



Cost Certification Roundtable

November 2020

Purpose of Roundtable

- Overview of Cost Certification Requirements and Process
 - Not a full training
- Generate Ideas for Improvement



Why is there Cost Certification?

- Internal Revenue Code Section 42(m)(2)(C)(i)(III)
 - Credit allocated not to exceed amount necessary to assure project feasibility
 - Determination is made when credit amount is applied for and when placed in service
- Section 10.402(j) of Chapter 10, Subchapter E of Texas Administrative Code (TAC)



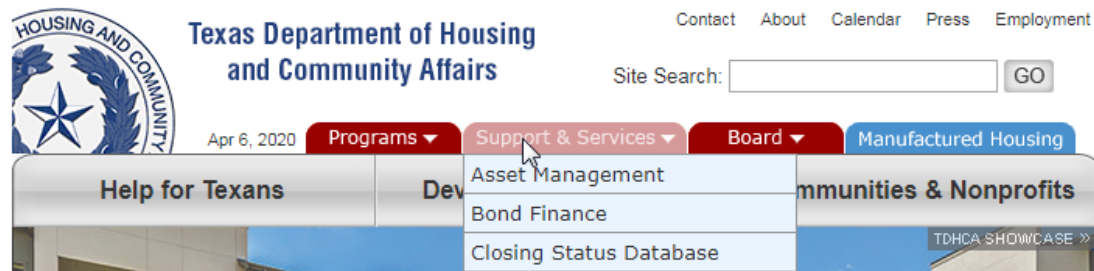
Other Considerations

- Chapter 2306 of Texas Government Code
 - Underwriting/Feasibility Requirements
 - Amendment Requirements (Section 2306.6712)
 - Ownership Transfers (Section 2306.6713)
- 10 TAC Chapter 11, Subchapter D
 - Underwriting Rules and Guidelines (§11.302)
- 10 TAC §10.404 – Reserve Requirements



Asset Management Resources & Information

- The Post Award Activities Manual & all of the Asset Management Forms are located on the Asset Management website: <https://www.tdhca.state.tx.us/asset-management/pca-manual.htm>. The manual will walk through the processing and forms for each activity under the Asset Management Division Rules.



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Post Award Activities Manual

The Asset Management Division is responsible for monitoring and processing all post-award activities for developments involving Housing Tax Credits, HOME funds, National and State Housing Trust Funds, and Neighborhood Stabilization Program (NSP) funds. This manual outlines the procedures and instructions for completing activities including, but not limited to, 10% Test, Construction Status Reports, Cost Certification, LURA Origination, LURA Amendments, Application Amendments, and Ownership Transfers.

[Post Award Activities Manual - Updated September 2020 \(PDF\)](#)

Questions about any item below? Asset Managers have been assigned to each region and can answer any questions related to the post award activities detailed in this manual. To find your assigned Asset Manager, visit <https://www.tdhca.state.tx.us/asset-management/contacts.htm>.



