

**Attachment 1: Preamble, including required analysis, for the adoption of new 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring, §§10.1201 through 10.1207**

The Texas Department of Housing and Community Affairs (the Department) adopts new 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring §§10.1201 through 10.1207. The purpose of the new rule, in compliance with Tex. Gov't Code §2306.053, is to implement the requirements of HB 21 (89<sup>th</sup> Regular Legislature), which tasks the Department with the compliance monitoring oversight of all Housing Finance Corporation (HFC) multifamily residential developments. The new rule provides guidance on auditing and reporting requirements for HFC multifamily residential developments that are required to be audited no later than June 1, 2026, and the results reviewed and published by the Department.

Tex. Gov't Code §2001.0045(b) does not apply to the new rule proposed for action because it is necessary to implement the requirements of new legislation, HB 21.

The Department has analyzed this new rulemaking, and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the new rule is in effect:

1. The adopted new rule does not create or eliminate a government program but clearly outlines the audit report and monitoring requirements for Responsible Parties of Housing Finance Corporations and their Sponsors.
2. The adopted new rule will change the number of employees of the Department. The enactment of HB 21 included an appropriation for one full time employee for fiscal year 2026 to perform work associated with implementation of HB 21 and this rule.
3. The adopted new rule will require additional future legislative appropriations. The new rule is in effect because the Texas Legislature in its 89<sup>th</sup> Regular Session passed House Bill 21. The Department was appropriated an additional \$228,228 per year of the biennium from General Revenue funds to implement the provisions of the legislation and received one new FTE. It is expected that the appropriation would continue in subsequent biennia to continue implementing the provisions.
4. The adopted new rule will increase fees paid to the Department. Each HFC multifamily residential development must submit an annual service fee in the amount of \$35 per restricted unit, limited to the file sample size; the minimum fee shall not be less than \$500.
5. The adopted new rule is creating a new regulation in order to implement the requirements of HB 21.
6. The adopted new rule will not limit or repeal an existing regulation but can be considered to "expand" the existing regulations on this activity because the adopted new rule is necessary to ensure compliance with HB 21 and for the Department to establish rules.
7. The adopted new rule will not increase nor decrease the number of individuals subject to the rule's applicability; and

8. The proposed new rule will not negatively nor positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department, in drafting this new rule, has attempted to reduce any adverse economic effect on small or micro-business or rural communities while remaining consistent with the statutory requirements of Tex. Gov't Code, §2306.053.

1. The Department has evaluated this new rule and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities because these rules apply to all Housing Finance Corporation multifamily residential developments effective May 28, 2025.

3. The Department has determined that because these rules apply only to Housing Finance Corporation multifamily residential developments there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new rule does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new rule as to its possible effects on local economies and has determined that for the first five years the new rule will be in effect the adopted new rule creates provisions for a new procedure for monitoring Housing Finance Corporation multifamily residential developments that are generally exempt from ad valorem taxation. There will be economic cost to these developments required to comply with the new rule because a fee will be collected by the Department to perform compliance monitoring on Housing Finance Corporations multifamily residential developments. In addition, HFCs will be required to hire third party auditors to complete the annual audits.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the new rule on employment in each geographic region affected by this new rule..." Considering that no impact is expected on a statewide basis, there are no "probable" effects of the new rule on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the new rule is in effect, the public benefit anticipated as a result of the new rule will be to provide a new procedure of monitoring Housing Finance Corporations multifamily residential developments that are generally exempt from ad valorem taxation.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new rule is in effect, enforcing or administering the new rule does have some foreseeable implications related to costs or revenues of the state or local government. The Department was appropriated an additional \$228,228 per

year of the biennium from General Revenue funds to implement the provisions of the legislation and received one new FTE.

STATUTORY AUTHORITY. The new rule is adopted pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the new rule affects no other code, article, or statute. The rule, as adopted, has been reviewed by legal counsel and found to be a valid exercise of the Department's legal authority.

SUMMARY OF PUBLIC COMMENTS AND STAFF REASONED RESPONSE. The Department accepted public comment between December 26, 2025, through January 26, 2026. Comment was received from 10 commenters. Comments regarding the proposed new rule were accepted in writing by mail and e-mail with comments received from:

1. Megan Cano, President, Texas Affiliation of Affordable Housing Providers (TAAHP); Chris Newton, Executive Vice President, Texas Apartment Association (TAA) and Benjamin Davis, President, Texas Chapter of National Association of Housing and Redevelopment Officials (TXNAHRO).
2. Deletta Dean, Director, Austin Housing
3. Gary Gates, State Representative, House District 28
4. Paige Mebane, Director, Coats Rose
5. Celine M Williams, President, Celine M. Willams Services
6. Cynthia L. Bast, Partner, BakerHostetler
7. Braxton Parsons, Senior Vice President, Hilltop Securities Inc.
8. Matt Vara, Mesa Assurance
9. Dianna Grey, Executive Director, Strategic Housing Finance Corporation of Travis County
10. Timothy Clark, President, Riverside Dwell, LP

### **Purpose and Applicability**

#### **Rule Section §10.1201**

**COMMENT SUMMARY:** Commenter 9 appreciates confirmation that Housing Finance Corporation (HFC) multifamily residential developments with Low Income Housing Tax Credit (LIHTC) are excluded from this rule in accordance with HB 21. Commenter 2 seeks confirmation that an HFC ground lease when the borrower is not claiming a tax exemption under Chapter 394, Local Government Code is not subject to an Audit or Rent Reduction calculation. In addition, Commenter 2 states that Permanent Supportive Housing (PSH) that are not financed with Low Income Housing Tax Credits (LIHTC) that receive a partial tax exemption should be exempt from reporting since these developments serve chronically homeless individuals.

**STAFF RESPONSE:** Staff confirmed that HFC multifamily residential developments that are allocated LIHTC with a current Land Use Restriction Agreement (LURA) are exempt from reporting under statute and this rule. The rule cannot be revised in response to Commenter 2's requests because in accordance with HB 21, Section 394.9026(a)(10)(b) the only exception for a HFC multifamily residential development not to report that it is benefiting from a tax exemption under Chapter 394, Local Government Code, is a development that is a recipient of a LIHTC allocation. A Development not claiming an exemption is not required to report.

### **DEFINITIONS**

### **Rule Section §10.1202(1)**

**COMMENT SUMMARY:** Commenter 6 suggests the following words be deleted “*or compliance expert*” in the definition. They believe this is redundant since the definition of an Auditor includes a compliance expert.

