



April 12, 2019

Anna P. Guido, Reports Management Officer  
QDAM  
Department of Housing and Urban Development  
451 7th Street SW  
Room 4176,  
Washington, DC 20410-5000

**RE: 60-Day Notice of Proposed Information Collection: Statutorily-Mandated Collection of Information for Tenants in LIHTC Properties**

**Docket No. FR-7007-N-08**

Submitted via email

Dear Ms. Guido,

The National Housing Trust (NHT) is a national nonprofit organization dedicated to preserving and improving affordable housing, ensuring that privately owned rental housing remains in our affordable housing stock and is accessible to low-income families and sustainable over time. Using the tools of real estate development, rehabilitation, finance, and policy advocacy in conjunction with sustainable practices, the Trust is responsible for saving more than 36,000 affordable homes in all 50 states, leveraging more than \$1.2 billion in financing.

#### **Introduction**

NHT strongly supports the proposed revisions to HUD's Low-Income Housing Tax Credit (Housing Credit or LIHTC) Database Data Collection Form and the LIHTC Tenant Data Form. Complete and accurate tenant and property data for LIHTC properties is critical to understanding the impact of the nation's largest affordable housing production program, preserving existing Housing Credit housing, and ensuring accountability to both residents and United States taxpayers.

The United States has an affordable rental housing shortage of approximately seven million rental homes affordable and available to the lowest-income households.<sup>1</sup> Resolving this crisis requires an empirical understanding of our nation's largest affordable housing production program and the preservation needs of Housing Credit properties at risk of loss from the affordable housing stock. HUD's LIHTC property and tenant data are indispensable to these efforts. Every effort should be made to improve and expand upon these data.



The Trust advocates for the long-term preservation of affordable rental housing at the federal, state, and local level. Key to understanding the universe of federally-assisted multifamily housing is the National Housing Preservation Database (NHPD). The NHPD relies on data collected from HUD's LIHTC Database Data Collection Form to accurately identify LIHTC properties, estimate subsidy end dates, and collect other key property-level characteristics, such as ownership type and unit counts to monitor preservation risks. HUD's LIHTC database also provides locational data that the Trust and other NHPD users rely on to study the neighborhood characteristics of the Housing Credit stock, including neighborhood opportunity and neighborhood-level preservation risk factors.

In addition to the property characteristics provided by HUD's LIHTC database, the LIHTC tenant data collected by HUD helps inform public understanding of who is served by the program. For example, the tenant data has revealed the significant extent to which the LIHTC program relies on HUD rental assistance programs, such as Housing Choice Vouchers, to serve households with the greatest housing needs. More generally, tenant data allows us to understand who is impacted by preserving or failing to preserve Housing Credit properties. Tenant data, if made available at a sufficiently granular level, can also inform public understanding of fair housing issues within the LIHTC program.

### **Support for HUD's Proposed Revisions**

The Trust strongly supports HUD's proposed changes to the LIHTC Tenant Data Collection Form and the LIHTC Database Data Collection Form. The proposed changes to HUD's LIHTC Database Data Collection Form will enhance oversight and preservation of Housing Credit assisted properties. The proposed item "Why is this property no longer monitored for LIHTC compliance?" will provide improved understanding of the risk factors that are threatening the long-term affordability of Housing Credit properties. This item will tell us how many properties and units are being lost from the affordable stock due to the end of their extended use period, sales under Qualified Contracts, or other reasons.

The Trust is deeply concerned about the growing number of Qualified Contract (QC) requests, which pose a significant threat to preservation. A recent survey of 35 state Housing Finance Agencies (HFAs) found that the overall number of LIHTC property owners utilizing the QC option has increased since 2014, although this varies widely by state.<sup>ii</sup> Results from the survey indicate that QC requests led to an average loss of approximately 10,000 units per year from 2014 to 2016. National data on QCs will allow us to track the growing risk posed to the preservation of the affordable housing stock and inform appropriate policy interventions. More generally, the proposed item will also provide further insight into the extent to which HFAs are proactively monitoring program compliance through the conclusion of the extended use period.

The proposed resyndication field will allow researchers to better understand how many Housing Credits are used for preservation efforts and obtain a more accurate de-duplicated count of properties actively assisted by Housing Credits. The proposed scattered site indicator will enable researchers to more easily match scattered site properties receiving multiple forms of federal assistance together and update the addresses of Housing Credit properties. The addresses provided by the HUD LIHTC Database Data Collection Form permit researchers to match Housing Credit properties to other federal and state subsidies to know whether a property is at risk of leaving the subsidized housing stock. The addresses also allow for the geocoding of properties to study the neighborhood characteristics of Housing Credit properties, as well as related fair housing issues.