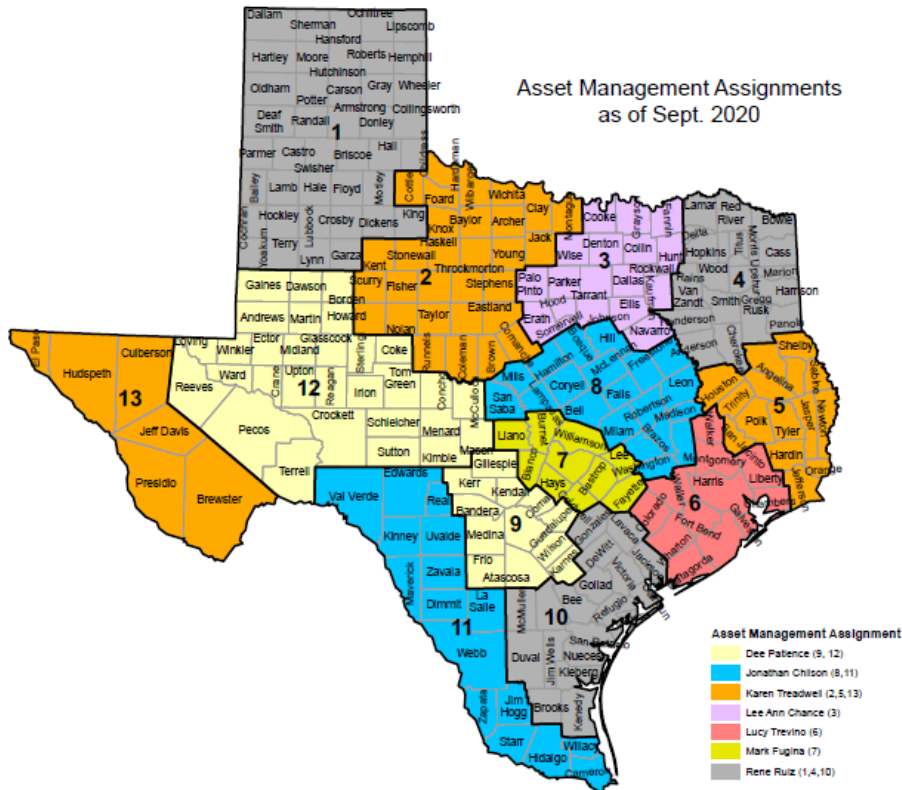
Post Award Activities Manual

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Asset Management Resources & Information

- Asset Managers are split up over 13 State Service Regions and can be found from the Assignments & Contact List on our Asset Management Website, where you will be able to search for your Asset Manager by the County in which your development is located.



HOUSING AND COMMUNITY AFFAIRS

Texas Department of Housing and Community Affairs

Contact About Calendar Press Employment

Site Search: GO

Apr 6, 2020

- Programs
- Support & Services
- Board
- Manufactured Housing

- Help for Texans
- Development
- Asset Management
- Bond Finance
- Closing Status Database
- Communities & Nonprofits
- TDHCA SHOWCASE

Asset Management

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Asset Manager Assignments and Contact List

Asset Management Contact List

Find the Asset Manager assigned to your region.

County:

Contact	Title	Phone
Rosalia Banuelos	Director of Multifamily Asset Management	(512) 475-3357

Cost Certification

Cost Certification (§10.402(j)) – 4% and 9% HTC Awards Only

Cost Certification is due by January 15th of the year following the first year of the Credit Period for the Development. Should the deadline date fall on a weekend or holiday, the cost certification documentation is due the following business day. If the deadline cannot be met, a request for extension must be submitted and must include information related to why such extension is necessary.

[Cost Certification Application – March 2020 \(XLSM\)](#)

- Due January 15th of the year following the first year of the elected credit period (4% and 9% HTCs)
 - Requires submission of:
 - A PDF of the cost certification package (with all forms and attachments), and
 - An Excel copy of the cost certification package (20 sections – some items are applicable to only 4% or 9% Developments) found on the TDHCA Asset Management website at: <https://www.tdhca.state.tx.us/asset-management/pca-manual.htm>
 - Process:
 - Staff will attempt to review the full cost certification within 45 days of submission and re-reviews within 30 days of receipt
 - *Cost Certifications will (on average) receive 1-3 Requests for Information (RFIs) from staff and will receive 8609s within 6 months*
 - Typically, Final Inspections and open compliance findings **MUST** be completed and cleared prior to release of 8609s
 - Due to COVID-19 pandemic, inspection requirements can be waived by the Executive Director for the release of 8609s
 - Staff will communicate with development owners regarding the status, and if warranted, waivers will be processed internally



Approval Chain for 8609s

- Asset Manager
- Director of Asset Management
- Compliance Division
- Deputy Executive Director

Form 8609 Low-Income Housing Credit Allocation and Certification
 (Rev. May 2016) Department of the Treasury Internal Revenue Service
 OMB No. 1545-0088
 Go to www.irs.gov/Form8609 for instructions and the latest information.