**STAFF RESPONSE:** The Department accepted the recommendation and has removed the words “*or compliance expert*” from this section.

### **Rule Section §10.1202(2)**

**COMMENT SUMMARY:** Commenters 1, 4 and 5 request the same modification to the definition of “*Auditor*” by striking the following words from the definition “*a business entity that primarily performs audits and.*” Commenters 1, 4 and 5 state that statute is written in a manner that speaks to individual auditors as opposed to business entities. They believe that the Department is exceeding what is in statute by adding this clause. The commenters discussed the implication of this clause on the rotational requirements relating to using new independent auditors and Commenters 1 and 5 expressed concern that limiting audit firms would result in challenges for HFC Users to find auditors which could result in a cost increase due to the limited supply of auditors. Commenter 5 also recommends the term “*Auditor*” should be the same definition that is in the Public Facilities Corporation (PFC) rule.

**STAFF RESPONSE:** Staff has removed the words “*a business entity that primarily performs audits and*” from the Auditor definition.

### **Rule Section §10.1202(8) and (14)**

**COMMENT SUMMARY:** Commenter 3 indicates there is a conflict in language regarding ownership structure between §10.1202(8) and §10.1202(14). It is suggested that definition (14) for “*Multifamily Residential Development*” should be revised to align with definition (8) for “*Housing Finance Corporation User*” and the statutory language of HB 21. Commenter 2 supports the language in the proposed rule that multiple developments meeting the requirements stipulated in §10.1202(14) will be considered as one singular Multifamily Residential Development.

**STAFF RESPONSE:** In response to Commenter 3, staff has revised the definition of Multifamily Residential Development in §10.1202(14) by removing “*owned by a Housing Finance Corporation,*” from the. Staff appreciates Commenter 2’s support.

### **Rule Section §10.1202(11)**

**COMMENT SUMMARY:** Commenter 5 recommends clarifying that the “*average annual Rent*” be a point in time average of each Unit Type and not a 12-month average of every single unit.

**STAFF RESPONSE:** The Department did not implement the recommendation as it deviates from the definition of Maximum Market Rent in HB 21, which states, “*the average annual rent charged.*”

### **Rule Section §10.1202(15)**

**COMMENT SUMMARY:** Commenter 7 suggests removing the word “*partnership*” from the definition as it could cause confusion.

**STAFF RESPONSE:** Staff has removed the word “*partnership*” from the definition of Regulatory Agreement.

### **Rule Section §10.1202(16)**

**COMMENT SUMMARY:** Commenter 3 indicates how rent is defined deviates from HB 21 in two material ways. First, pest control fees are not excluded in HB 21 and should be counted towards max rent. Additionally, fees for utilities are recurring and should be included in the definition of rent. Commenter 5 recommends clarifying that recurring fees for utilities include trash and should not be included in the rent calculation. Commenter 1 and 4, like Commenter 5 recommends adding “trash” as one of the exceptions to max rent. Commenter 7 suggests a phrasing change to clarify that any fees that are optional, may be excluded from rent.

**STAFF RESPONSE:** Staff has accepted Commenter 3 recommendation since it aligns with the definition of “Rent” in HB 21. Staff did not accept the proposed changes suggested by Commenters 1, 4 and 5 since “trash” is specifically not excluded in the definition of rent in HB 21. Staff also did not implement phrasing changes suggested by Commenter 7 as it deviates from the text in HB 21.

### **Reporting Requirements**

#### **Rule Section §10.1203(1)(B)**

**COMMENT SUMMARY:** Commenter 3 does not agree that the Department should allow an extension up to 120 days for audit submissions and believes the extension time is excessive. Commenter 3 suggests that the Department should only allow a maximum of 60 days. Commenter 4 suggests that requiring all extension requests be submitted by May 1 of each reporting year is likely to place an undue burden on HFC Users.

**STAFF RESPONSE:** The Department has accepted Commenter 3’s suggestion to shorten the extension timeframe from 120 days to 60 days. Staff disagrees with Commenter 4 that the May 1 deadline is an undue burden, because Audit Reports are due by June 1 and HFC Users should be able to determine by May 1, if an extension is needed.

#### **Rule Section §10.1203(1)(C)**

**COMMENT SUMMARY:** Commenter 1 stated that the documents listed as required to be submitted with the first Audit Report may not be available for HFC multifamily residential developments that were initiated prior to HB 21. Commenter 1 also submitted a redline version of the rule with suggested proposed changes. Commenter 7 made similar suggestions to differentiate what documents were due with the first Audit Report.

**STAFF RESPONSE:** Staff has incorporated the formatting changes and the suggested language changes with the exception of the Commenter’s suggested removal of this sentence, *“These items being submitted are the responsibility of the HFC User; if the Auditor indicates in their Audit Report that the HFC User has not provided the documents required in this subparagraph, a compliance finding will be issued.”* Staff is not deleting this sentence because it is the HFC User’s responsibility to comply with HB 21 and the HFC rules.

#### **Rule Section §10.1203(1)(D)**

**COMMENT SUMMARY:** Commenters 1 and 4 both suggested adding the exact same language to clarify when the first Audit Report is due for submission from a Development that is acquired prior to May 28, 2025, and is refinanced etc.

**STAFF RESPONSE:** Staff included the suggested additional language in Section 10.1203(1)(D)(iii) to add clarity on when a Development must submit their first annual Audit Report if that Development was refinanced, had a conveyance of fee or leasehold title, or was a sale or transfer of a majority of the beneficial ownership interest in a Development.

**Rule Section §10.1203(3)(A)**

**COMMENT SUMMARY:** Commenter 5 recommends that the reporting year not be required to include the full prior year, and that flexibility be added for HFC developments that are in lease up or in the process of implementing regulatory requirements. They suggest that the end date of December 31 be a recommendation, rather than a requirement.

**STAFF RESPONSE:** Staff did not accept the recommendation because having a reporting year end date of December 31, and which covers the full prior year, provides guidance and uniformity in Audit Reports.

**Rule Section §10.1203(4)**

**COMMENT SUMMARY:** Commenter 1 recommends that the compliance fee structure and amount of the fee be changed from \$20 per Restricted Unit to \$35 per Restricted Unit and be limited to the file sample size. Commenter 5 agrees with Commenter 1, that the annual compliance fee structure be limited to file sample size. Commenter 5 also suggested the fee amount be \$20 per Restricted Unit.

