

## New IRS Regulations Amend Compliance Monitoring Requirements - Thursday, February 25, 2016

Today the Internal Revenue Service (IRS) issued a notice that amends the Low Income Housing Tax Credit (LIHTC) compliance monitoring requirements to revise and clarify physical inspection and certification review rules. The IRS also published Revenue Procedure 2016-15 which further explains the implementation of the new regulations.

This document contains final and temporary regulations for compliance-monitoring duties of a State or local housing credit agency on physical inspections and low-income certifications and other documentation. IRS originally requested comments on its compliance monitoring requirements in Notice 2012-18, issued in March of 2012. In our comments to Notice 2012-18, NAHMA strongly encouraged streamlining of duplicative and burdensome physical inspection requirements for mixed-financed properties.

The new regulations will provide greater flexibility for the minimum number of units for which an agency must conduct physical inspections and low-income certifications. They also eliminate the "same unit" rule, which required agencies to conduct both physical inspections and low-income certification reviews on the same units, and the regulations permit the physical inspection protocol established under HUD's Real Estate Assessment Center (REAC) to satisfy the LIHTC physical inspection requirements, so long as the inspection satisfies the following requirements as outlined in Revenue Procedure 2016-15.

The minimum number of units that must undergo a physical inspection are revised to include the lesser of 20 percent of the low-income units in the project, rounded up to the nearest whole number, or the number of units set forth in the Minimum Unit Sample Size Reference Chart (which is included in Revenue Procedure 2016-15). The Reference Chart allows agencies to undertake physical inspections on fewer than 20 percent of the units in larger properties. Prior to these regulations, the IRS required Housing Credit agencies to inspect at least 20 percent of all units in the project. The regulations apply the same number of units to low-income certification reviews.