



**CONNECTICUT
HOUSING
FINANCE AUTHORITY**

Unlocking Solutions, Building Strong Communities.

Low-Income Housing Tax Credit Compliance Manual

INTRODUCTORY MEMORANDUM FROM CHFA

TO: Owners and Management Agents

FROM: CHFA Multifamily Asset Management Department

SUBJECT: Low-Income Housing Tax Credit Compliance Monitoring Manual

The Connecticut Housing Finance Authority (CHFA) is pleased to provide you with the Low-Income Housing Tax Credit Compliance Manual for the State of Connecticut. As Housing Credit Agency for Connecticut, CHFA has responsibility for allocation and compliance monitoring for the Low-Income Housing Tax Credit Program as prescribed in Section 42 (m)(1) of the Internal Revenue Code and 1.42-5 of the Treasury Regulations. As permitted in 1.42-5(f) of the Regulations, the Authority has retained Spectrum Enterprises as “Authorized Delegate” to perform many of the required compliance monitoring functions. CHFA retains the responsibility of reporting non-compliance to the Internal Revenue Service.

The Compliance Monitoring Manual is provided as a reference for Low-Income Housing Tax Credit compliance monitoring procedures and, to inform developers, owners and managers of the reporting requirements implemented by CHFA and SPECTRUM. This Manual is not a substitute for existing federal laws and regulations. **As stated in 1.42-5(g) of the Regulations, Compliance with the requirements of Section 42 is the responsibility of the owner of the building for which the credit is allowable. The Authority’s obligation to monitor for compliance with the requirements of Section 42 does not make the Authority liable for an owner’s noncompliance.**

The Low-Income Housing Tax Credit Program requires a qualified development team that is knowledgeable in both allocation and compliance. *“The price of credits is compliance.”* It is essential that owners retain staff with expertise in the program and provide for continuing education. Please direct any questions concerning the Manual or compliance monitoring to SPECTRUM at (207) 805-0035 or visit their web site at www.spectrumlihtc.com. Any additional issues or questions can be referred CHFA at (860)-721-9501 or chfa.org. Together with SPECTRUM, we look forward to working with you to ensure program compliance and provide quality affordable housing to the residents of the State of Connecticut.

Low-Income Housing Tax Credit Disclaimer

These materials are intended to assist owners in meeting the requirements for complying with Internal Revenue Code Section 42 and Section 1.42-5 of the Regulations thereunder. However, it is important to note that compliance with IRC 42 and the Regulations is solely the responsibility of the owner of the building for which Low-Income Housing Tax Credit is allowable, and the owner is solely responsible for the consequences of any non-compliance. The information contained in this Manual is presented without any representation or warranty whatsoever regarding the accuracy, completeness or currency of the information. The information contained in this Manual is subject to change without notice. CHFA shall not be liable for any loss or damage caused by any inaccuracies in the information contained herein, and suggest you review such information for accuracy prior to implementation.

Prior to implementing any changes in management practices resulting from this manual, Owners should seek council from their tax professionals on all matters related to the Code and Regulations and also have discussions with their investors and syndicators.

CONNECTICUT TAX CREDIT DOCUMENTS

The following items are received by owner's upon allocation of credits.

- a. Tax Credit Application**
- b. Notice of Low-Income Housing Tax Credit Reservation**
- c. CHFA Carryover Allocation**
- d. Extended Low-Income Housing Commitment**
- e. Copies of Original, Executed, Signed 8609s**
- f. 8823 (Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition)**
ONLY provided if noncompliance is cited at project.
- g. Utility Allowance Documentation, updated annually**
(Determined by using appropriate method has defined by the 8823 Guide: Chapter 18, Category 11m
OR methods described in this manual pages 2-11 to 2-13)

Low-Income Housing Credit Allocation and Certification

OMB No. 1545-0988

► Go to www.irs.gov/Form8609 for instructions and the latest information.

