 months on all units. (See below for exceptions for housing for the homeless and single room occupancy.) The six-month requirement may include free rental periods of one month or less. Succeeding leases are not subject to a minimum lease period; however, a lease must be in effect. Noncompliance is corrected on the effective date of a newly executed lease with a term of at least 6 months.

Single Room Occupancy

Single room occupancy (SRO) housing must have a minimum lease term of one month. SRO housing is allowed to have tenants share bathrooms, cooking facilities, and dining areas. Federal rules allow for month-by-month leases for the following types of SRO

housing for homeless individuals:

- SRO units in projects receiving McKinney Act and Section 8 Moderate Rehabilitation assistance;
- SRO units intended as permanent housing and not receiving McKinney Act assistance;
- SRO units intended as transitional housing that are operated by a governmental or nonprofit entity and providing certain supportive services.

Evictions

The owner must not evict, non-renew the lease for, or otherwise terminate the tenancy, of an existing tenant of any low-income unit for other than good cause.

Violence Against Women Reauthorization Act of 2013 (VAWA 2013)

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) was signed into law on March 7, 2013.

This Act extended protection to additional classes of victims and continues many of the housing protections that had been provided by the VAWA Act of 2005. In addition, VAWA 2013 and subsequent Acts apply to this program.

H.R.2471 – consolidated Appropriations Act, 2022 was signed into law on Mary 15, 2022. This Act strengthens protections and reauthorized all current VAWA grant programs until 2027. Owners must comply with the lease requirements found in Section 601 of VAWA 2013. WHEDA highly encourages owners to use the VAWA Lease Addendum, form HUD-91067 or its successor VAWA Lease Addendum form. VAWA 2013 requires that the Tenant Selection Plan and House Rules must include policies to support or assist victims of domestic violence, dating violence or stalking, and protect victims and their families from being denied housing or from losing housing as a consequence of domestic violence, dating violence or stalking. However, in accordance with VAWA 2013, owners may bifurcate a lease to terminate the tenancy of an individual who is a tenant or lawful occupant and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking against another lawful occupant living in the unit or other affiliated individual as defined in the VAWA 2013.

Owner/agent should include a copy of HUD form 91066 or its successor form with each tenancy termination or eviction notice to allow an individual to certify that he or she is a victim of domestic violence, dating violence or stalking. The form is to be completed and submitted to owner/agent within 14 business days or an agreed-upon extension date, for the individual to receive protection under the VAWA.