OHIO **HOUSING** FINANCE AGENCY

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John R. Kasich, Governor, State of Ohio
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To: Owners and Managers of Housing Tax Credit , Multifamily Bond, and HDAP Projects
From: Brian Carnahan, Director of Program Compliance
Re: 2011 Income Limits
Date: 6-28-2011

On May 31, 2011, HUD released the Multifamily Tax Subsidy Project Income Limits (MTSP). The MTSP limits are issued in response to changes in the income limit methodology as required under the Housing and Economic Recovery Act of 2008. The MTSP limits include HERA special limits, which are income limits "held harmless", meaning changes in median income are not reflected in these. Please note there are changes in the number of counties for which HERA limits are available. If a county has newly been identified as a "HERA county", only buildings meeting the criteria described below may use the HERA limits. Non-impacted limits are income limits that are not held harmless. The MTSP limits are for use by tax credit and multifamily bond projects only. OHFA has posted on its web site the MTSP limits and a special file for the OHFA Compliance Tool that contains the MTSP limits. This special file is necessary because the Tool requires users to input income levels adjusted to 30%, 50% and 80% of AMI. This file should be used to populate the tables in the Compliance Tool. The 2011 Compliance Tool Income Limits file can be downloaded at www.ohiohome.org/compliance/incomelimits.aspx.

Projects constructed/rehabilitated using HOME or OHTF, but not tax credits or multifamily bonds, must use the 2011 HOME income and rent limits (www.ohiohome.org/compliance/incomelimits.aspx). Tax credit projects with either HOME or OHTF must apply the most restrictive income and rent limits. The HERA income and rent limits cannot be used by projects financed with HUD programs such as Section 8, or by Rural Development 515 projects.

The applicable income limit for a tax credit or multifamily bond project is based on the year in which the building is placed in service and the county in which the building is located. For new construction projects, the placed in service date is generally the date on which construction is completed and a certificate of occupancy is issued; the placed in service date for purposes of applying the income and rent limits for acquisition and rehabilitation projects is the date of the acquisition of the building(s). Buildings within projects may have various placed in service dates so owners should use caution when selecting the appropriate income limit(s).The appropriate income limit for a building is based on one of the following four criteria:

1. Buildings placed in service **on or prior to 12/31/2008** apply the HERA special limit, if the county was assigned a HERA limit, or the higher of the 2009, 2010 or 2011 MTSP income limit.

2. Buildings **placed in service after 12/31/2008**, but before the issuance of the MTSP limits by HUD on 5/14/2010, apply the higher of the 2009, 2010 or 2011 MTSP non-impacted income limit. Note: projects placed in service on or after 1/1/2009 cannot use the HERA special limits.

3. Buildings **placed in service on or after 5/14/2010** apply the higher of the 2010 or 2011 non-impacted income limit. Note: projects placed in service on or after 1/1/2009 cannot use the HERA special limits.

4. Buildings **placed in service on or after 5/31/2011** apply the appropriate non-impacted 2011 income limits. Note: projects placed in service on or after 1/1/2009 cannot use the HERA special limits.

In a prior memo, OHFA advised that projects allocated credits in 2008 could use the HERA limits when placing in service. After further consideration, OHFA is advising projects allocated credits in 2008 or beyond to use the appropriate non-HERA limit. Doing so will ensure residents are qualified and charged rent based on the most appropriate income information. The industry continues to discuss the application of the HERA limits with the IRS and other parties. IRS Low Income Housing Newsletter #35, available at www.novoco.com/low_income_housing/resource_files/irs_rulings/irs_newsletter/lihc_newsletter35.pdf, includes a helpful discussion regarding when income limits are determined for a tax credit building.

Projects placed in service after 12/31/2008 may use the higher of the non-impacted income limit in effect at the placed in service date or the latest non-impacted income limit. Once an income limit is established at the placed in service date, an owner is not required to decrease the income limit if the non-impacted limit in any subsequent year decreases. Project rents are also calculated based on the higher of the non-impacted income limit in effect at the placed in service date or the latest non-impacted income limit. An owner may still follow the guidance established in IRS Revenue Procedure 94-57, which describes the process for electing a gross rent floor. Revenue Procedure 94-57 is available on the OHFA web site at http://www.ohiohome.org/compliance/IRS/revproc_94-57.pdf. It is important to recognize that, based on the placed in service date, and the date the gross rent floor is elected, a project could have a rent floor based on an income limit higher than the income limit used to determine occupancy.

Owners seeking additional guidance regarding the appropriate tax credit (the HOME program limits are not available through this tool) income and rent limits and gross rent floor may wish to refer to the Novogradac & Company rent and income calculator (http://www.novoco.com/products/rentincome.php). Note: Reliance on the Novogradac rent and income limit calculator is not a safe harbor for violations of the rent and income restrictions.