Part I Allocation of Credit

Check if: ☐ 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	%
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 ____ %
4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.)		4	%
5a Date building placed in service ►			
b Check here <input type="checkbox"/> if the date of allocation on line 1a is in calendar year 2021 or 2022 and the building is located in a qualified disaster zone (see instructions).			
6 Check the boxes that describe the allocation for the building (check those that apply):			
a <input type="checkbox"/> Newly constructed and federally subsidized	b <input type="checkbox"/> Newly constructed and not federally subsidized	c <input type="checkbox"/> Existing building	
d <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures federally subsidized	e <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures not federally subsidized		
f <input type="checkbox"/> 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
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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)	7	
8a Original qualified basis of the building at close of first year of credit period	8a	
b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
9a If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?	<input type="checkbox"/> Yes <input type="checkbox"/> 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)?	<input type="checkbox"/> Yes <input type="checkbox"/> 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))	<input type="checkbox"/> Yes <input type="checkbox"/> No	
b Elect not to treat large partnership as taxpayer (section 42(j)(5))	<input type="checkbox"/> Yes	
c Elect minimum set-aside requirement (section 42(g)) (see instructions): <input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60 <input type="checkbox"/> Average income <input type="checkbox"/> 25-60 (N.Y.C. only)		
d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)	<input type="checkbox"/> 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	

Low-Income Housing Credit Agencies
Report of Noncompliance or Building Disposition

► **File a separate Form 8823 for each building that is disposed of or goes out of compliance.**
► **Go to www.irs.gov/Form8823 for the latest information.**

OMB No. 1545-1204

Check here if this is an amended return ► ☐

<p>1 Building name (if any). Check if line 1 differs from Form 8609 ► <input type="checkbox"/></p> <p>Street address</p> <p>City or town, state, and ZIP code</p> <p>2 Building identification number (BIN)</p> <p>3 Owner's name. Check if line 3 differs from Form 8609 . . . ► <input type="checkbox"/></p> <p>Street address</p> <p>City or town, state, and ZIP code</p> <p>4 Owner's taxpayer identification number</p> <p style="text-align: right;"><input type="checkbox"/> EIN <input type="checkbox"/> SSN</p>	<p>IRS Use Only</p>																																																						
<p>5 Total credit allocated to this BIN ► \$</p>																																																							
<p>6 If this building is part of a multiple building project, enter the number of buildings in the project ►</p>																																																							
<p>7a Total number of residential units in this building ►</p>																																																							
<p>b Total number of low-income units in this building ►</p>																																																							
<p>c Total number of residential units in this building determined to have noncompliance issues (see instructions) ►</p>																																																							
<p>d Total number of units reviewed by agency (see instructions) ►</p>																																																							
<p>8 Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY)</p>																																																							
<p>9 Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY)</p>																																																							
<p>10 Check this box if you are filing only to show correction of a previously reported noncompliance problem . . . ► <input type="checkbox"/></p>																																																							
<p>11 Check the box(es) that applies:</p> <table border="0" style="width:100%;"><thead><tr><th></th><th style="text-align: center;">Out of compliance</th><th style="text-align: center;">Noncompliance corrected</th></tr></thead><tbody><tr><td>a Household income above income limit upon initial occupancy</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>b Owner failed to correctly complete or document tenant's annual income recertification</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>c Violation(s) of the UPCS or local inspection standards including casualty losses (see instructions) (attach explanation)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>d Owner failed to provide annual certifications or provided incomplete or inaccurate certifications</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>e Changes in Eligible Basis or the Applicable Percentage (see instructions)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>f Project failed to meet minimum set-aside requirement (20/50, 40/60, average income test) (see instructions)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>g Gross rent(s) exceeds limits</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>h Project not available to the general public (see instructions) (attach explanation)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>i Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(ii)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>j Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>k Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>l Low-income units occupied by nonqualified full-time students</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>m Owner did not properly calculate utility allowance</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>n Owner has failed to respond to agency requests for monitoring reviews</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>o Low-income units used on a transient basis (attach explanation)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr><tr><td>p Building is no longer in compliance nor participating in the section 42 program. 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<p>12 Additional information for any line above. Attach explanation and check box ► <input type="checkbox"/></p>																																																							
<p>13a Building disposition by <input type="checkbox"/> Sale <input type="checkbox"/> Foreclosure <input type="checkbox"/> Destruction <input type="checkbox"/> Other (attach explanation)</p>																																																							
<p>b Date of disposition (MMDDYYYY)</p>																																																							
<p>c New owner's name</p> <p>Street address</p> <p>City or town, state, and ZIP code</p>	<p>d New owner's taxpayer identification number</p> <p style="text-align: right;"><input type="checkbox"/> EIN <input type="checkbox"/> SSN</p> <p>14 Name of contact person</p> <p>15 Telephone number of contact person</p> <p style="text-align: right;">Ext.</p>																																																						

Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and, to the best of my knowledge and belief, it is true, correct, and complete.