**STAFF RESPONSE:** As suggested, staff has increased the fee amount per Restricted Unit, while now limiting the fee amount calculation to the sample size of units. Staff also included Commenter 5 recommendation of limiting the fee amount to the sample size but did not include the recommendation of \$20 per Restricted Unit because staff accepted all of Commenter 1's suggested changes for the fee amount to be increased but limited to sample size only.

**Rule Section §10.1203(5)**

**COMMENT SUMMARY:** Commenter 3 recommends replacing the current phrase *"A copy of the summary notice"* with *"A copy of the summary of the Audit Report"* for clarity. Additionally, the reference to providing notice to "the Development" should be removed and only refer to *"Responsible Parties"* as it is more appropriate and aligns with HB 21.

**STAFF RESPONSE:** The Department has implemented the changes.

**Rule Section §10.1203(6)(A) and (B)**

**COMMENT SUMMARY:** Commenter 3 indicates there is a material divergence from HB 21. The proposed rule improperly expands noncompliance to Section 394.9026. Per Commenter 3, Section 9026(d) of HB 21 only directs the agency to provide an option for corrective action for a finding of noncompliance with Section 394.9026(c). Commenter 6 requests that 10.1203(6)(B) follow statute and defined terms and replace *"appropriate appraisal district"* with *"Chief Appraiser"* since it is not required by statute. Commenter 4 suggests adding an additional 60-day extension to the 180-day statutorily required corrective action period outlined in HB 21.

**STAFF RESPONSE:** Staff accepted Commenter 3 suggestions and has implemented the changes to the rule. Staff also accepted Commenter 6's revision. Staff did not incorporate Commenter 4's recommendation as it deviates from HB 21 statutory requirements and the Department does not have the authority to provide an extension for corrective action beyond 180 days.

### **Rule Section §10.1204(1)**

**COMMENT SUMMARY:** Commenters 2 and 10, recommend expanding the language to clarify that bridge, or short-term (less than 5 years), would not be considered a refinancing. Commenter 9 appreciates that inclusion having already been in the rule. Commenter 7 provided an example of when a Development is refinanced and when the first Audit Report would be initially due.

**STAFF RESPONSE:** The Department appreciates the support from Commenters 2, 9 and 10 on the language. The current published rule included the suggestions outlined by the Commenters; it is possible that Commenters 2 and 10 were referring to the previous published version. The Department accepted the example provided by Commenter 7 and has implemented the changes.

### **Rule Section §10.1204(2)**

**COMMENT SUMMARY:** Commenter 1 recommends adding the word, “*Restricted*” to Unit, to make clear that the number of files selected for review by the Auditor is limited to the number of Restricted Units, including when a Development is leasing up.

**STAFF RESPONSE:** The Department has implemented the change in the rule.

### **Rule Section §10.1204(3)(B)**

**COMMENT SUMMARY:** Commenter 3 recommends that the Department require photographic documentation that restricted units have comparable finishes, equipment and access and that a written certification alone is insufficient. Commenter 10 recommended that “*Units*” be capitalized when referring to “*Restricted Units*” in the rule. Commenter 10 also suggested the following language be deleted, “*significant variations in floor plans and square footage will be considered non-compliance*” due to circumstances where Developments with live-work units with commercial space are utilized by residents who operate a business, and their income exceeds the affordable thresholds. These live-work units are part of the “*non-income restricted*” units on the Development and no comparable floorplans exist in the Restricted Units.

**STAFF RESPONSE:** As suggested by Commenter 3, staff added photographic evidence as an additional requirement in the rule. Staff did not accept Commenter 10’s suggested revisions because the requirement that the income- restricted residential units in the development have the same unit finishes, equipment and access to community amenities and programs as residential units that are not income-restricted is required in HB 21.

### **Rule Section §10.1204(3)(C)**

**COMMENT SUMMARY:** Commenter 10 recommends revising this section to: “*Unit Types shall be allocated proportionally across each income restricted category.*” They recommend this to allow for minor discretion necessary due to rounding and instances where Unit Types cannot be exactly spread across multiple categories.

**STAFF RESPONSE:** Staff has not made the recommended revisions to comply most closely with HB 21.

### **Rule Section §10.1204(3)(D)**

**COMMENT SUMMARY:** Commenter 5 recommends the “*Department- approved Income Certification form*” required in the rule also include the “*Verification of Income*” form as referenced in most HFC Regulatory Agreements.

**STAFF RESPONSE:** Staff declines to include the “*Verification of Income*” form as the form does not reflect the current statutory or rule requirements to verify and document a restricted household’s income and assets.

**Rule Section §10.1204(3)(D)(i)**

**COMMENT SUMMARY:** Commenter 6 expressed appreciation for the next available unit example in the rule, but also suggested including that the HFC User can charge the household the rent at their applicable income designation. Commenter 7 suggests that very few HFCs have rents at the 160 percent level and including 160% in the example may result in additional HFC Users seeking to pursue this higher limit.

**STAFF RESPONSE:** Staff has accepted Commenter 6 addition to the example to make clear that households may be charged rent at their current income designation. Staff also accepted the suggestion by Commenter 7 to change the income and rent designation from 160 percent to 120 percent in the example.

**Rule Section §10.1204(3)(F)**

**COMMENT SUMMARY:** Commenter 3 requests that the website disclosure should be on the home page of the Development’s website, to prevent the disclosure from being buried elsewhere and difficult to find.

**STAFF RESPONSE:** The rule has been revised to reference the home page of the Development’s website.

**Rule Section §10.1204(3)(K)(i)**

**COMMENT SUMMARY:** Commenter 1 suggests adding “*imputed person per bedroom adjustment*” language to clarify the rent limit calculation and removing “*adjustment for family.*” Commenter 3 suggest that the current language relating to adjustments for family size improperly directs an Auditor to defer to regulatory agreements when determining rent limits, rather than actual operating practices.

**STAFF RESPONSE:** The Department declined to make these requested revisions from Commenters 1 and 3. The Department has provided technical clarity to HFC Users and Auditors on the definition of Rent that are used in practice when adjustment for family size is unclear. Commenter 1’s recommendation of using “*imputed persons per bedroom*” in lieu of “*adjustment for family size*” deviates from HB 21 and is not revised.

