

DATE: December 14, 2011

TO: MHP and TOD Housing Project Sponsors/Borrowers

FROM: Russ Schmunk, Assistant Deputy Director
Division of Financial Assistance

SUBJECT: Procedures for Determining MHP Income and Rent Limits

This memo provides guidance on how to determine which income and rent limits apply to projects funded by any of the Multifamily Housing Programs (MHP) or the TOD Housing Program. This guidance is necessary because of statutory changes regarding how income limits are calculated and a new system of holding income and rent limits harmless. Under the new rules, two-bedroom 50% units in adjacent projects in the same county may have different limits; therefore, the determination of which limits apply must be made on a project-by-project basis.

BACKGROUND

Projects funded under the Department's newer programs are underwritten and managed in part by following the MHP Regulations, which follow Internal Revenue Service (IRS) Tax Credit rules with regard to income and rent limits. Since some Department funded projects are not funded with Tax Credits, the Department cannot follow the exact letter of the Tax Credit rules; therefore, Tax Credit rules will be emulated in determining income and rent limits for non-Tax Credit projects.

Beginning May 14, 2010, HUD's Tax Credit income and rent limits are subject to a 5% annual maximum increase/decrease. Compared to the 2011 limits, the 2012 limits for Tax Credit projects were lower in 4 of California's 58 counties (Los Angeles, Plumas, San Diego and Santa Cruz). Prior to May 14, 2010 various hold harmless policies prevented income and rent limit reductions. Declining rent limits can jeopardize project feasibility by reducing project rental income. To counteract this, IRS rules allow for a "rent floor election" under which rent limits relied on at underwriting for Tax Credit projects (and applied similarly by the Department for non-Tax Credit projects) are held harmless at the highest level achieved. The result is that specific project rent limits do not decrease from the initial "rent floor election" date.

HCD PROCEDURES

Projects located in any of the following counties must use the *MHP 2012 non-HERA limits*: *Alameda, Alpine, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Placer, Orange, Riverside, Sacramento, San Bernardino, San Joaquin, San Luis Obispo, Shasta, Sierra, Siskiyou, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo or Yuba.* **Note: these are non-HERA counties that have higher 2012 limits compared to 2011, 2010 and 2009.**

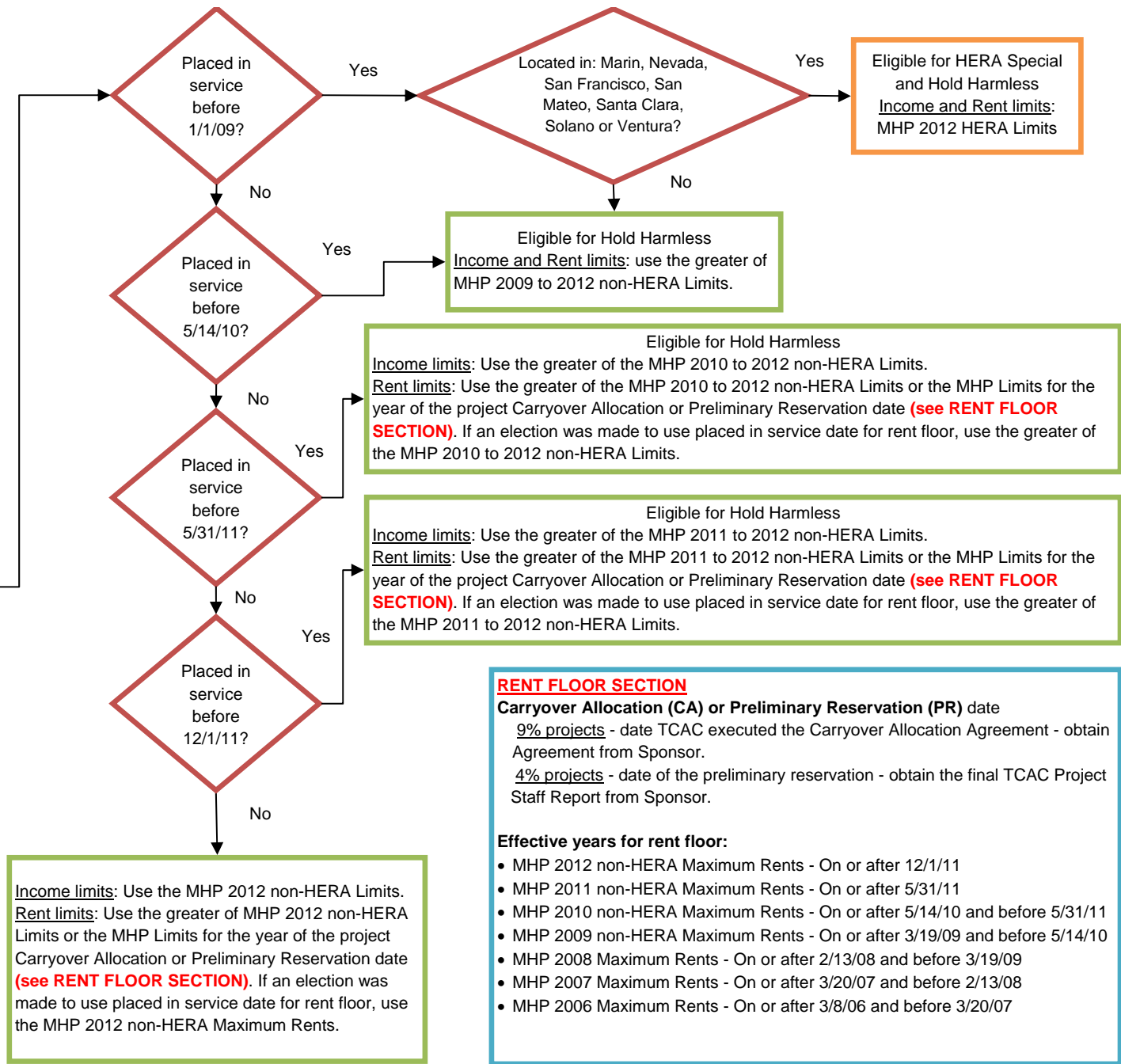
Projects in the remaining counties, may determine the initial income and rent limits for a project or report its annual Schedule of Rental Income, by using the attached MHP Flowcharts to determine the appropriate income and rent limits. The first flowchart is for TCAC projects, the second one is for non-TCAC projects. If you have any questions, contact your Program Representative.