► Signature of authorizing official	► Print name and title	► Date (MMDDYYYY)
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form 8823 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form8823.

Purpose of Form

Housing credit agencies use Form 8823 as part of their compliance monitoring responsibilities under section 42(m)(1)(B)(iii) to notify the IRS of any building disposition or noncompliance with the low-income housing tax credit provisions.

The housing credit agency should also give a copy of Form 8823 to the owner(s).

Who Must File

Any authorized housing credit agency that becomes aware that a low-income housing building was disposed of or is not in compliance with the provisions of section 42 must file Form 8823.

When To File

File Form 8823 no later than 45 days after (a) the building was disposed of, or (b) the end of the time allowed the building owner to correct the condition(s) that caused noncompliance. For details, see Regulations section 1.42-5(e).

Where To File

File Form 8823 with the:

Department of the Treasury
Internal Revenue Service Center
Philadelphia, PA 19255-0549

Specific Instructions

Amended return. If you are filing an amended return to correct previously reported information, check the box at the top of page 1.

Line 2. Enter the building identification number (BIN) assigned to the building by the housing credit agency as shown on Form 8609.

Lines 3, 4, 13c, and 13d. If there is more than one owner (other than as a member of a pass-through entity), attach a schedule listing the owners, their addresses, and their taxpayer identification numbers. Indicate whether each owner's taxpayer identification number is an employer identification number (EIN) or a social security number (SSN).

Both the EIN and the SSN have nine digits. An EIN has two digits, a hyphen, and seven digits. An SSN has three digits, a hyphen, two digits, a hyphen, and four digits, and is issued only to individuals.

Line 7d. "Reviewed by agency" includes physical inspection of the property, tenant file inspection, or review of documentation submitted by the owner. Regulations section 1.42-5(c)(2)(iii)(B) provides that a housing credit agency must conduct on-site inspections and low-income certification review of not fewer than the minimum number of low-income units set forth in the table found in Regulations section 1.42-5(c)(2)(iii).

Note: If the only noncompliance issue identified by the physical inspection of the property on line 11c relates to

a common area, then the number of units identified on line 7c should be -0-.

Line 8. Enter the date that the building ceased to comply with the low-income housing credit provisions. If there are multiple noncompliance issues, enter the date for the earliest discovered issue. **Do not** complete line 8 for a building disposition. Instead, skip lines 9 through 12, and complete line 13.

Line 9. Enter the date that the noncompliance issue was corrected. If there are multiple issues, enter the date the last correction was made.

Line 10. Do not check this box unless the sole reason for filing the form is to indicate that previously reported noncompliance problems have been corrected.

Lines 11a through 11p. Check only the "Out of compliance" box if the issue causing the noncompliance remains uncorrected at the end of the correction period. Check both the "Out of compliance" and "Noncompliance corrected" boxes if the noncompliance was corrected within the correction period. Check only the "Noncompliance corrected" box if the noncompliance was previously reported to the IRS on a separate Form 8823.

Line 11c. Housing credit agencies must use either (a) the local health, safety, and building codes (or other habitability standards); or (b) the Uniform Physical Condition Standards (UPCS) (24 C.F.R. section 5.703) to inspect the project, but not in combination. The UPCS does not supersede or preempt local codes. Thus, if a housing credit agency using the UPCS becomes aware of any violation of local codes, the agency must report the violation. Attach a statement describing either (a) the deficiency and its severity under the UPCS (that is, minor (level 1), major (level 2), and severe (level 3)); or (b) the health, safety, or building violation under the local codes. The Department of Housing and Urban Development's Real Estate Assessment Center has developed a comprehensive description of the types and severities of deficiencies entitled "Revised Dictionary of Deficiency Definitions" found at www.hud.gov. Under Regulations section 1.42-5(e)(3), report all deficiencies to the IRS whether or not the noncompliance or failure to certify is corrected at the time of inspection. Physical damage to low-income housing credit projects caused by casualty events and that render residential rental units or buildings, or common areas associated with the property, unsuitable for occupancy is reported as noncompliance with the UPCS or local standards. While no credit is allowable during the time the property is being restored by reconstruction or replacement, section 42(j)(4)(E) provides relief from the credit recapture provisions; that is, the recapture provisions are not applied when there is a reduction in qualified basis by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period.