**Rule Section §10.1204(3)(L)**

**COMMENT SUMMARY:** Commenter 1 requested that clarifying language be added to identify that it is the HFC User that is responsible for determining the Rent Reduction comparison.

**STAFF RESPONSE:** Staff included the clarifying language.

**Rule Section §10.1204(3)(L)(i)**

**COMMENT SUMMARY:** Commenter 1 is requesting a change to the Rent Reduction calculation language, to use *“average of the Rent charged”* instead of *“annual Rent charged”*. Commenter 3 suggests that the allowable methodologies to determine Maximum Market Rent in a development that is one-hundred percent restricted are too broad and provide excessive discretion to the HFC User. Commenter 3 also recommends adding specific parameters to the rule for the market study and leasing survey methods, for example, it was suggested that Class C properties should not be compared to Class A properties and that Fair Market Rents are not suitable to use for small areas because they are not sufficiently localized.

**STAFF RESPONSE:** The Department did not accept Commenter 1 recommendation to include the term, *“average the rent charged as of December 31”* as statute does not allow for an average when calculating the difference between the annual Rent charged for each restricted unit and the estimated annual Maximum Market Rent that could be charged. While staff agrees that added specificity could be beneficial in the methodologies for estimating Maximum Market Rent, the suggestions by Commenter 3 likewise add ambiguity; some of the suggested terms, like Class C and Class A properties are not defined terms. Additionally, to add greater specificity at this point in the rulemaking process would not have allowed the public to make comment on those additions. Staff will proceed with the rule as is, but with the understanding that as the rule is implemented and Audit Reports are received, it will evaluate actual report submissions of HFC Developments that are one hundred percent restricted to identify the challenges in estimating Maximum Market Rents and if any additional parameters will be needed.

**Rule Section §10.1204(3)(L)(i)(I)**

**COMMENT SUMMARY:** Commenters 1 and 4 submitted the exact same comments and they are requesting to add new language regarding the timing of submission of the first annual Audit Report and Rent Reduction calculation for Developments that were acquired prior to May 28, 2025, which undergo refinancing etc.

**STAFF RESPONSE:** The Department has included the new language in the rule to add clarity to the timing of reporting requirements.

**Rule Section §10.1204(3)(L)(ii)(II)**

**COMMENT SUMMARY:** Commenters 2 and 9 appreciate that the rule addresses the treatment of voucher holders for purposes of the Rent Reduction calculation. Commenter 3 suggests that only including the tenant paid portion of rent for a voucher holder in the Rent Reduction Calculation is problematic because this would allow federal subsidies to be counted toward the requirement that 50% of property tax savings be used to lower rents and shifts responsibility for funding rent reductions from the User to the federal government.

**STAFF RESPONSE:** The Department staff acknowledges Commenters 2 and 9 in support of how voucher holder rent is used to calculate the rent reduction. Regarding Commenter 3’s concern, staff would like to clarify that not including the voucher holder’s rental assistance amount and only including the voucher holders tenant paid portion of rent results in a deeper rent saving for households. Excluding the voucher holder’s rental assistance amount means it will not be counted toward the Development’s 50% property tax saving calculation. For example, if a voucher holder tenant pays \$300 per month toward their rent and the rental assistance payment of rent is \$1,000, then the rental assistance payment of \$1,000 per month would be excluded for purposes of calculating the Rent Reduction.

**Rule Section §10.1204(3)(L)(i)(II)(-b-)**

**COMMENT SUMMARY:** Commenter 3 suggested replacing the word “charged” with “that would be charged.”

**STAFF RESPONSE:** Staff has made the recommended revision.

**Rule Section §10.1204(3)(L)(i)(III)**

**COMMENT SUMMARY:** Commenter 1 and Commenter 3 suggested adding clarifying language to align with statute when there are multiple taxing jurisdictions.

**STAFF RESPONSE:** Staff accepted the suggestion as it adds clarity to the rule.

**Rule Section §10.1204(3)(L)(ii)(II)**

**COMMENT SUMMARY:** Commenter 10 suggests deleting the first sentence of this section because the first sentence is repetitive and possibly conflicting with the definition of Rent Reduction.

**STAFF RESPONSE:** Staff did not incorporate this change into the rule. The sentence adds clarity, and the action required to complete the public benefit calculation.

**Rule Section §10.1204(3)(L)(ii)(II)(-a-)**

**COMMENT SUMMARY:** Commenter 5 suggests, the average rent charged for market rate units, and the average rent for restricted units should be used to reflect an accurate public benefit test. Commenter 5 indicates the maximum permitted rent for restricted units may be much higher than the average restricted rent the development is actually charging. Using the permitted rent instead of the average rent charged for restricted units may inflate the rents and not accurately reflect the Rent Reduction calculation. Commenter 10 recommends replacing “maximum permitted Rent” with “advertised rent” because the language penalizes a property that offers an advertised rent below what is permitted in the Regulatory Agreement. Commenter 10 also suggests the current language as drafted would be punitive and discourages affordability. Commenter 8 suggests that the first public benefit test calculation be based on when the exemption was received and not when the Development was acquired by the HFC. For example, a Development acquired in December 2024 but lacks the exemption would not have to complete the public benefit determination until 2026.

**STAFF RESPONSE:** The Department declines comments from Commenters 5 and 10, as HB 21 specifies that the public benefit calculation is on charged rent. The rent that could be charged on a vacant Restricted Unit is the permitted rent limit. In response to Commenter 8, staff has added an additional example to the rule in §10.1204(3)(L)(ii)(I)(-c-) regarding when a HFC development is acquired and when the HFC User must report.

**Rule Section §10.1204(3)(L)(ii)(IV)(-a-)**

**COMMENT SUMMARY:** Commenter 3 would like clear guardrails added for the escalation factor to remove unnecessary discretion.

**STAFF RESPONSE:** The Department appreciates Commenter 3’s concerns regarding the calculation of escalation factors; however, the Department believes that most appraisal districts publish or will provide the necessary values that HFC Users needs to complete the public benefit calculation. The Department will also post the Public Benefit Test Owner Certification form along with the Summary, to ensure

transparency of its review of all aspects of the submitted Audit Reports. The Department will review all 2026 Audit Reports and based on submissions may initiate new rule making to provide more specific parameters in establishing escalation factor amounts.

