To: Owners and Managers of Housing Tax Credit and Multifamily Bond Projects
From: Brian Carnahan, Director of Program Compliance
Re: Implementation of the 2013 Income and Rent Limits
Date: January 2, 2012 **(Note: this memo was revised to include the correct effective date of December 4, 2012.**

On December 11, 2012, HUD released the Multifamily Tax Subsidy Project Income Limits (MTSP), with an effective date of **December 4, 2012**. The MTSP limits are issued in response to changes in the income limit methodology as required under the Housing and Economic Recovery Act of 2008. The MTSP limits include HERA special limits, which are income limits "held harmless", meaning changes in median income are not reflected in these. Please note there are changes in the number of counties for which HERA limits are available. If a county has been identified as a "HERA county", only buildings meeting the criteria described below may use the HERA limits. Non-impacted limits are income limits that are not held harmless. The MTSP limits are for use by tax credit and multifamily bond projects only. OHFA has posted on its web site the MTSP limits and a special file for the OHFA Compliance Tool that contains the MTSP limits. This special file is necessary because the Tool requires users to input income levels adjusted to 30%, 50% and 80% of AMI. This file should be used to populate the tables in the Compliance Tool starting with calendar year 2013. The 2013 Compliance Tool Income Limits file can be downloaded at www.ohiohome.org/compliance/incomelimits.aspx. Note: a new Compliance Tool, including rent and income limit tables for the next four calendar years is available for download from the OHFA web site. While the Tool was revised to include additional years, OHFA anticipates discontinuing the use of the Compliance Tool once its new online reporting system is implemented during 2013 and 2014.

The applicable income limit for a tax credit or multifamily bond project is based on the year in which the building is placed in service and the county in which the building is located. For new construction projects, the placed in service date is generally the date on which construction is completed and a certificate of occupancy is issued; the placed in service date for purposes of applying the income and rent limits for acquisition and rehabilitation projects is the date of the acquisition of the building(s). Buildings within projects may have various placed in service dates so owners should use caution when selecting the income limit(s).The income limit for a building is based on one of the following four criteria:

1. Buildings placed in service **prior to 1/1/2009** apply the HERA special limit, if the county was assigned a HERA limit in 2012 or a prior year, or the higher of the 2009-2013 MTSP income limits.
2. Buildings **placed in service on or after 1/1/2009**, but before the issuance of the MTSP limits by HUD on 5/14/2010, apply the higher of the 2009-2013 MTSP non-impacted

income limits. Note: projects placed in service on or after 1/1/2009 cannot use the HERA special limits.

3. Buildings **placed in service on or after 5/14/2010** apply the higher of the 2010 or the highest non-impacted MTSP income limit issued after 5/14/2010. Note: projects placed in service on or after 1/1/2009 cannot use the HERA special limits.

In a prior memo, OHFA advised that projects allocated credits in 2008 could use the HERA limits when placing in service. After further consideration, OHFA is advising projects allocated credits in 2008 or beyond to use the appropriate non-HERA limit. Doing so will ensure residents are qualified and charged rent based on the most appropriate income information. IRS Low Income Housing Newsletter #35, available at www.novoco.com/low_income_housing/resource_files/irs_rulings/irs_newsletter/lihc_newsletter35.pdf, includes a helpful discussion regarding when income limits are determined for a tax credit building.

Projects placed in service after 1/1/2009 may use the higher of the non-impacted income limit in effect at the placed in service date or the latest non-impacted income limit. Once an income limit is established at the placed in service date, an owner is not required to decrease the income limit if the non-impacted limit in any subsequent year decreases. Project rents are also calculated based on the higher of the non-impacted income limit in effect at the placed in service date or the latest non-impacted income limit. An owner may follow the guidance established in IRS Revenue Procedure 94-57, which describes the process for electing a gross rent floor. Revenue Procedure 94-57 is available on the OHFA web site at http://www.ohiohome.org/compliance/IRS/revproc_94-57.pdf. Based on the placed in service date, and the date the gross rent floor is elected, a project could have a rent floor based on an income limit higher than the limit used to determine occupancy.

Owners seeking additional guidance regarding the appropriate tax credit (the HOME program limits are not available through this tool) income and rent limits and gross rent floor may wish to refer to the Novogradac & Company rent and income calculator (http://www.novoco.com/products/rentincome.php). Note: Use of the Novogradac rent and income limit calculator is not a safe harbor for violations of rent and income restrictions.

Projects constructed/rehabilitated using HOME or OHTF, but not tax credits or multifamily bonds, must continue to use the 2012 HOME income and rent limits (www.ohiohome.org/compliance/incomelimits.aspx) until HUD issues the 2013 HOME income and rent limits. Tax credit projects with either HOME or OHTF must use the current HOME limits for all HDAP-assisted units (Note: the Compliance Tool can only track one set of program income limits). The HERA income and rent limits cannot be used by projects financed with HUD programs such as Section 8, or by Rural Development 515 projects.