Part I Allocation of Credit
 Check # Addition to Qualified Basis Amended Form

A Address of building (do not use P.O. box) (see instructions)

B Name and address of housing credit agency

C Name, address, and TIN of building owner receiving allocation

D Employer identification number of agency

E Building identification number (BIN)

TIN ▶

1a Date of allocation ▶	b Maximum housing credit dollar amount allowable	1b	
2 Maximum applicable credit percentage allowable (see instructions)		2	9%
3a Maximum qualified basis		3a	
b Check here <input type="checkbox"/> if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(B). Enter the percentage to which the eligible basis was increased (see instructions)		3b	1 9%
4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-)		4	9%
5 Date building placed in service ▶			

6 Check the boxes that describe the allocation for the building (check those that apply):
a Newly constructed and federally subsidized **b** Newly constructed and not federally subsidized **c** Existing building
d Sec. 42(e) rehabilitation expenditures federally subsidized **e** Sec. 42(e) rehabilitation expenditures not federally subsidized
f Allocation subject to nonprofit set-aside under sec. 42(h)(5)

Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

Signature of authorized official Name (please type or print) Date

Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period

7 Eligible basis of building (see instructions)

8a Original qualified basis of the building at close of first year of credit period

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? Yes No

9a If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(f)(2)(B)? Yes No

b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(d)(3)(B)? Yes No

10 Check the appropriate box for each election.
Caution: Once made, the following elections are irrevocable.
a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) Yes No
b Elect not to treat large partnership as taxpayer (section 42(j)(5)) Yes
c Elect minimum set-aside requirement (section 42(g)) (see instructions):
 20-50 40-60 Average income 25-60 (N.Y.C. only)
d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) 15-40

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature Taxpayer identification number Date
 Name (please type or print) First year of the credit period

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 63981U Form **8609** (Rev. 05-2016)

Cost Certification

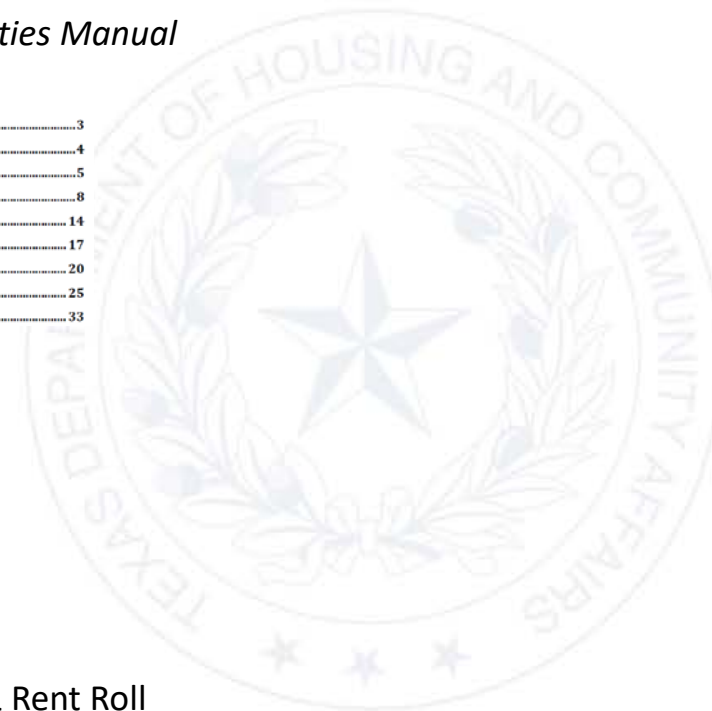
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• Cost Certification includes*:

- Owner's Certification
- Owner Summary & Organizational Charts
- Carryover or Determination Notice (w/ Election Statement if any)
- Evidence of Nonprofit or HUB Participation (9% HTC only)
- Development Team List
- Development Summary with Architect's Certification
- As Built Survey
- Closing Statement
- Title Policy & Policy Update
- Placement in Service Form
- Evidence of Placement in Service (generally COs)
- Auditor's Report
- Auditor's Report of Bond Financing (for 4% HTC)
- Development Cost Schedule
- Final Contractor Application for Payment (AIA G702/3)
- Documentation of Offsite Costs
- Rent Schedule, UAs, Annual Operating Expenses, and Pro Forma

- Current Operating Statement & Rent Roll
- Final Sources & Uses
- Limited Partnership Agreement (LPA)
- Loan Documents
- Architect's Certification for Accessible Units
- Assignment of Compliance Training & Certificate
- TDHCA Final Inspection Clearance Letter (to schedule final inspection see: <https://www.tdhca.state.tx.us/pmcomp/inspections/construction.htm>)
- Other Documentation (typically underwriting conditions)