Line 11d. Report the failure to provide annual certifications or the provision of certifications that are known to be incomplete or inaccurate as required by Regulations section 1.42-5(c). As examples, report a failure by the owner to include a statement summarizing violations (or copies of the violation reports) of local health, safety, or building codes; report an owner who provided inaccurate or incomplete statements concerning corrections of these violations.

Line 11e. For buildings placed in service after July 30, 2008, report any federal grant used to finance any costs that were included in the eligible basis of any building. Report changes in common areas when they become commercial, when fees are charged for facilities, etc. For buildings placed in service after July 30, 2008, report any obligation the interest on which is exempt from tax under section 103 that is or was used (directly or indirectly) with respect to the building or its operation during the compliance period and that was not taken into account when determining eligible basis at the close of the first year of the credit period.

Line 11f. Failure to satisfy the minimum set-aside requirement for the first year of the credit period results in the permanent loss of the entire credit.

Failure to maintain the minimum set-aside requirement for any year after the first year of the credit period results in recapture of previously claimed credit and no allowable credit for that tax year. No low-income housing credit is allowable until the minimum set-aside is restored for a subsequent tax year.

In 2018, Congress revised section 42(g) to add a third minimum set-aside: the average income test. See section 42(g)(1)(C) for more information about the requirements of the average income test.

Line 11h. All units in the building must be for use by the general public (as defined in Regulations section 1.42-9 and further clarified in section 42(g)(9)), including the requirement that no finding of discrimination under the Fair Housing Act occurred for the building. Low-income housing credit properties are subject to Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act. The Act prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. See 42 U.S.C.A. sections 3601 through 3619.

It also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities. The failure of low-income housing credit properties to comply with the requirements of the Fair Housing Act will result in the loss of the low-income housing credit.

Individuals with questions about the accessibility requirements can obtain the Fair Housing Act Design Manual through www.huduser.org.

Line 11i. The owner must rent to low-income tenants all comparable units that are available or that subsequently become available in the same building in order to continue treating the over-income unit(s) as a low-income unit. All units affected by a violation of the available unit rule may not be included in qualified basis. When the percentage of low-income units in a building again equals the percentage of low-income units on which the credit is based, the full availability of the credit is restored. Thus, only check the "Noncompliance corrected" box when the percentage of low-income units in the building equals the percentage on which the credit is based.

Line 11k. Section 42(h)(6) requires owners of low-income housing credit properties to enter into an extended use agreement with the state agency that allocated the

credits to the project. Building owners must agree to a long-term commitment beginning on the first day of the 15-year compliance period and ending on the later of (1) the date specified by the state agency in the agreement, or (2) the date that is 15 years after the close of the 15-year compliance period.

The extended use agreement must (1) specify that the applicable fraction for the building for each year in the extended use period will not be less than the applicable fraction specified in the extended use agreement and prohibit the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under section 42, (2) allow individuals (whether prospective, present, or former occupants) who meet the income limitations applicable to the building under section 42(g) the right to enforce in state court the requirements and prohibitions under section 42 (h)(6)(B)(i) throughout the extended use period, (3) prohibit the disposition to any person of any portion of the building unless all of the building is disposed of to that person, (4) prohibit the refusal to lease to section 8 voucher holders because of the status of the prospective tenant as such a holder, and (5) provide that the agreement is binding on all successors of the taxpayer. The extended use agreement must be recorded as a restrictive covenant with respect to the property under state law.

Noncompliance should be reported if an extended use agreement is not executed and recorded as a restrictive covenant with respect to the property under state law or the owner failed to correct the noncompliance within the 1-year correction period provided by section 42(h)(6)(J). The 1-year correction period begins when the agency notifies the owner in writing that an extended use agreement is not recorded as a restrictive covenant with respect to the property under state law. A copy of the notification letter should be included as an attachment to Form 8823 when filed with the IRS.

Line 11q. Check this box for noncompliance events other than those listed on lines 11a through 11p. Attach an explanation. For projects with allocations from the nonprofit set-aside under section 42(h)(5), report the lack of material participation by a non-profit organization (that is, regular, continuous, and substantial involvement) that the housing credit agency learns of during the compliance period.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 11 hr., 43 min.

