

## Annual Owner Certification

### Instructions

It is the responsibility of the project owner to annually certify to MFA that the project meets the requirements of Section 42 of the Internal Revenue Code (the Code), whichever set aside is applicable to the project. ***The owner (or general partner authorized to sign for the ownership entity) is required to sign this certification.*** The owner of any exempted project must certify to the Agency on an annual basis that the project is in compliance with the requirements for RHCDS (FmHA) assistance on the tax-exempt bond financing guidelines, as applicable, and that all requirements of Section 42 of the Internal Revenue Code are also being met. The owner must inform the MFA of any non-compliance or if the owner is unable to make one or more of the required certifications.

The LIHTC Annual Certification (in conjunction with the Annual Report) is due by January 31st of each calendar year throughout the LIHTC compliance period. Failure to annually certify project compliance is considered non-compliance under the Code and **MFA shall report such failure to file the Annual Certification to the IRS in accordance with the Code.**

The attached form must be submitted to MFA as this is the most current version.



*Housing New Mexico*

## ANNUAL OWNER CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

Certification Period:	<b>January 1, 2019-December 31, 2019</b>
Project Name:	
Project #:	
Project Address:	
City, Zip Code:	

### Ownership Entity

Fed Tax ID #:	
Ownership Name:	
Owner Contact Person:	
Title:	
Street Address:	
City, State, Zip Code:	
Phone:	
Cell Phone:	
Fax:	
E-mail:	
Date Entity Commenced Ownership of Project:	
Date of Contact Change: (If applicable)	

### Management

Management Company Name:	
Management Contact Person:	
Title:	
Street Address:	
City, State, Zip Code:	
Phone:	
Cell Phone:	
Fax:	
E-mail:	
Date Company Commenced Management of Project:	
Date of Contact Change: (If applicable)	
On-site Contact Person:	
On-site Phone:	
On-site Contact E-mail:	

The undersigned \_\_\_\_\_ on behalf of \_\_\_\_\_ (the "Owner"), hereby certifies that:

Was there an owner or management change (entity, general/limited, or contact) during the reporting period?

Yes Change       No Change

If yes, complete "Change in Ownership or Management" section on page

**If credit allocation was received but the credit period has not yet begun please check the appropriate box below:**

No buildings were placed in service during the reporting period.

At least one building was placed in service but owner does not elect to begin credit period in the following year.

**If either of the above applies, please check the appropriate box, and proceed to page to sign and date this form.**

---

---

1. The project meets the minimum requirements of: (check one)

- 20 - 50 test under Section 42(g)(1)(A) of the Code
- 40 - 60 test under Section 42(g)(1)(B) of the Code
- 15 - 40 test for "deep rent-skewed" projects under Section 42(g)(4) and 142(d)(4)(B) of the Code

2. There has been **no change in the applicable fraction** (as defined in Section 42(c)(1)(B) of the Code) for any building in the project:

- NO CHANGE**       **YES CHANGE**

If "**YES CHANGE**", list the applicable fraction to be reported to the IRS for each building in the project for the certification year on page 6:

3. The owner has received an annual Tenant Income Certification from each low-income resident and documentation to support that certification, or the owner has obtained self-certifications based on HERA rules. This guidance can be found on the MFA website. It outlines the requirements for 100% TC properties and annual recertifications.

- YES**       **NO**

4. Each low-income unit in the project has been rent-restricted under Section 42(g)(2) of the Code:

- YES**       **NO**

5. All low-income units in the project are and have been for use by the general public and used on a non-transient basis (except for transitional housing for the homeless provided under Section 42 (i)(3)(B)(iii) of the Code):

- YES**       **NO**       **HOMELESS**

6. No finding of discrimination under the Fair Housing Act, 42 U.S.C 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C 3616a(a)(1), or an adverse judgment from a federal court:

- NO FINDING**       **FINDING**

7. Each building in the project is and has been suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a report of a violation for any building or low income unit in the project:

- YES**       **NO**

If "**NO**", state nature of violation on page 4 and attach a copy of the violation report as required by 26 CFR 1.42-5 and any documentation of correction.

