LEASES AND TENANT QUALIFICATIONS

1. **How long is the original lease term for an HDAP unit?**
   The original lease term typically is 12-months unless a lesser term is agreed upon which cannot be less than 30-days except in cases of threat to the tenants, employees, or property. Termination of tenancy must be for good cause. Termination of tenancy for NHTF must be for not only good cause, but in a timeframe dictated by local law.

   HOME Guide 4.3 B, HTF 24 CFR 93.303 (a) – (c)

2. **How do I verify employment income for an HDAP unit?**
   HUD 4350.3 indicates that 4-6 consecutive paystubs is enough to verify employment income for the various HUD programs and for the LIHTC program. However, the 2013 Final HOME regulation (**24 CFR 92.203**) requires the use of income source documentation for HOME and NHTF assisted units of two months of pay history such as paystubs {**92.203 (a) (1) (i) & (a) (2)**; HTF 24 CFR 93.151 (d) and 93.302 (e)}. At move-in and every 6th year of the HDAP affordability period, source documents (at least 2 months of history) are required. For other years, self-certification is acceptable.

   Refer to HUD Handbook 4350.3 for a complete listing and discussion of earned/unearned income and asset income, specifically HUD 4350.3 5-6 R, Exhibit 5-1 for the entire list of income inclusions and exclusions. **Exhibit 5-1: Income Inclusions and Exclusions - HUD**

3. **What are the student rule requirements for HDAP funded projects?**
   The HOME and Ohio Housing Trust Fund (OHTF) programs follow the student eligibility requirements as outlined by **HUD student rule**. Student eligibility is determined at move in/initial certification and at each annual certification. Student eligibility may also be reviewed at interim certification if student status has changed since the last certification. Tenants are required to report any change in their student status.

   QUICK TIPS *The HUD student rule does not apply to NHTF units.*

4. **Does the Uniform Relocation Act apply to HDAP?**
   The LIHTC program by itself does not trigger the Uniform Relocation Act (URA) because it is not considered federal financial assistance under **24 C.F.R §24.2(a) (11)**. However, the regulations for many of the other funding sources owners use to finance LIHTC projects—HOME, Section 8 Project- Based Rental Assistance (PBRA) and Project-Based Vouchers (PBV), and Section 811 Project Rental Assistance, for example—do require the ownership entity extend the rights afforded under URA to existing tenants.

5. **Are HDAP units required to use the OHFA HOME/NHTF Lease Addendum?**
   OHFA's **HOME/NHTF Lease Addendum** is required for HOME and NHTF projects. It is not required for Ohio Housing Trust funded units. Importantly, if a HOME or NHTF units has federal subsidy (i.e. Section 8, RD), OHFA's HOME/NHTF Lease Addendum cannot be used.

6. **The HDAP program has a recertification schedule that has to be followed. What is the recertification schedule in order to stay in compliance?**

   With the HDAP program, owners must conduct full third-party recertifications every six years of the affordability period. The start of the affordability period for HOME and NHTF is based upon when the **project is completed**.

   - Project completion means that all necessary title transfer requirements and construction work have been performed

   - The project complies with the requirements of this part (including the property standards under §92.251)

   - The final drawdown of HOME/NHT funds has been disbursed for the project

   - The project completion information has been entered into the disbursement and information system established by HUD (e.g. the Integrated Disbursement and Payment System or IDIS).

   The affordability start date for HDAP Ohio Housing Trust projects is the **construction completion date**.

   On the in-between, or interim years (i.e. years 2-5), OHFA allows the household to complete a self-certification. For all certifications, regardless if they are 3rd party or a self- certification, all household members age 18 or older must complete an OHFA Sworn Income and Asset Statement, an OHFA Student Certification and a Tenant Income Certification. Following is an example of the recertification timing:

Year of Affordability Period	Type of Recertification	Calendar Year	New HOME unit
1	3rd Party	2014 *(IDIS start date)*	
2	Self	2015	
3	Self	2016	
4	Self	2017	3rd Party
5	Self	2018	Self
6	3rd Party	2019	3rd Party
7	Self	2020	Self
8	Self	2021	Self
9	Self	2022	Self
10	Self	2023	Self

7. **What are the requirements for a LIHTC property in extended use (e.g. the second 15 years of the compliance period), and has HDAP funds?**

In extended use for the LIHTC program, OHFA relaxes some of the review requirements and does not monitor for the LIHTC student rule or the Next Available Unit Rule. For units that are qualified for both LIHTC and HDAP or HDAP only, the owner must ensure all tenant events are entered into DevCo every month (**by the 10th of every month**) such as the correct household composition, rent, and Utility Allowance.

- Units with LIHTC and HDAP funding have to be recertified annually for both income and student certification using the **Tenant Sworn Income and Asset Statement** (PC-E01) and **Student Certification** (PC-E42).

- For units with LIHTC and HDAP or HDAP only, reference the previous question for additional information on the certification schedule

- OHFA's compliance auditors will continue to conduct reviews in the extended use period.

- Owners must continue to submit the **Annual Owner Certification** each year by March 1st. It is imperative owners and/or management agents are familiar with the requirements including the affordability period as outlined in the HDAP funding agreement to ensure the property remains in compliance.

Income Limits

8. **What income limits apply to HDAP units?**

HOME and OHTF units use the HUD HOME income limits. HUD HOME income limits are based on the area median income (AMI). HOME limits are county or MSA specific and may go up or down any given year. The HUD very low (50% AMI) limits apply to LOW HOME units. High HOME limits are the HUD low income (80%). Ohio Housing Trust Fund units follow the HOME limits.