**Learning about the law
or the form** 1 hr., 35 min.

**Preparing and sending
the form to the IRS** 1 hr., 51 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send your comments to www.irs.gov/FormComments. Or you can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send the form to this address. Instead, see *Where To File*, earlier.

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Tax Credit Overview

Credits at 9% or 4%

Qualified Allocation Plan

INTRODUCTION

1.1 The Low-Income Housing Tax Credit (LIHTC)

The Tax Reform Act of 1986 established a tax credit for low-income rental housing that was directly based on the number of low-income tenants residing in the complex. Section 252 of the Act and Section 42 of the Internal Revenue Code (IRC) govern the Low-Income Housing Tax Credit (LIHTC) program that began in 1987 and received permanent authorization with the Omnibus Budget Reconciliation Act of 1993. The LIHTC program provides incentives for investment of equity capital in the development of affordable single family or multifamily rental housing. The credit is a dollar-for-dollar reduction in tax liability to investors in exchange for equity participation in the construction or acquisition and rehabilitation of rental housing units that will remain income and rent restricted for an extended period of time.

Credits are allocated based on a federal economic formula of 9% until December 31, 2013 for non-federally subsidized projects or below market rate interest deals, i.e., “conventional” developments, or approximately 4% if the project is federally subsidized or given an interest subsidy, such as tax-exempt bonds or Rural Development. The acquisition credit for existing buildings is approximately 4%. Developers may be for-profit or nonprofit. Investors, often represented by limited partnerships, apply the tax credits to reduce their income tax liabilities.

Connecticut’s Qualified Allocation Plan (QAP) includes guidelines for the competitive ranking of applications. The amount of credits given to each state is based on population, indexed for inflation, with a minimum of \$2 million. Connecticut may also have credits from previously unallocated or returned credits or by using the credits originally allocated to other states that failed to use them. The latter are referred to as credits from the “National Pool.”

Many recognize the tax credit’s influence on development, but its effect on management must also not be minimized. In order for properties to qualify initially for the LIHTC and to continue to receive the credit without risk of recapture, management must

Purpose of the Manual

at minimum, follow all tax credit regulations throughout a 15-year compliance period. From a management perspective, a thorough understanding of the tax regulations governing this program is imperative.

1.2 Purpose of the Tax Credit Compliance Manual

This manual is intended to help owners and managers of LIHTC projects in the State of Connecticut fulfill their obligations in maintaining compliance pursuant to Section 42 of the IRC. Excerpts from HUD Handbook 4350.3 REV-1 change 4 [Sections 11-12] and the Housing Opportunity Through Modernization Act of 2016 [Section 8-10] are included in this manual for reference. Additionally, Connecticut's requirements for owners of a tax credit property are delineated in the Extended Low-Income Housing Commitment (ELIHC), as well as in the LIHTC Procedures, Qualified Allocation Plan, and other documents of the Connecticut Housing Finance Authority (CHFA).

Reference for owners and managers

Owners are responsible for being aware of all applicable federal and state rules and regulations that govern their properties.

This manual focuses on the responsibilities of owners and managers of LIHTC projects from the beginning of the lease up period through the end of the compliance period. Subjects discussed include:

Note: Owners are encouraged to consider joining trade associations, participate in LIHTC trainings and keep themselves informed, aware and involved.

- Owner's recordkeeping requirements
- Occupancy regulations
- Properly evaluating tenant income, assets and eligibility at move-in and at re-certification
- Determining the maximum gross rent for units
- Regulatory considerations when leasing vacant units

Sample forms, including those required for tenant certification procedures, are provided in Section 6 of this manual. "Required" forms are specified in the instructions for that section. Upon approval, other income or asset verification

Note: Rules and interpretations are subject to change . If you are not sure your information is up to date , contact CHF A or their authorized agent .

Credit Period

Credits given over a 10-year period

Note: Properties must be in continuous compliance with all rules and regulations to be eligible for credits.

Compliance Period

Compliance required for 15 years. Plus an additional 15 years for extended use.

forms may be substituted for those provided in this manual.

In the State of Connecticut, CHFA is the housing credit agency administering LIHTC allocations. CHFA is dedicated to providing quality affordable housing and is committed to helping owners of LIHTC properties understand and fulfill their obligations under the program. This manual is intended as a reference to promote a better understanding of the LIHTC program.

