



PROGRAM BULLETIN #20-1007

TO: Developers, Owners and Management Agents representing Owner's interest in Housing Tax Credit Developments

FROM: Robert D. Collier, Senior Vice President of Program Compliance

DATE: July 10, 2020

SUBJECT: Minimum Compliance Monitoring Sampling Requirement/Agency Requirement to Conduct Compliance Monitoring Inspections or Reviews in Response to the COVID-19 Pandemic

On July 1, 2020, the IRS released a copy of proposed regulations that would relax the minimum sampling requirement for physical inspections and the review of tenant files at housing tax credit developments as part of the compliance monitoring duties performed by the Mississippi Home Corporation (MHC) under §42 of the Internal Revenue Code.

This sampling requirement was published in the Federal Register on February 26, 2019. The IRS implemented the 2019 regulation in order to ensure an increased statistical confidence using HUD Real Estate Assessment Center (REAC) numbers to determine sample sizes for smaller projects. The 2019 regulation required MHC to inspect no fewer units than the number specified for projects of the relevant size in HUD REAC inspections. This increased the sample size for smaller projects and decreased it for larger projects.

This proposed regulation is the result of comments provided by industry and trade groups. A major concern was that the 2019 regulation ended MHC's ability to use samples of 20 percent of the low-income units in a project when the applicable REAC number is larger. The 2019 requirement increased the number of units that MHC must examine, thereby increasing Agency staff and travel costs.

The IRS agrees that the magnitude of the increased costs and staff burdens outweighs any benefit that may have been derived from the 2019 protocol. For this reason, the IRS is proposing to return to the sample-size requirements that applied under Temporary Regulations issued in 2016. Under the proposed regulation, the minimum number of low-income units that must be included in the random samples of units and files to be reviewed is the lesser of the applicable REAC number or 20% of the low-income units in the project, rounded up to the next whole number.

Program Bulletin #20-0710
July 10, 2020

Example of Impact

- The 2019 Regulation required a minimum of 18 units to be reviewed (files and physical) for a 50-unit project;
- The proposed regulation would require a ten file/unit review.

The proposed regulation would apply after the date the regulation is published as a final regulation in the Federal Register. However, MHC may rely on the proposed regulation beginning on February 26, 2019 until December 31 of the calendar year following the year that contains the date these regulations are published as final regulations. For example, if the final regulation is published in November 2020, and changes from the proposed regulation, HFAs will be able to use the requirements outlined in the proposed regulation until December 31, 2021.

In addition, the IRS had given MHC authority to suspend the agency requirement to conduct compliance monitoring inspections or reviews for the period beginning April 1, 2020 and ending December 31, 2020. Owners and managers agents representing owner's interests will be notified under the normal notification process when MHC makes a determination that a review or inspection is required or it deems that such action will not create a burden or hardship due to circumstances related to COVID-19 during this time period.

Should you have any specific questions about the proposed regulation or the compliance monitoring review process, please contact Alisha Chandler, Assistant Vice President of Program Compliance at alisha.chandler@mshc.com.