### **Additional Suggestions**

We urge HUD to consider the following items in addition to the proposed changes:



### *Compliance Monitoring*

While we strongly support the proposed item, “Why is this property no longer monitored for LIHTC compliance?” we believe “Non-Compliance” should not be included as a potential response. The non-compliance of a property does not legally release it from the program and associated requirements. Non-compliance, therefore, is not a justification to cease monitoring compliance with program requirements. HUD risks establishing a legal precedent to the contrary by including this response as an option. Instead, “Non-compliance” should be replaced with the option to indicate “Foreclosure” as a reason why an allocating agency no longer monitors compliance for a property.

### *Total Length of Affordability Period*

HUD’s LIHTC Database does not currently denote which properties have agreed to extend the affordability restrictions and for how long. Many properties agree to a longer affordability period either in conjunction with the allocation of Housing Credits or as a condition of other financing sources from federal, state or local government. We suggest that the proposed item “Does this property have an affordability period longer than the LIHTC minimum of 30 years?” be supplemented with additional questions asking for the total length of the property’s affordability restrictions and when that affordability period is scheduled to end. Knowing the true affordability end date is needed to effectively monitor the compliance of these properties, accurately identify properties at risk of loss, and anticipate future preservation resource needs.

Recent estimates indicate that as many as 26 Housing Credit allocating agencies offer point incentives in their Qualified Action Plans (QAPs) to encourage applicants to extend property affordability beyond the 30-year minimum.<sup>iii</sup> As of 2017, at least eight states require that a portion of properties that receive newly awarded Housing Credits remain affordable beyond the 30-year minimum.<sup>iv</sup> Other sources of federal, state, and local financing may impose longer affordability periods as well. The length of extended affordability periods can vary by property or state; therefore, it is not possible to accurately estimate future preservation needs without knowing the total length of affordability restrictions at the property level. We suggest adding the following additional questions, “What is the length of affordability that this property is committed to in association with the allocation of Housing Credits and what does that affordability period end? Did this property commit to a longer period of affordability as a condition of accepting additional sources of financing? If so, what is the total length of the property’s affordability restrictions and when is that affordability period scheduled to end?”

### *Qualified Contract Waiver*

We suggest a new question asking whether a property has waived its right to a Qualified Contract and, if so, for how long it has waived this right. As of 2016, approximately 25 state HFAs offered incentives for owners to waive their right to a Qualified Contract, though not always for the duration of the extended use period. Including this field will allow researchers, advocates, and preservationists to more effectively monitor preservation risks for Housing Credit properties.

### *General Partner Name*

Collecting the general partner name will allow interested parties to better understand the ownership structure of Housing Credit properties. Many NHPD users have requested more detailed owner information to be made available to better understand who is responsible for the day-to-day management of the property. It is also important that ownership data in the LIHTC database, including nonprofit or for-profit status, reflects actual changes in ownership when they occur. Ownership changes commonly occur between Years 10 and 15 and are material to the long-term status Housing Credit properties as affordable housing.<sup>v</sup> A



change in ownership can result in new owners with a different interest in continuing to operate a LIHTC property as affordable housing. A new owner might be a nonprofit or mission-driven for-profit entity, or a for-profit entity simply interested in maximizing the return on their investment. Being able to accurately monitor ownership changes over time is critical to the identification and assessment of preservation risks.

#### *Units Set Aside Below Elected Rent/Income Ceiling*

In addition to the item "Are any units set aside to have rents below the elected rent/income ceiling?" already on the LIHTC Database Data Collection Form, a further item should be included to specify the rent levels of the set-aside units. This information would help improve public understanding of the extent to which the LIHTC program is able to serve the lowest-income households.

#### *Rental Assistance Demonstration (RAD) Properties*

HUD should collect data indicating whether LIHTC properties are a part of the RAD program. This will allow researchers and policymakers to track which portion of Housing Credits are awarded to preserve public housing and study other property and neighborhood-level characteristics of properties in the RAD program receiving Housing Credit financing.

