

## **Section 1602: Reporting Requirements for Post-Subaward Compliance**

### **Purpose**

This document sets forth ongoing reporting requirements applicable to state housing finance agencies (hereinafter “state agencies”) awarded Section 1602 funds. The purpose of these ongoing reporting requirements is to ensure:

(1) that the amount of Section 1602 funds subawarded to a project is equal to or less than 85% of the project’s eligible basis; and

(2) that Section 1602 funded projects remain qualified projects throughout the 15-year compliance period.

### **Definitions**

Compliance period. The term compliance period has the same meaning as that term is defined in section 42(i) (1) of the Internal Revenue Code (IRC).

Credit period. For purposes of the Section 1602 program the credit period begins on January 1<sup>st</sup> of the year following the placed in service date.

Eligible basis. Eligible basis is determined at the end of the first year of the credit period and includes any increase for buildings located in high cost areas under section 42(d)(5)(B) of the IRC.

Placed in Service. The term placed in service has the same meaning as that term is defined in section 42 of the IRC.

Placed in Service Date. The placed in service date is the date that a project is placed in service. For purposes of the Section 1602 program, if a project has multiple buildings the placed in service date is the date the last building in the project is placed in service.

Qualified Project. A project is a qualified project if the applicable fraction of the project (see section 42(c)(1)(B) of the IRC) is equal to or greater than the percentage of Section 1602 funds that comprise the eligible basis of the project or the minimum set-aside elected for the project under section 42(g)(1) of the IRC, whichever is greater. For purposes of determining the applicable fraction, a unit is a low income unit if the tenants are qualified as low-income (see section 42.1(c)(1)(iii) of the IRC); the unit is rent-restricted (see section 1.42(c)(1)(iv) of the IRC); and the unit is suitable for occupancy (see section 1.42(c)(1)(vi) of the IRC).

### **Reporting Requirements**

#### **1. Report of Eligible Basis and Attachments**

On an annual basis beginning in 2011 and continuing until all projects are reported on, state agencies must submit a report regarding the project’s placed in service date and eligible basis. This report is due on or before July 1 of the first year following the end of the first year of the applicable credit period. For example, if the credit period for a project begins January 1, 2010, this report is due July 1, 2011 for that project.

For the 2011 report, enter information in columns A-E for all 1602-funded projects and enter information in columns F-J for projects for which the first year of the credit period has ended.

Leave columns F-J blank for any project that has not completed the first year of the credit period. For subsequent annual reports, enter information in columns F-J for any projects for which the first year of the credit period has ended since the previous year's submission.

Submit with the report for each project reported upon, a copy of the state agency's approval of the certification of eligible basis. For projects with multiple buildings, copies of the state agency's approval of the certifications of eligible basis for each building should be submitted at the same time and only after all buildings are placed in service.

State agencies submit this report and the supporting documentation by email to [1602Reports@treasury.gov](mailto:1602Reports@treasury.gov). Include with the email submission the following:

I declare that I have examined this report and to the best of my knowledge and belief, it is true, correct, and complete. I declare that I am an authorized official for the designated state housing credit agency authorized to submit this report on behalf of the agency.

State agencies may be required to submit additional information upon request such as supporting documentation for the state agency's approval of eligible basis and copies of form 8609s.

Extract of columns on report

| F                                   | G   | H  | I  | J                              |
|-------------------------------------|---|--|--|--------------------------------|
| Certified eligible basis of project | Amount of 1602 funds disbursed to project | Amount of 1602 funds disbursed divided by certified eligible basis | 1602 disbursement is 85% or less than eligible basis?<br>Y/N | Date project placed in service |
|                                     |   |  |  |                                |
|                                     |   |  |  |                                |
|                                     |   |  |  |                                |

Instructions

**Columns A, date of subaward, and B, amount of subaward.** Copy the information for columns A and B from columns A and B of the previous QPR.

**Column C, name of project.** Copy the information for column C from column C of the previous QPR.

**Column D, number of total housing units,** collapses the number of total housing units newly constructed (former QPR column N) and the number of total housing units rehabilitated (former QPR column O). For each project, add the numbers in those columns from the former QPR together and enter the result in column D.

**Column E, number of low-income housing units,** collapses the number of low-income housing units newly constructed (former QPR column P) and the number of low-income housing units rehabilitated (former QPR column Q). For each project, add the numbers in those columns together and enter the result in column E.

**Column F, certified eligible basis of project.** Enter the state-approved total amount of eligible basis for the project.

**Column G, amount of 1602 funds disbursed to project.** For a project with an entry in column F, enter the total amount of 1602 funds disbursed to the project. All 1602 funds must be disbursed by close of business December 31, 2011.

**Column H, amount of 1602 funds disbursed divided by certified eligible basis.** For a project with an entry in column F, divide the amount in column G by the amount in column F and enter the result in column H.

**Column I, 1602 disbursement is 85% or less than eligible basis? Y/N.** For a project with an entry in column F, enter Y for yes if the percent in column H is 85.99 or less. Enter N for no if the percent in column H is 86.00 or more. If no, attach an explanation of how the subawardee plans to meet the requirement.

**Column J, date project placed in service.** For a project with an entry in column F, enter the date the project was placed in service.

## 2. Annual Report of Compliance

On an annual basis, beginning July 1, 2011 and continuing until all projects have completed their 15-year compliance periods, a state agency must submit an annual report of compliance.