**Rule Section §10.1204(3)(L)(ii)(IV)(-b-) and (-c-)**

**COMMENT SUMMARY:** Commenter 3 would like the language to prioritize the use of officially published appraisal district values when determining property tax appraisals and only reserve alternative methods for cases in which no published appraisal district valuation is provided.

**STAFF RESPONSE:** Staff updated the rule to reflect these changes.

**Income and Rent Calculations**

**Rule Section §10.1205(5)**

**COMMENT SUMMARY:** Commenter 8 requests that in lieu of verifying income and assets, that HFC Users be allowed to use the “*Verification of Income*” statement. If not fully approved, at least allow the form to be used for the 2025 tax year because collection of the full verification of income from an in-place tenant would be very challenging for Sponsors.

**STAFF RESPONSE:** The Department did not accept the suggested change as the “*Verification of Income*” statement referred to in some HFC Regulatory Agreements does not verify, or document required income and assets to demonstrate a household eligible for a Restricted Unit.

## CHAPTER 10. UNIFORM MULTIFAMILY RULES

### SUBCHAPTER J. HOUSING FINANCE CORPORATION COMPLIANCE MONITORING

#### *§10.1201. Purpose and Applicability.*

The purpose of this Subchapter is to:

- (1) Establish rules governing Developments owned or sponsored by a Housing Finance Corporation (HFC) that are subject to Sections 394.9026 and 394.9027 of the Texas Local Government Code.
- (2) Enable the Department to communicate with Responsible Parties and persons with an interest in the Development, regarding the results of the Audit Report.
- (3) Establish qualifications for Auditors and reporting standards and formats.
- (4) Implement compliance requirements, tenant protections, and affirmative marketing requirements, as required by Sections 394.9026 and 394.9027 of the Texas Local Government Code.
- (5) This rule is not applicable to a Development that is a recipient of Federal Low Income Housing Tax Credits. For purposes of this rule, a recipient of Federal Low Income Housing Tax Credits is any Development or HFC User that has received a Commitment Notice, or Determination Notice for an allocation of Federal Low Income Housing Tax Credits from the Department. During the time the Development is under construction or Rehabilitation, it will be considered to be a recipient of Housing Tax Credits, unless more than five years have passed since the Commitment Notice or Determination Notice was issued and the Development Owner has not yet entered into the Land Use Restriction Agreement. Upon conclusion of the construction or Rehabilitation, the Development must have an executed Land Use Restriction Agreement (LURA) with the Department that covers all the Residential Units. Then, the Development is considered to be a recipient of Federal Low Income Housing Tax Credits for the term of the LURA between the Department and the Development Owner.

#### *§10.1202. Definitions.*

The capitalized terms or phrases used herein are defined in this title. Any other capitalized terms in the subchapter shall have the meaning defined in Chapter 2306 of the Texas Government Code, Chapter 394, Texas Local Government Code, and other state or Department rules, as applicable. Defined terms, when not capitalized, are to be read in context and construed according to common usage.

- (1) Audit Report--A report required by Section 394.9027 of Texas Local Government Code completed by an Auditor ~~or compliance expert,~~ in a manner and format prescribed by the Department.
- (2) Auditor--An individual who is an independent auditor, ~~a business entity that primarily performs audits and,~~ or a compliance expert with an established history of providing similar audits on housing compliance matters, meeting the criteria established herein.
- (3) Board--The governing board of the Texas Department of Housing and Community Affairs.
- (4) Chief Appraiser--The chief appraiser of any appraisal district in which a Development is located.
- (5) Department--The Texas Department of Housing and Community Affairs.

- (6) Housing Choice Voucher Program--The housing choice voucher program under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437(f)).
- (7) Housing Finance Corporation (HFC)--A public, nonprofit corporation created under Chapter 394, of the Texas Local Government Code. This includes an instrumentality created by the HFC.
- (8) Housing Finance Corporation User or HFC User--A Housing Finance Corporation; or for a Multifamily Residential Development that is not owned directly by a Housing Finance Corporation, a public-private partnership entity or a developer or other person or entity that has an ownership interest or a leasehold or other possessory interest in a Multifamily Residential Development financed or supported by a Housing Finance Corporation.
- (9) HUD--The United States Department of Housing and Urban Development.
- (10) Lower Income Housing Unit--A residential unit reserved for occupancy by an individual or family earning not more than 60 percent of the area median income, adjusted for family size.
- (11) Maximum Market Rent--With respect to a particular Restricted Unit Type, the average annual Rent charged for all non-income-restricted units in the Development having the same or substantially similar floor plan as the Restricted Unit Type.
- (12) Middle Income Housing Unit--A residential unit reserved for occupancy by an individual or family earning not more than 100 percent of the area median income, adjusted for family size.
- (13) Moderate Income Housing Unit--A residential unit reserved for occupancy by an individual or family earning not more than 80 percent of the area median income, adjusted for family size.
- (14) Multifamily Residential Development--(also called Development) any residential development ~~owned by a Housing Finance Corporation~~ consisting of four or more residential units intended for occupancy as rentals, regardless of whether the units are attached or detached. If multiple Developments are owned by the same HFC with the same HFC User under one single-purpose ownership entity, are within the same jurisdictional boundaries pursuant to Section 394.031 of the Texas Local Government Code, and are bound under one Regulatory Agreement, it will be considered as one singular Multifamily Residential Development.
- (15) Regulatory Agreement--A Land Use Restriction Agreement (LURA), Ground Lease, Deed Restriction, or any similar restrictive instrument that is recorded in the real property records of the county in which the Development is located or ~~a partnership an~~ agreement between the HFC and HFC User which is not recorded in the real property records.
- (16) Rent--Any recurring fee or charge a tenant is required to pay as a condition of occupancy, including a fee or charge for the use of a common area, amenity, or facility reasonably associated with the residential rental property. The term does not include ~~pest control fees, fees for utilities (including phone, internet and cable) fees, and charges~~ for services or amenities that are optional for a tenant, such as pet fees and fees for storage or covered parking.
- (17) Rent Reduction--The projected difference between the annual Rent charged for a Restricted Unit and the Maximum Market Rent that could be charged for that same unit without the income restrictions.

(18) Responsible Parties--The Housing Finance Corporation that owns or is associated with the Development, the Housing Finance Corporation User of the Development, the Texas Comptroller, and the governing body of the Sponsor.