8. There has been **no change in the eligible basis** (as defined in Section 42(d) of the Code) of any building in the project since last certification submission:

- NO CHANGE**       **YES CHANGE**

If "**YES Change**", state nature of change (e.g., a common area has become commercial space, a fee is now charged for a tenant facility formerly provided without charge, or the project owner has received federal subsidies with respect to the project which had not been disclosed to the allocating authority in writing) on page 6:

9. All tenant facilities included in the eligible basis under Section 42(d) of the Code of any building in the project, such as swimming pools, other recreational facilities, parking areas, washer/dryer hookups, and appliances were provided on a comparable basis without charge to all tenants in the buildings:

- YES**       **NO**

10. If a low-income unit in the project has been vacant during the year, reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units were or will be rented to tenants not having a qualifying income:

**YES**                       **NO**

11. If the income of tenants of a low-income unit in any building increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, the next available unit of comparable or smaller size in that building was or will be rented to residents having a qualifying income:

**YES**                       **NO**

12. An extended low-income housing commitment as described in section 42(h)(6) was in effect, including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s. Owner has not refused to lease a unit to an applicant based solely on their status as a holder of a Section 8 voucher and the project otherwise meets the provisions, including any special provisions, as outlined in the extended low-income housing commitment (not applicable to buildings with tax credits from years 1987-1989):

**YES**                       **NO**                       **N/A**

13. The owner received its credit allocation from the portion of the state ceiling set-aside for a project involving "qualified non-profit organizations" under Section 42(h)(5) of the code and its non-profit entity materially participated in the operation of the development within the meaning of Section 469(h) of the Code.

**YES**                       **NO**                       **N/A**

14. There has been no change in the ownership or management of the project:

**NO CHANGE**                       **YES CHANGE**

If "**YES CHANGE**", complete page 5 detailing the changes in ownership or management of the project.

15. The owner has obtained accurate, allowable, current utility allowances for use in the calculation of rents for the project. In addition, the owner acknowledges this process to be an annual requirement of the LIHTC program and certifies to adhere to this requirement for the duration of the compliance period for the project.

**YES**                       **NO**                       **N/A**

16. For the proceeding 12 month period (pursuant to IRS Revenue Ruling 2004-82) the owner has complied with §42(h)(6)(E)(ii)(I) that an existing tenant of a low-income unit has not been evicted or had their tenancies terminated for anything other than good cause.

**YES**                       **NO**                       **N/A**

17. The owner has complied with § 42(h)(6)(E)(ii)(II) and not increased the gross rent above the maximum allowed under § 42 with respect to any low-income unit.

**YES**                       **NO**                       **N/A**

18. The project has complied with the Violence Against Women Act (VAWA), which provides protections for residents and applicants who are victims of domestic violence, dating violence or stalking, and any other situation or incidence mandated by VAWA. Compliance requirements mandated by VAWA include, but are not limited to, honoring civil protection orders, eviction protection and bifurcation of lease when necessary.

**YES**                       **NO**

PLEASE EXPLAIN ANY ITEMS THAT WERE ANSWERED "NO", "YES CHANGE" OR "FINDING", ON QUESTIONS 1 – 18:

Question #	Explanation

Attach additional pages if necessary.

**Note: Failure to complete this form in its entirety will result in noncompliance with program requirements. In addition, any individual other than an owner or general partner of the project is not permitted to sign this form, unless permitted by the state agency.**

The project is otherwise in compliance with the Code, including any Treasury Regulations, the applicable State Allocation Plan, and all other applicable laws, rules and regulations. This Certification and any attachments are made UNDER PENALTY OF PERJURY.

\_\_\_\_\_  
 (Ownership Entity)

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
 Notary Public

My Commission Expires: \_\_\_\_\_

**CHANGES IN OWNERSHIP OR MANAGEMENT**

(to be completed **ONLY** if “CHANGE” marked for question 14 above)

**TRANSFER OF OWNERSHIP**

Date of Change:	
Taxpayer ID Number:	
Legal Owner Name:	
General Partnership:	
Status of Partnership (LLC, etc.):	

**CHANGE IN OWNER CONTACT**

Date of Change:	
Owner Contact:	
Owner Contact Phone:	
Owner Contact Fax:	
Owner Contact E-mail:	

**CHANGE IN MANAGEMENT CONTACT**

Date of Change:	
Management Company Name:	
Management Address:	
Management City, State, Zip:	
Management Contact:	
Management Contact Phone:	
Management Contact Fax:	
Management Contact E-mail:	
On-Site Manager:	
Phone:	
Fax:	

**Project Name:** \_\_\_\_\_

Please make additional copies as needed

	<b>Building</b>	<b>1st Year of Credit Period*</b>	<b>Applicable Fraction</b>
1.	NM -		
2.	NM -		
3.	NM -		
4.	NM -		
5.	NM -		
6.	NM -		
7.	NM -		
8.	NM -		
9.	NM -		
10.	NM -		
11.	NM -		
12.	NM -		
13.	NM -		
14.	NM -		
15.	NM -		
16.	NM -		
17.	NM -		
18.	NM -		
19.	NM -		
20.	NM -		

\*The taxable year in which the building is placed in service, or at the election of the taxpayer, the succeeding taxable year.