Enter information in column A for all 1602-funded projects and enter information in the remaining applicable columns for projects for which the credit period began the previous year. For example, for the report submitted in 2011, columns B-C must be completed for all projects for which the credit period began Jan 1, 2010. For the report submitted in 2012, columns B-D should be completed for any projects for which the credit period began January 1, 2010 and January 1, 2011. Enter n/a (not applicable) in column B for any project for which the credit period has not yet begun and leave the remaining columns for those projects blank.

State agencies submit this report by email to [1602Reports@treasury.gov](mailto:1602Reports@treasury.gov). Include with the email submission the following:

I declare that I have examined this annual report of compliance and to the best of my knowledge and belief they are true, correct, and complete. I further declare that for the 12-month period covered by this report the state housing credit agency has complied with all applicable requirements under its compliance monitoring procedures for the 1602 program. I declare that I am an authorized official for the designated state housing credit agency authorized to submit this statement on behalf of the agency.

State agencies may be required to submit additional information upon request such as copies of the owner's certificate of compliance and copies of inspection reports.

### Extract of Annual Report of Compliance

The following is an extract of columns from the Annual Report of Compliance with examples. The Annual Report has columns A through AU to track the 15-year compliance periods.

| A               | B                        | C                                 | D                             | E                                 | F                                 | G                             | H                                 |
|-----------------|--------------------------|-----------------------------------|-------------------------------|-----------------------------------|-----------------------------------|-------------------------------|-----------------------------------|
|                 |                          | Compliance in 2010                |                               |                                   | Compliance in 2011                |                               |                                   |
| Name of project | Date credit period began | Owner's certificate of compliance | On-site inspection conducted? | If Yes, Non-compliance found? Y/N | Owner's certificate of compliance | On-site inspection conducted? | If yes, Non-compliance found? Y/N |
|                 |                          |                                   |                               |                                   |                                   |                               |                                   |

|                        |          | received?<br>Y/N | Y/N |   | received?<br>Y/N | Y/N |   |
|------------------------|----------|------------------|-----|---|------------------|-----|---|
| Covington Street Apts. | 1/1/2010 | Y                | Y   | N | Y                | N   | N |
| Armfield Court         | 1/1/2011 |                  |     |   | Y                | Y   | N |
| Concord Village        | n/a      |                  |     |   |                  |     |   |
| Heritage House         | 1/1/2010 | Y                | Y   | N | Y                | N   | N |

Instructions

**Column A, name of project.** Copy the information from Column A of the previous QPR. List all projects that have received 1602 subawards.

**Column B, date credit period begun.** For the first annual submission complete this column for all projects having a credit period beginning January 1, 2010. For subsequent submissions, complete this column for all projects for which the credit period began January 1<sup>st</sup> of the prior year or earlier.

**Column C, owner’s certificate of compliance received.** For all projects for which Column B is completed, answer Y if the state agency has received a certificate of compliance for the project [see IRC regulations at section 1.42-5 (c)(3)] for the year covered by the report. Answer N if no certificate has been received for that year.

**Column D, on-site inspection conducted.** For all projects for which Column B is completed, answer Y if the state agency has conducted an on-site inspection of the project during the 12-month period covered by the report. Answer N if the state agency has not conducted an on-site inspection during the 12-month period covered by the report.

**Column E, if yes, noncompliance found.** For all projects for which Column B is completed, answer Y if the state agency has completed an inspection of the property and found incidents of non-compliance that remain unresolved as of the date of the report. For this purpose, incidents of non-compliance are only incidents that warrant initiation of Section 1602 recapture procedures. Answer Y only if the period of correction has expired and the incidents remain unresolved. Answer N if the state agency has not conducted an inspection of the project during the period covered by the report or has conducted an inspection and found no unresolved incidents of non-compliance.

**Columns F through AU** continue to report on compliance for the years 2011 through 2024, as appropriate, for each project until all projects have completed their 15-year compliance periods.

**3. Reports of Non-compliance and Recapture (Ad-hoc)**

State agencies must have procedures in place for monitoring Section 1602 subawardees during the compliance period. Such procedures must be consistent with IRS regulations and

guidance applicable to monitoring compliance with low-income housing tax credit requirements (see Section 1602 Recapture Guidance).

During the compliance period, the project must remain a qualified project. For more information see Question 9b of the Frequently Asked Questions and Answers (<http://www.treasury.gov/initiatives/Documents/FAQs.pdf>).

State agencies must report to Treasury 1602 Team via email to [1602Reports@treasury.gov](mailto:1602Reports@treasury.gov) when non-compliance which could result in recapture of Section 1602 funds is known. Include in the email: (1) the name of the project; (2) a short description of the non-compliance (this may be from the form 8823 if applicable), for example “project failed to meet minimum set-aside requirement”; (3) actions taken by the state agency to remedy the non-compliance; (4) whether or not the state agency has commenced recapture; and (5) a description of the actions taken to recapture or if recapture has not commenced, a description of the state agency’s plan with respect to recapture.

A Report of Non-compliance and Recapture should be submitted within 10 days after the state agency has a recapture event (see Section 1602 Recapture Guidance) which the state agency determines cannot be resolved. State agencies are not required to report non-compliance which has been resolved or for which the period of correction has not expired. State agencies are not required to submit a Form 8823 to the Treasury 1602 team.

A follow-up report must be sent to the Treasury 1602 team via email when funds are recaptured. This report includes the name of the project; the amount of funds recaptured and the date the recaptured funds were returned to the Treasury. If funds have not been recaptured within 6 months from the date of the initial report to Treasury, a follow-up report must be submitted by email detailing recapture efforts to date.

Recaptured funds are to be deposited into the Treasury General Fund (instructions to be provided).

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection is 1505-0218.