(19) Restricted Unit--A residential unit in a Multifamily Residential Development that is reserved for or occupied by a household meeting certain income limitations established in the Regulatory Agreement, in accordance with Section 394.9026(c)(1) of Texas Local Government Code, with Rent for such unit restricted as set forth in these rules. Restricted Units may float in a Development and need not be permanently fixed.

(20) Sponsor--A municipality, county or collection of municipalities and counties that causes a corporation to be created to act in accordance with Chapter 394, of the Texas Local Government Code.

(21) Substantially Similar Floor Plan--means a Unit Type.

(22) Tax Year--Is a calendar year. For the purposes of all provisions within the rule, the terms "Tax Year" and "Calendar Year" shall have the same meaning and shall be interchangeable.

(23) Unit Type--Means the type of unit determined by the number of bedrooms.

(24) Very Low Income Housing Unit--a residential unit reserved for occupancy by an individual or family earning not more than 50 percent of the area median income, adjusted for family size.

*§10.1203. Reporting Requirements.*

The following reporting requirements apply to all Housing Finance Corporation (HFC) Multifamily Residential Developments claiming an ad valorem tax exemption under Section 394.905 of the Texas Local Government Code and to which Sections 394.9026 and 394.9027 of Texas Local Government Code apply, regardless of when approved or acquired.

(1) All Multifamily Residential Developments owned by an HFC as defined by this subchapter must submit an Audit Report as described in this paragraph.

(A) No later than June 1 of each year, with approved extensions as described in subparagraph (B) of this paragraph each HFC User must submit to the Department an Audit Report from an Auditor, obtained at the expense of the HFC User. The Audit Report determines whether the Multifamily Residential Development was in compliance with Sections 394.9026 and 394.9027 of the Texas Local Government Code for the immediately preceding Tax Year.

(B) Audit Report extension requests must be submitted to [hfc@tdhca.texas.gov](mailto:hfc@tdhca.texas.gov) no later than May 1 of each reporting year. The request for an extension must include an explanation of the reason and the requested submission date, not to exceed ~~120~~60 days from the June 1 reporting deadline. Within seven calendar days of receiving the request, the Department will respond to the request and issue a determination of approval or denial for an extension.

(C) Prior to submission of the first Audit Report for a Development, the HFC User must provide the Auditor with a copy of the following:

(i) Underwriting assessment as published on the HFC website and as conducted pursuant to Section 394.905(b)(3) of Texas Local Government Code, if applicable;

~~(ii) a copy of the R~~ resolution or order required by Section 394.031(d) and Section 394.037(a-1)(2), if applicable;

~~(iii) and a copy of the B~~ board meeting minutes, public hearing transcript or adopted resolution, or other document evidencing approval of the Development, if applicable;

(iv) Regulatory Agreement;

(v) A one-time exemption application submitted to the Texas Comptroller's office;

(vi) The Auditor will include these with the first Audit Report. Additionally, a copy of the Regulatory Agreement and a copy of the one-time exemption application submitted to the Texas Comptroller's office shall be included in the first Audit Report. These items being submitted are the responsibility of the HFC User; if the Auditor indicates in their Audit Report that the HFC User has not provided the documents required in this subparagraph, a compliance finding will be issued.

(D) The first Audit Report for a Development must be submitted no later than June 1 of the Tax Year following:

(i) The date of acquisition by the HFC for an occupied Development; ~~or~~

(ii) The date a newly constructed Development first becomes occupied by one or more tenants; or-

(iii) The Tax Year during which a Multifamily Residential Development acquired prior to May 28, 2025, undergoes a refinancing, a conveyance of fee or leasehold title, or a sale or transfer of a majority of the beneficial ownership interest in the Multifamily Residential Development or HFC User.

(2) A Multifamily Residential Development is not entitled to an ad valorem tax exemption for any Tax Year in which the HFC User has not timely submitted the full Audit Report by the deadline, with approved extensions as required by Section 394.9027 of the Texas Local Government Code.

(3) All Audit Reports must comply with subparagraphs (A) to (C) of this paragraph:

(A) be for at least the full prior reporting year ending December 31 and include a rent roll for the same period.

(B) include contact information for all Responsible Parties.

(C) be completed and submitted in the Department prescribed manner.

(4) The HFC User must submit an annual service fee to the Department by June 1 of each year of the greater of ~~\$20-35~~ per Restricted ~~u~~Unit that is included in the sample described in §10.1204(2) of this subchapter or \$500 for Developments subject to an Audit Report. This fee shall be tendered by check, money order, or via an online payment system (if provided by the Department), payable to the Texas Department of Housing and Community Affairs. This fee, when received in connection with an Audit Report, is earned and is not subject to refund.

(5) No later than 60 days after the receipt of the Audit Report, the Department will post a summary of the Audit Report on its website including a detailed description of any noncompliance with this rule found by the Auditor and indication that such notice does not constitute a final determination. A copy of the summary of the Audit Report notice will also be provided to ~~the Development and~~ all Responsible Parties.

(6) If noncompliance is identified by the Auditor in the Audit Report, no later than 120 days after receipt of the Audit Report by the Department, the Department will issue a monitoring report notice and make it available on the website. A copy of the monitoring report will also be provided to the Development and all Responsible Parties.

(A) The monitoring report will include a detailed description of any noncompliance [with Section 394.9026\(c\)](#) and at least one option for corrective action to resolve the noncompliance. The HFC User will be given 180 days from the issuance of the monitoring report notice to correct the noncompliance. At the end of the 180 days, the Department will post a final report on its website.

(B) If there is any noncompliance with [Section 394.9026\(c\)](#) that is not corrected within the 180-day corrective action period, the Department will notify the Responsible Parties, [and Chief Appraiser appropriate appraisal district](#), and the Texas Comptroller in writing and recommend a loss of ad valorem tax exemption under Section 394.905 Texas Local Government Code respective to the Tax Year being Audited.

(7) The qualification of the Auditor must be submitted with each Audit Report. Qualifications must include experience auditing housing compliance, a current Certified Occupancy Specialist (COS) certification or an equivalent certification, and resume. The Auditor may not be affiliated with or related to any Responsible Parties. Additionally, a current or previous Management Agent that has or had oversight of the Development or is/was responsible for reviewing and approving tenant files does not qualify as an Auditor under these rules. HFC Users may not engage the same individual as Auditor for a particular Development for more than three consecutive years. After the third consecutive Audit Report by the same Auditor, the HFC User must engage a new Auditor for the submission of at least two annual Audit Reports before re-engaging with a prior Auditor.