#### *Housing Trust Fund (HTF) Financing*

HUD already collects data indicating whether LIHTC properties receive financing from other federal housing assistance programs such as the HOME Investments Partnership Program and Community Development Block Grant. HUD should add a similar item to the LIHTC Database Data Collection Form regarding national Housing Trust Fund (HTF) financing. This would allow database users to better understand the extent to which Housing Credit properties also utilize HTF financing and other important property and neighborhood-level characteristics of HTF-assisted Housing Credit properties.

#### **Conclusion**

The Trust strongly supports HUD's proposed revisions to the HUD LIHTC Database Data Collection Form and the LIHTC Tenant Data Form. We urge HUD to add additional fields regarding total length of affordability restrictions, waived right to a Qualified Contract, general partner name, units set aside below the elected rent/income ceiling, participation in the RAD program, and Housing Trust Fund financing. Data collection on housing and tenant characteristics should be a basic function of every federal housing program. Complete and accurate property data for Housing Credit properties is critical preserving this irreplaceable assisted housing portfolio.

Thank you for your consideration of these comments. If you have any questions or would like additional information, please do not hesitate to contact me at 202-333-8931 x130 or [eluriehoffman@nhtinc.org](mailto:eluriehoffman@nhtinc.org).

Sincerely,

*Ellen Lurie Hoffman*

Ellen Lurie Hoffman  
Federal Policy Director



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<sup>1</sup> National Low Income Housing Coalition. (2019). The Gap: A Shortage of Affordable Homes. Washington, DC: Author.

<sup>ii</sup> Kincer, B. & Shelburne, M. (2017). Qualified Contracts Volume: Policies Vary Widely by State. National Housing & Rehabilitation Association.

<sup>iii</sup> Nelson, M. & Sorce, E. (2013). Supporting Permanently Affordable Housing in the Low-Income Housing Tax Credit Program: An Analysis of State Qualified Allocation Plans. Portland, OR: National CLT Network.

<sup>iv</sup> Emmanuel, D., McElwain, K., Aurand, A., Stater, K. (2018). Balancing Priorities: Preservation and Neighborhood Opportunity in the Low-Income Housing Tax Credit Program Beyond Year 30. National Low Income Housing Coalition and the Public and Affordable Housing Research Corporation.

<sup>v</sup> Meléndez, E., Schwartz, A. F., & Montrichard, A. D. (2008). Year 15 and preservation of tax-credit housing for low-income households: An assessment of risk. *Housing Studies*, 23(1), 67–87.



**Hill, Ronald M**

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**From:** Hill, Ronald M  
**Sent:** Friday, April 12, 2019 4:48 PM  
**To:** Hollar, Michael K  
**Cc:** Guido, Anna P; Watts-Mitchell, Wynee V; Johnson, Calvin C; Star, Carol S  
**Subject:** Fw: LIHTC Database Data Collection comments  
**Attachments:** NHT LIHTC Data Collection Comments FINAL 2.0 4-12-19.pdf

**Importance:** High

Mr. Hollar-

Please see comments attached for your 60-day notice and reply directly. When you reply please cc: me and Ms. Guido.

Thanks,

Ronald Hill

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**From:** Guido, Anna P  
**Sent:** Friday, April 12, 2019 4:20:34 PM  
**To:** Hill, Ronald M  
**Cc:** Watts-Mitchell, Wynee V; Johnson, Calvin C; Star, Carol S; Guido, Anna P  
**Subject:** FW: LIHTC Database Data Collection comments

Hi Ron,

Please see email and respond accordingly.

Thanks  
Anna

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**From:** Ellen Lurie Hoffman <eluriehoffman@nhtinc.org>  
**Sent:** Friday, April 12, 2019 4:00 PM  
**To:** Guido, Anna P <Anna.P.Guido@hud.gov>  
**Cc:** Ellen Lurie Hoffman <eluriehoffman@nhtinc.org>  
**Subject:** LIHTC Database Data Collection comments  
**Importance:** High

Hi Ms. Guido,

Attached please find comments from the National Housing Trust in response to HUD's Low-Income Housing Tax Credit (LIHTC) Database Data Collection Form and the LIHTC Tenant Data Form. Please let me know if you have any questions or would like additional information.

All the best,

Ellen

Ellen Lurie Hoffman

Federal Policy Director | National Housing Trust  
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[www.nhtinc.org](http://www.nhtinc.org) | [@ellenhoffman](https://twitter.com/ellenhoffman)  
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## Hill, Ronald M

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**From:** Ellen Lurie Hoffman <eluriehoffman@nhtinc.org>  
**Sent:** Friday, April 26, 2019 9:51 AM  
**To:** Hollar, Michael K  
**Cc:** Guido, Anna P; Hill, Ronald M  
**Subject:** RE: LIHTC Database Data Collection comments

Hi Mike,

Thank you so much for sending this detailed response to our comments. This is very helpful information and I appreciate your careful consideration of our recommendations.