Attachments

START here: If project is located in a non-HERA county that had higher 2012 income limits - (see *Management Memo 2012-A1 for county list*), use the MHP 2012 non-HERA Limits for income and rent limits. If not, continue.

MHP Sponsor Flowchart To Determine **TCAC** Project 2012 Income and Rent Limits

What is or will be registered with TCAC as the project placed in service date:
New Construction - use first building Temporary Certificate of Occupancy (use TCO date); if none, use Permanent CO. If neither is available, obtain letter from tax professional.**
Acq/Rehab or Rehab - obtain letter from tax professional.**



RENT FLOOR SECTION
Carryover Allocation (CA) or Preliminary Reservation (PR) date
 9% projects - date TCAC executed the Carryover Allocation Agreement - obtain Agreement from Sponsor.
 4% projects - date of the preliminary reservation - obtain the final TCAC Project Staff Report from Sponsor.
Effective years for rent floor:

- MHP 2012 non-HERA Maximum Rents - On or after 12/1/11
- MHP 2011 non-HERA Maximum Rents - On or after 5/31/11
- MHP 2010 non-HERA Maximum Rents - On or after 5/14/10 and before 5/31/11
- MHP 2009 non-HERA Maximum Rents - On or after 3/19/09 and before 5/14/10
- MHP 2008 Maximum Rents - On or after 2/13/08 and before 3/19/09
- MHP 2007 Maximum Rents - On or after 3/20/07 and before 2/13/08
- MHP 2006 Maximum Rents - On or after 3/8/06 and before 3/20/07