(8) Audit Reports and supporting documentation and required forms must be submitted through the Departments File Serve System. To obtain access to this system the HFC User or Auditor must request access by emailing [hfc@tdhca.texas.gov](mailto:hfc@tdhca.texas.gov).

#### *§10.1204. Audit Requirements.*

Multifamily Residential Developments must comply with the Audit Report requirements identified in this section:

(1) If the Multifamily Residential Development was acquired prior to May 28, 2025, the Development must comply with all requirements by January 1, 2026, with the exception of paragraphs (3)(B), (3)(C), (3)(J), (3)(K) and (3)(L) of this section, which must be met no later than the end of the 10th Tax Year following May 28, 2025, or the end of the first Tax Year following a Tax Year in which the Development was refinanced, fee or leasehold title was conveyed or a sale or transfer of a majority of the beneficial ownership interest in the Multifamily Residential Development or HFC User occurred. [For example, 1204\(1\): If a Development is refinanced on July 15, 2027, the tax year would be 2027, and the second tax year after refinance would be 2028; so the previous Audit Report requirements would be due on June 1, 2028. The above would no longer be exempt for Tax Year 2028 and should be included in the Audit Report submitted June 1, 2029.](#) For purposes of this rule, refinancing of construction loans, whether by virtue of conversion from construction phase to permanent phase or replacement of construction, bridge, or short-term (less than 5 years) financing with permanent financing, will not be considered a refinancing.

(2) The Auditor must use the Department's HFC monitoring forms made available on the website. The review performed by the Auditor may be completed either onsite or electronically. Original records must be made available to the Auditor. The file sample used by the Auditor must contain at least 20% of the total number of Restricted Units for the Development, but no more than a total of fifty (50) household files. The selection of Restricted Units should include at least 75% of households that are newly moved in to the Development, but also include at least 10% of households that have recertified, or if 10% of households have not recertified, then units that have recertified. For Developments that are leasing up and not yet fully occupied the percentages reflected in this paragraph should be applied to all occupied Restricted Units.

(3) The Auditor will ensure Development meets the following requirements and will identify any deficiencies in the Audit Report:

(A) The HFC User will provide the Auditor with supporting documentation that the Auditor will submit with the Audit that:

(i) confirms that the Multifamily Residential Development is within its jurisdictional boundaries pursuant to Section 394.031 of the Texas Local Government Code such as a GIS boundary map, recorded legal description, local-government resolution, or other source approved by TDHCA.

(ii) confirms that a Multifamily Residential Development that is outside of the Sponsor's jurisdiction has been approved in accordance with Section 394.031(d) of Texas Local Government Code. For a Development not located within the Sponsor's jurisdictional boundaries, that was acquired on or before September 1, 2025, this requirement does not apply until January 1, 2027, after which this documentation must be submitted.

(B) The Restricted Units in the Development have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income restricted. Minor variations in floorplans, colors, and design are acceptable deviations and will not be noted as noncompliance; significant variations in floor plans and square footage will be considered noncompliance. The Auditor may rely on a written certification and photographic evidence from the HFC User to support that a Development has equitable finishes, equipment and access to amenities and programs. Such certification must be submitted with the Audit Report.

(C) The percentage of Restricted Units in each Unit Type and each category of income restriction in the Development must be the same or greater percentage as the percentage of each Unit Type of units that are reserved in the Development as a whole.

(D) Occupants of Restricted Units are required to recertify the income of the household using a Department-approved Income Certification form at lease renewal. If a household exceeds the income limit at annual income recertification, the Available Unit Rule as outlined in Section 42(g)(2)(D) of the Internal Revenue Code will be implemented in the following manner:

(i) Where the household's income exceeds the AMI as designated, the household can be redesignated to the next AMI level in the Regulatory Agreement. The next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(~~12~~): Development Regulatory Agreement includes units at 80% and ~~160~~120%, Unit 101, a one-bedroom Unit Type, is designated as 80%. At the annual income recertification, the household income was determined to exceed 80% AMI but was less than ~~160~~120% AMI. The unit should be redesignated as ~~160~~120% at the time the determination is made

and the next available one-bedroom Unit Type in the Development must be reserved for and occupied by an 80% household. [At the time of determination that the unit should be 120%, with proper notification, the household rent may increase to the new rent designation.](#)

(ii) Where the household's income exceeds the AMI as designated and the household is designated at the highest AMI in the Regulatory Agreement, the next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(32): Development Regulatory Agreement includes units at 80% and ~~120160%~~. Unit 201, a two-bedroom Unit Type is designated as ~~120160%~~. At the annual income recertification, household income was determined to exceed ~~120160%~~ AMI, the highest AMI in the Regulatory Agreement. The next two-bedroom Unit Type in the Development, must be reserved for and occupied by a ~~120160%~~ household. Unit 201 retains the ~~120160%~~ status until such time that the Available Unit Rule, as described here, is complied with or violated.

(E) The Development must affirmatively market available Restricted Units and non-Restricted Units to households participating in the Housing Choice Voucher program and notify local housing authorities of their acceptance of voucher program tenants. Evidence of this must be provided to include, but not be limited to, notifications to the local housing authority, advertising that may be posted at the local housing authority properties, or mailings that were sent to local housing authority households.

(F) The [home page of the](#) internet website for the Development must include information about the Development and its compliance with Section 394.9026(c)(7), Texas Local Government Code, along with its policies on the acceptance of Housing Choice Voucher holders or any other rental assistance.

(G) Multifamily Residential Developments cannot refuse to rent to an individual or family solely because the individual or family participates in a Housing Choice Voucher program.

(H) Multifamily Residential Developments cannot require a minimum income standard for individuals or families participating in a Housing Choice Voucher program that exceeds two hundred and fifty percent (250%) of the tenant portion of rent.

(I) The Auditor will review the Development's form of tenant lease, lease addendums and leasing policies to ensure the Development meets the following requirements and will report any deficiencies found in the Audit Report. Each residential lease agreement for a Restricted Unit must provide the following:

(i) The landlord may not retaliate against the tenant or the tenant's guests by taking action because the tenant established, attempted to establish, or participated in a tenant organization;

(ii) The landlord may only choose to not renew the lease if the tenant: committed one or more substantial violations of the lease; failed to provide required information on the income, composition, or eligibility of the tenant's household; or committed repeated minor violations of the lease that disrupt the livability of the Development, adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related Development facilities, interfere with the management of the Development, or have an adverse financial effect on the Development, including the failure of the tenant to pay rent in a timely manner.