National Housing Trust Fund units use the HTF income limits. HTF limits are HUD's extremely low limits, which are the higher of the 30% limits or the poverty level for an area, capped at the very low (50%) limits (**HOME Guide 3.2A** and **HTF 24 CFR 93.302 (a) & (b)**). Ohio Housing Trust Fund units follow the HOME limits.

Rent Limits

9. **What rent limits apply to HDAP units?**

HOME and OHTF units use the HUD HOME rent limits. NHTF units use the HTF rent limits.

A project will never have to decrease the rents for HOME-assisted units below the HOME rent limits that were in effect at the time of project commitment. (24 CFR 92.252 (f)(1))

Owners are required to decrease rents if rents are at the NHTF limits and the limits decrease. Also, if the utility allowance increases, rent may need to be decreased to remain under the applicable income limit.

HUD provides maximum NHTF rents:

1. Extremely low-income households: Rent plus utilities cannot exceed the greater of 30% of the federal poverty line OR 30% of the income of a household whose annual income equals 30% of the AMI adjusted for bedroom size

2. Very low-income households: Rent plus utilities cannot exceed 30% of the income of a household whose annual income equals 50% AMI adjusted for bedroom size

HUD published HOME Rent Limits may be accessed **here**. HUD published NHTF Rent Limits may be accessed **here**.

10. **Is OHFA's HOME/NHTF Rent and Occupancy Report required for OHTF and NHTF units?**

The 2013 HOME Final Rule requires Participating Jurisdictions (PJ's) to review and approve rents annually for all multi- family HOME & NHTF assisted properties during their affordability period. To comply with 24 CFR 92.252 & 24 CFR 93.302 (c) (2), HOME & NHTF funded projects must submit an **Annual HOME/NHTF Rent and Occupancy Report** (PC-E50), a copy of the newly published HOME Rent and Income Limits, and a copy of the current utility allowance (UA) form within 30 days of the release of the HOME Rent Limits each year. HUD published HOME Rent Limits may be accessed **here**.

> **QUICK TIPS** *HDAP Ohio Housing Trust funded projects do not have to submit the HOME/NHTF Rent and Occupancy Report*

Utility Allowances

11. **What utility allowances apply to HDAP units?**

- **HOME Only**: HOME rules require owners to use a project-specific UA. OHFA is required to determine UAs for HOME- assisted rental units by using either the HUD Utility Schedule Model (HUSM), Engineers Energy Consumption Model or Utility Company Estimate. Owners are NOT permitted to use the PHA's UA for HOME-assisted units if HOME funds were committed on or after August 23, 2013. However, if HOME funds were committed before August 23, 2013, owners may continue to use the PHA's UA.

- **NHTF** and **OHTF** units are allowed to use the PHA, HUSM, Engineers Energy Consumption Model or Utility Company Estimate utility allowances. Refer to OHFA's UA Policy for further information.

Compliance Audits

For properties that have both LIHTC and HDAP funds, compliance audits are usually conducted simultaneously, but there are some exceptions. For HOME and NHTF projects, HUD requires OHFA to conduct the initial audit on HDAP units within 120 days of the owner's final draw of HDAP funds. In some cases, this causes physical reviews for HDAP and LIHTC units to be conducted separately. The IRS requires Housing Finance Agencies (HFAs) to conduct an on-site inspection or audit at least once every three years. The on-site monitoring schedule for projects funded with LIHTC and HDAP may vary between 1, 2 or 3 years. The monitoring schedule applies to HOME, OHTF and NHTF projects.

VAWA

12. **Does the Violence Against Women Act (VAWA) apply to HDAP projects?**
     Yes. Adherence to the requirements of the **Violence Against Women Act Reauthorization Act of 2022** is required for all Ohio Housing Finance Agency (OHFA) funded programs, including LIHTC, HOME, National Housing Trust Fund (NHTF), and Ohio Housing Trust Fund (OHTF). Here are some of the 2022 Reauthorization requirements including significant fair-housing penalties:

     · Expands the covered housing program to include more housing and homelessness programs.

     · Requires each federal agency carrying out covered housing to regulate and assess compliance with VAWA provisions

     · *Prohibits retaliation* against persons when they exercise their rights or participate in processes related to VAWA housing protections.

     · *Prohibits coercion* of persons when they exercise their rights or participate in processes related to VAWA housing protections.

     · *Protects the right to report crime* from one's home

     · The 2013 VAWA rule gives 14 business days (HUD excludes federal holidays, Saturdays and Sundays) for a person seeking VAWA protection to provide documentation. As this includes the simple option of self-certification, generally 14 days is sufficient. However, in cases where there is conflicting evidence, some VAWA victims may not be able to acquire third-party documentation within 14 days. Under the 2022 final rule, tenants have 30 days—generally the period of one rent cycle—to submit third-party documentation in cases of conflicting evidence. Housing providers may grant extensions where appropriate. (VAWA 2016 Fed. Reg. 80762)

     New enforcement provisions make VAWA violations equivalent to Fair Housing violations.

     For further information on OHFA VAWA requirements, review **OHFA's VAWA policy**.

Additional OHFA HDAP Resources:

HDAP Funding Sources Comparison Matrix
Affordable Housing Programs Resource Manual