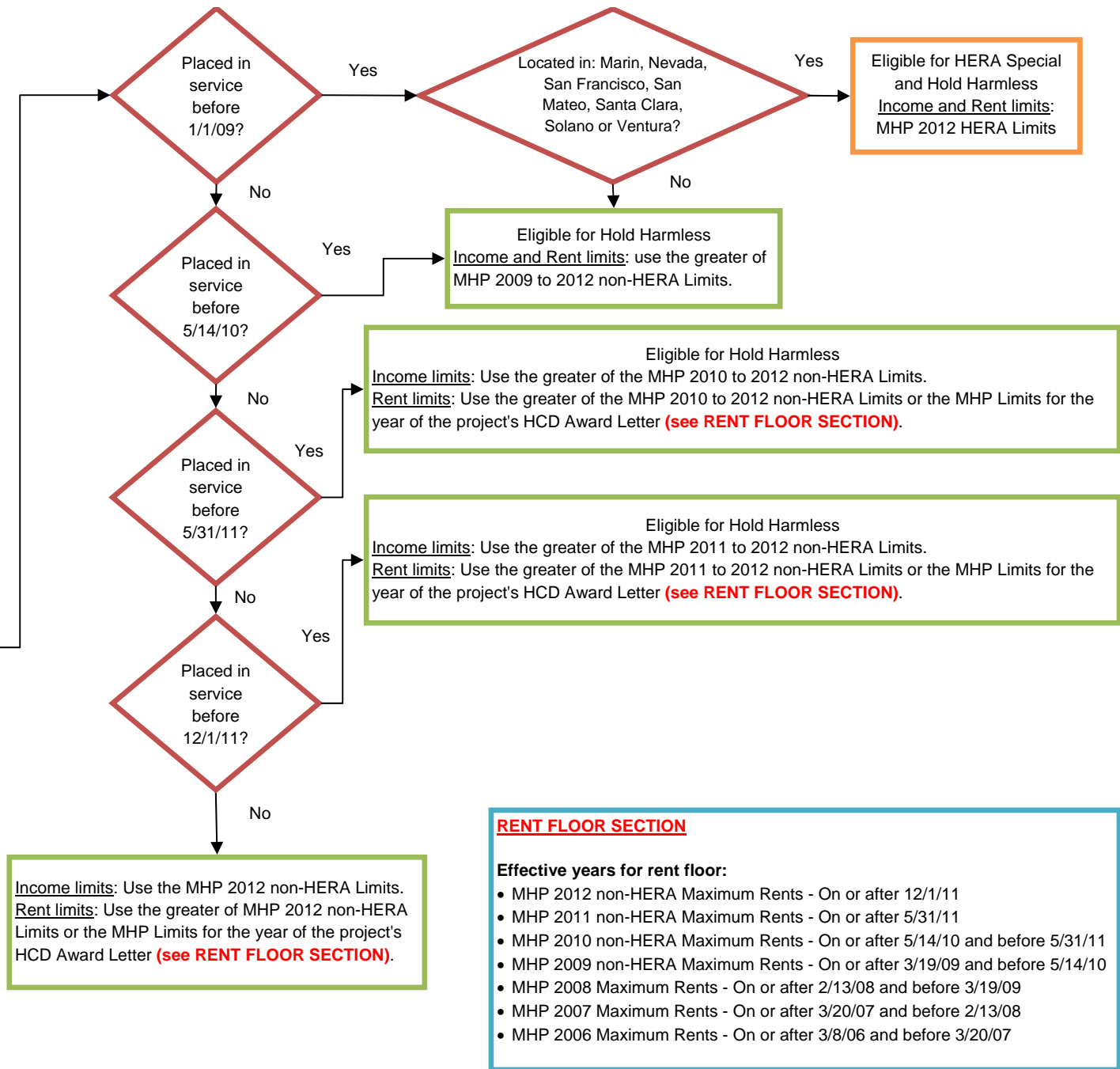
**Sponsor's tax professional letter must state the project's placed in service date and explain how it was determined.
 NOTE: These flowcharts (12/14/11) are intended as a guide on how HCD determines Income and Rent Limits. HCD recommends that Sponsors/Borrowers obtain professional tax and accounting advice regarding appropriate dates and Income and Rent Limits.

START here: If project is located in a non-HERA county that had higher 2012 income limits - (see *Management Memo 2012-A1 for county list*), use the MHP 2012 non-HERA Limits for income and rent limits. If not, continue.

MHP Sponsor Flowchart To Determine **Non-TCAC** Project 2012 Income and Rent Limits

Determine the project placed in service date:

New Construction - use first building Temporary Certificate of Occupancy (use TCO date); if none, use Permanent CO.
Acq/Rehab - if building was occupied or ready for occupancy on date of transfer to current owner, use title policy, title report or other official record, such as grant deed showing property transfer date (use transfer date). If building was unoccupied at transfer, use TCO date; if none, use Permanent CO.
Rehab - if building was occupied during rehab use HCD Award Letter date. If building was unoccupied, use TCO date; if none, use Permanent CO.



RENT FLOOR SECTION

Effective years for rent floor:

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- MHP 2010 non-HERA Maximum Rents - On or after 5/14/10 and before 5/31/11
- MHP 2009 non-HERA Maximum Rents - On or after 3/19/09 and before 5/14/10
- MHP 2008 Maximum Rents - On or after 2/13/08 and before 3/19/09
- MHP 2007 Maximum Rents - On or after 3/20/07 and before 2/13/08
- MHP 2006 Maximum Rents - On or after 3/8/06 and before 3/20/07

NOTE: These flowcharts (10/18/11) are intended as a guide on how HCD determines Income and Rent Limits. HCD recommends that Sponsors/Borrowers obtain professional tax and accounting advice regarding appropriate dates and Income and Rent Limits.