Cost Certification

TOTAL	364		413,748	276,204
Non Rental Income		\$0.00 per unit/month for		
Non Rental Income		0.00 per unit/month for		
Non Rental Income		0.00 per unit/month for		
TOTAL NONRENTAL INCOME		\$0.00 per unit/month		

DEVELOPMENT ATTRIBUTES	APPLICATION	PLACED IN SERVICE
Number of units:	364	364
Number of residential buildings:	170	170
Number of non-residential buildings:	2	2
Maximum number of floors:	2	2
Number of elevators:	0	0
Net rentable area:	413,768	413,768

Year	Units	TX-14-42869	4/9/2015	4/4/2017	1	1,309	1,309
2016	170	TX-14-42870	4/9/2015	4/4/2017	1	1,175	1,175
2016	171	TX-14-42871	4/9/2015	4/4/2017	1	1,175	1,175
TOTAL						364	364
						414,289	414,289

Most Common Mistakes

- Changes to the Development or Application that will require an amendment (e.g., configuration of units, buildings, common space, or unit square footages – particularly items requiring Board Approval)
- Inconsistency across exhibits (e.g., Placement in Service exhibit, Rent Schedule, Development Summary, and Rent Roll NRA, etc.)
- Parking & charged amenities (Not removing costs from eligible basis and Part II of the 8609s)
- Accessible unit changes between LURA origination and construction completion
- Outdated rents & utility allowances
- Not having requested final inspection at the time cost certification is submitted
- Projected Debt Coverage Ratio (DCR) outside of underwriting guidelines of 1.15 to 1.50
- Reserves not supported or not allowed by rules
- Application of the Contractor fee (generally 14%) limit and the Developer fee (generally 15%) limits
 - Miscellaneous and FF&E cost line items that contain additional fees and may reduce basis (particularly for 4% HTC)
 - Change Orders and temporary construction costs on the G702/3 that should be added to contractor fees and may reduce basis (particularly for 4% HTC)
 - Related Party Construction Management Fees & Developer Fee Definitions

Other Trending Items

- IRS Audit Technique Guide
 - Tenant Relocation Costs
 - Excluded from eligible basis
 - Bond Issuance Costs
 - Excluded from eligible basis



Credit Determination

- Recommended Credit Amount is Lesser of:
 - Originally Approved Amount (9% HTC)
 - Eligible Basis Amount
 - Financing Gap Amount
 - Amount of funds needed to fill the gap created by Total Housing Development Cost less total non-Department-sourced funds or Housing Tax Credits
 - Net of cost adjustments
 - 1.50 maximum Debt Coverage Ratio (DCR)
 - Sometimes can be solved by amortizing deferred Developer Fee



Common Cost Adjustments

- Acquisition Value
 - Allocation between land and buildings for acquisition/rehab deals
 - Identity of interest
 - Excess land
- Contractor Fees
 - Misclassification of Overhead/General Requirements
 - Related Parties or Prime Subcontractors
- Developer/Consulting Fees
 - Developer Services
 - Developer G&A (travel, meals, lodging, etc.)
- Reserves
 - Operating Reserve – not required to be held for at least 5 years
 - Lease-up Reserve – not supported by actual operating deficits
 - Other Reserves not allowed by rules
 - capitalized asset management fees, guaranty reserves, tenant services reserves or other similar costs



Cost Certification

- Fixing Financing Gap Issues (Options):

- The QAP (in its Underwriting & Loan Policy Section, 11.302(e)(11) and 11.302(e)(12)) allows the following as a means to help Owners who are unable to achieve their projected credit amount following cost certification review:
 - Special Reserve Account (at or after submission of cost certification, a deposit of up to \$2,500/unit into a Special Reserve Account can be added as a Development cost)
 - Special Reserve must be kept separate from Replacement Reserves and is designated for assisting tenants with items like emergency rental and utility help – the Owner will need to determine how funds will be disbursed to tenants and must execute a written agreement with TDHCA (see the Asset Management Rules §10.404(d))
 - Additional Tenant Amenities (After submission of cost certification, additional building and site amenities up to 1.5% of the originally underwritten hard costs can be added)
 - Consider timing (for amenity completion and inspection of any new items) and Owner willingness to add and maintain additional amenities and to have these amenities included in the LURA



Questions?

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