1.3 Credit Period

Once an LIHTC allocation has been finalized for a property, the tax credits can be claimed annually on a building-by-building basis over a 10-year period, beginning either with

- (a) the taxable year in which the building is placed in service, or
- (b) at the election of the taxpayer (owner), the succeeding taxable year.

The election under subparagraph (b), once made, is irrevocable. No credits are given if the building does not comply with IRS regulations for meeting initial compliance. This means that eligible households must occupy the required number of units throughout the ten-year credit period plus an additional five (5) year term (see “Compliance Period”). The housing units designated for the LIHTC must also be rent-restricted for a specific period of time.

1.4 Compliance Period

The tax credit program requires fifteen (15) years of continuous compliance, but allows the credit to be taken over a ten (10) year period. Beginning with 1990 allocations (and no later than 1991) state housing credit agencies began the requirement of extended low-income housing commitments that are recorded in local land records. Owners of these developments must agree to commit to an additional 15-year low-income use of the project beyond the initial 15-year compliance period. It is important for management to understand that such projects are committed to a minimum 30-year time frame of compliance with tax credit eligibility requirements.

Extended low-income use period

Note: Noncompliance after the 15th year is not reported via 8823 to the IRS. However, it can impact any future developments with your state allocating agency. Take your extended use requirement seriously!

If a building is not initially qualified by the end of the first year of the credit period, tax credits associated with unqualified units will earn two thirds credit over the compliance period.

The Extended Low-Income Housing Commitment binds the owner and any successors to maintain specific occupancy and affordability requirements for the projects. The agreement may list the exact number and size of units that must be low-income at designated income levels (including state deep skew set-asides), provisions for allowing staff units, and special needs groups to be served.

The extended use period may terminate for any building if:

- (a) acquired by foreclosure, or
- (b) the housing credit agency is unable to find a buyer to fulfill the owner's qualified contract request. See Section 42 (h)(6)(f).

Section 42 also provides that each individual state has the power to impose additional requirements over and above the federal standards to better address local housing needs inclusive of extending the period for which the property is kept as affordable housing. CHFA has used this authority to provide for an extended use period of more than thirty (30) years that is not subject to prior termination in certain cases, for example, if owners have obtained a higher ranking for their project in the application process by committing to extended affordability.

An additional factor complicating management of tax credit projects is that LIHTC properties are often coupled with subsidy programs (both project-based and tenant-based) that have other government housing regulations. There are times when conflicts between programs arise. Care must be exercised to ensure that the most restrictive of these competing program requirements is met.

Seven Regulation Periods

1.5 Seven Tax Credit Regulation Periods

Since the 1986 enactment of the LIHTC, Congress has changed or amended the laws governing the program, yet many changes have not been retroactive. In some cases, the change in regulations brought forth by a technical correction is minor; in others, the effect is substantial. Management must not only be aware of the differences in regulations, but must have full

The years referenced pertain to the allocation year.

knowledge of what tax credit law applies to each particular building and/or project. The relevant law for management/compliance purposes is that applicable to the year in which tax credits were allocated by the state housing credit agency. Currently, there are seven specific tax credit regulation periods as follows:

I. January 1, 1987 – December 31, 1989

Properties receiving credit allocations during this period based rent on the number of people living in the unit. Rents were subject to change whenever the household composition changed. The Omnibus Reconciliation Act of 1993 allowed owners of these projects a one-time opportunity to either maintain the per person rent formula or elect to change to the formula based on apartment bedroom size used for 1990 and later allocations. The owner had to write to the IRS no later than February 6, 1994 to request this election. Once made, the decision to switch formulas or not was irrevocable. The new rent formula only affected new move-ins on or after the election date. A copy of the election letter must have been provided to CHFA or its Authorized Delegate and must be available during any compliance review. Please note that all properties allocated credit during this time period have now completed their compliance periods.

II. 1990

- Rent is calculated by number of bedrooms in a unit (not retroactive).
- Gross Rent Floor adopted (not retroactive).
- Extended Low-Income Housing Commitment required.

III. 1991

- AFDC Student Rule exception (retroactive).
- FmHA Overage Rule (not retroactive).
- Extension on Initial Compliance with Set-Aside (not retroactive).