(iii) To non-renew a lease, the landlord must serve a written notice of proposed nonrenewal on the tenant no later than the 30th day before the effective date of nonrenewal.

(iv) Tenants may not waive these protections in a lease or lease addendum.

(J) Income Restrictions. A Development seeking an ad valorem tax exemption must meet the requirements of either clause (i) or (ii) of this subparagraph.

(i) at least 10% of the residential units are reserved as Lower Income Housing Units and at least 40% of the residential units are reserved as Moderate-Income Housing Units or;

(ii) at least 10% of the residential units are reserved as Very Low-Income Housing Units and at least 40% of the residential units are reserved as Middle Income Housing Units.

(K) Rent Restrictions:

(i) Monthly Rent for Restricted Units may not exceed thirty percent (30%) of the imputed household income limitation for the unit, adjusted for family size, as determined by HUD. To determine the adjustment for family size, the Auditor will defer to the Development's Regulatory Agreement and/or other operative document. In the event that the adjustment for family size is unclear, it is the responsibility of the HFC User to provide the Auditor support that the manner in which the adjustment was applied is acceptable by the HFC.

(ii) Notwithstanding the foregoing, if a Restricted Unit is occupied by a household with a Housing Choice Voucher, and the payment standard for that voucher is less than the monthly Rent for the Restricted Unit established pursuant to clause (i) of this subparagraph, the household may be required to pay the difference between the payment standard and the monthly Rent.

(L) Rent Reduction Comparison. [It the sole responsibility of HFC User to:](#)

(i) Identify the difference between the annual Rent charged for each Restricted Unit and the estimated annual Maximum Market Rent that could be charged for such units if they were not restricted. For Developments where all of the Units are Restricted Units, the ~~Auditor and/or the~~ HFC User must provide evidence of reasonably comparable Maximum Market Rents, which may be based on market studies, leasing surveys, Fair Market Rents as published by HUD, or other methods acceptable to the Department.

(ii) The Audit Report shall include the following public benefit test:

(I) The Rent Reduction for all Restricted Units at the Development in the preceding Tax Year must not be less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development in the same Tax Year if the Development did not receive the exemption.

(-a-) For a Development acquired by an HFC the first Audit Report that will include the rent reduction test is for the first Tax Year after the acquisition Tax Year. Example 1204(43): Development acquired by an HFC on July 24, 2025. The acquisition tax year would be 2025, and the second tax year after acquisition would be 2026, so the first Audit Report would be due on June 1, 2026. The first rent reduction test would be for Tax Year 2026 on Audit Report submitted June 1, 2027.

(-b-) For newly constructed Developments the first Audit Report that will include the rent reduction test for the first Tax Year after the Tax Year in which construction first begins. Example 1204(54): An Multifamily Residential Development begins new construction on February 1, 2026. The first tenant occupies the Development on September 15, 2027. The first Audit Report is due on June 1, 2028, and must include the rent reduction test for reporting year 2027.

[\(-c-\) For Multifamily Residential Developments acquired prior to May 28, 2025, which undergo a refinancing, a conveyance of fee or leasehold title, or a sale or transfer of a majority of the beneficial](#)

ownership interest in the Multifamily Residential Development or HFC User, the first Audit Report that will include the rent reduction test is for the Tax Year after the occurrence undergoes such refinancing, conveyance of fee or leasehold title, or sale or transfer of a majority of the beneficial ownership interest in the Multifamily Residential Development or HFC User. Example 1204(6): For a Development that was acquired by an HFC prior to May 28, 2025, but which was refinanced on July 1, 2025, the refinancing Tax Year would be 2025, so the first Audit Report would be due on June 1, 2026. The first rent reduction test would be for Tax Year 2026 on Audit Report submitted June 1, 2027.

(II) The Rent Reduction calculation for each Restricted ~~u~~Unit must be the difference between the Maximum Market Rent for the same Unit Type and the Rent on the rent roll for the Rent for the Restricted Unit. Restricted ~~u~~Units occupied by households with Housing Choice Vouchers or rental assistance will utilize the tenant-paid portion of the Rent for the Rent Reduction calculation. Units that are vacant for any portion of the Tax Year will be considered as follows for the for the purposes of the Rent Reduction calculation:

(-a-) for a Restricted Unit the maximum permitted Rent for such unit under the Regulatory Agreement will be utilized for all months of vacancy, and

(-b-) for any market rate unit the Maximum Market Rent that would be charged for that Unit Type will be utilized in the months that the Unit was vacant.

(III) If the Rent Reduction calculation demonstrates that the Rent Reduction was less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development for the Tax Year, the HFC User must pay each taxing ~~authority jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development~~ the pro rata share of the Rent Reduction shortfall; the pro rata amount will be based on each taxing authorities share of the combined aggregate published millage rate of all applicable taxing authorities. The Rent Reduction shortfall is an amount equal to 50% of the estimated ad valorem tax amount minus the total Rent Reduction for the Tax Year. The Auditor Report must ~~provide include~~ evidence of any payments made by the HFC User to each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development. ~~the appropriate taxing authority in the Audit Report.~~

(IV) In estimating the ad valorem taxes that would have been imposed, the ~~Auditor~~ HFC User may use, but is not limited to, the following:

(-a-) For occupied Developments acquired by an HFC, estimated ad valorem taxes should generally be based on the actual taxes applicable no earlier than the ~~t~~Tax ~~y~~Year prior to the acquisition by the HFC with a stated escalation factor.

(-b-) For occupied Developments acquired by an HFC which already receive a property tax exemption, estimated ad valorem taxes ~~may must~~ be based on the public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used; an independent appraisal, third-party property tax report, ~~published appraisal district value,~~ or other means acceptable to the Department.

(-c-) For new construction, estimated ad valorem taxes ~~must may~~ be based on public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used; an independent appraisal, third-party property tax report, ~~published appraisal district value,~~ or other means acceptable to the Department.

(4) A Development acquired by an HFC after May 28, 2025, must comply with all requirements in this Subchapter no later than the end of the Tax Year following the year of acquisition.

(5) The Auditor must maintain monitoring records and papers for each Audit Report for three years and must provide the Department and/or the Chief Appraiser a copy of their monitoring records upon request.