All the best,

Ellen

### Ellen Lurie Hoffman

Federal Policy Director | National Housing Trust  
202-333-8931 x 130 | [eluriehoffman@nhtinc.org](mailto:eluriehoffman@nhtinc.org)  
[www.nhtinc.org](http://www.nhtinc.org) | [@ellenhoffman](https://twitter.com/ellenhoffman)  
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**From:** Hollar, Michael K <Michael.K.Hollar@hud.gov>  
**Sent:** Friday, April 26, 2019 9:44 AM  
**To:** Ellen Lurie Hoffman <eluriehoffman@nhtinc.org>  
**Cc:** Guido, Anna P <Anna.P.Guido@hud.gov>; Hill, Ronald M <Ronald.M.Hill@hud.gov>  
**Subject:** RE: LIHTC Database Data Collection comments

Hi Ellen,

Thank you for your comments on HUD's Statutorily-Mandated Collection of Information for Tenants in LIHTC Properties. Your letter discussed seven suggestions which are addressed in turn below. Please note that HUD must balance the benefit of requesting new information against the cost to the HFAs of providing that information. Importantly, not all HFAs have the same capacity to provide information and thus, as we have experienced when adding new questions in the past, many agencies may not be able to provide information in new fields for several years or the information may not be provided complete for submitted properties.

*Compliance Monitoring:* We appreciate your point that non-compliance is not a reason for release from the program and have removed that as a response.

*Total Length of Affordability Period:* HUD agrees that this is useful information and that the information is likely easy for HFAs to provide. Thus, the property form will not only ask if the affordability period is longer than the federal minimum, but also how long.

*Qualified Contract Waiver:* HUD understands that knowing whether a developer waived the right to a Qualified Contract and, if so, how long it has waived this right may be useful for preservation advocates, but has decided not to include this question. Many HFAs have minimal staff who have very limited time to respond to HUD's data collection request. In addition, much of the information provided on the property form are not in systems but rather assembled from applications, which is labor-intensive to provide.

**General Partner Name:** Collecting the general partner name for each property and updating over time would involve a significant increase in burden for the HFAs and HUD. HUD collects information for a property when it is placed into service, but the data is not updated until the HFA reports that the property is no longer monitored for LIHTC compliance. Collecting the general partner's name may represent a minor increase in burden when a property is first reported to HUD, but HUD would need to develop a channel to report updates to this field. For this reason, HUD has decided to not add general partner name to the data collection form.

**Units Set Aside Below Elected Rent/Income Ceiling:** Since actual rent information is provided with the tenant data, HUD will seek to incorporate more of the information submitted as part of the tenant data into the property database. The rent level is one area HUD will consider aggregating to include in the property database.

**Rental Assistance Demonstration (RAD) Properties and Housing Trust Fund (HTF) Financing:** HUD agrees that since the Rental Assistance Demonstration (RAD) and the National Housing Trust Fund are becoming important resources for LIHTC development, we should inquire about their use. Thus, we have added a field for the National Housing Trust Fund in Part VIII Program Type on the tenant form and both of these programs in the list of financing options in the property form.

Thank you again for taking the time to provide comments on this data collection effort!

Sincerely,  
Michael Hollar  
Senior Economist  
Office of Policy Development & Research (PD&R)

---

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**Sent:** Friday, April 12, 2019 4:02 PM  
**To:** Hollar, Michael K <[Michael.K.Hollar@hud.gov](mailto:Michael.K.Hollar@hud.gov)>  
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[www.nhtinc.org](http://www.nhtinc.org) | [@ellenhoffman](https://twitter.com/ellenhoffman)  
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Office of Policy Development & Research (PD&R)

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**Sent:** Friday, April 12, 2019 4:02 PM

**To:** Hollar, Michael K <Michael.K.Hollar@hud.gov>

**Cc:** Ellen Lurie Hoffman <eluriehoffman@nhtinc.org>

**Subject:** LIHTC Database Data Collection comments

**Importance:** High

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All the best,

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**Ellen Lurie Hoffman**

Federal Policy Director | National Housing Trust

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