IV. August 10, 1993

- Married Students Rule (retroactive).
- Single Parent Student Rule (not retroactive).
- 1987-89 Rent Change Option (special rule).
- Section 8 requirement (retroactive) where projects cannot refuse to lease to Section 8 tenants.

Note: Rule changes and interpretations can be subject to change. Owners are responsible for staying informed. Modifications to this manual are not made with every change.

V. Single Parent Student Rule revised, December 2007 (retroactive)

VI. Housing and Economic Recovery Act of 2008 (HERA)

- Area median income—Effective July 31, 2008 all rural properties are allowed to use the greater of area median income or national non-metro median income for establishing their income limits.
- Another exception is added to the student definition. Effective July 31, 2008 a person who was previously under the care and placement of a foster care program will not be considered a full-time student.
- Effective July 31, 2008 the basic military housing allowance will not be included in the calculation of income for certain qualifying projects. To be a qualifying project the development must be located in a county (or adjacent county) where the number of assigned forces has increased by 20% or more as of June 1, 2008 over December 31, 2005.

VII. American Recovery & Reinvestment Act of 2009

The American Recovery and Reinvestment Act of 2009 (ARRTA) allows State housing agencies to elect to receive cash grants (as determined under the ARRTA) with respect to a certain portion of the State's low-income housing tax credit (LIHTC) allocation.

The estimate outlay to States is \$3,000,000,000 for 2009. Under the ARRTA, State housing agencies must use a grant to make subawards to finance the acquisition or construction of qualified low-income buildings, generally subject to the same requirements (including rent, income, and use restrictions on such buildings) as the LIHTC allocations.

Historically, the Federal tax law has permitted tax payers to claim a LIHTC for certain investments made in low-income housing. These LIHTC amounts have helped to attract private capital to invest in the construction, acquisition, or rehabilitation of qualified low-income housing.

State Housing agencies are authorized to allocate the LIHTCs to qualified low-income housing projects. The amount of LIHTCs that a State housing agency may allocate is generally determined by a Statutory formula.

State housing agencies will be able to make the election to receive cash grants under the ARRTA in a prescribed manner.

The Department of the Treasury will issue a form of application, with documentation detailing the grant requirements.

Additionally, the payment mechanism and compliance procedures will be set forth. Further information will be posted as it becomes available.

Important Compliance Factors

Income eligible and rent restricted

Note: Keep key documents available to everyone involved in keeping your property in compliance.

These include but are not limited to:

*8609s
Regulatory Agreement
Training/Educational
Materials*

COMPLIANCE ISSUES

2.1 General Compliance

Unlike any other federal housing program, the LIHTC Program is administered by the IRS. The key to the entire tax credit program, as well as an owner's ability to claim the full amount of tax credits allocated to the project, is *continuous compliance* with federal and state LIHTC regulations throughout the compliance period.

The two fundamental components of compliance are as follows:

- Tax credit units must be rented to households that are income eligible at move-in;
- Rent must be restricted according to the maximum limits imposed by using the appropriate formula and income limits.

An LIHTC project may have both tax credit units (low-income units) and market (unrestricted rent) units, or it may have 100% tax credit units. The project may also have nonresidential units specified in the LIHTC application and designated in the Extended Low-Income Housing Commitment. The income eligibility and restricted rent requirements apply only to the low-income units. These issues will be discussed in more detail later in this manual.

Each Allocating Agency or their Authorized Delegate must monitor owners to ensure properties are in compliance. The IRS requires that all findings of noncompliance, whether corrected or not, must be reported. A leading cause of noncompliance stems from the owner's failure to inform management of the specific regulatory commitments that have been made. Once credits have been allocated for a property, it is imperative that management be given copies of all regulatory and extended use documents to keep on file, including the Tax Credit Application, IRS Form(s) 8609 [Section 10], and Certificates of Occupancy.

CHFA requires that these documents be inserted into Section 1 of this manual and always be readily available for review by your monitoring agency. The following make up CHFA's regulatory documents:

- ┆ Tax Credit Application
- ┆ Notice of LIHTC Reservation
- ┆ CHFA Carryover Allocation Agreement of LIHTC
- ┆ Extended Low-Income Housing Commitment
- ┆ Copies of original executed, signed 8609s
- ┆ Utility Allowance Documents (updated annually)
- ┆ Declaration of Restrictive Covenants for Low-Income Housing Tax Credits
- ┆ Limited Partnership Agreement
- ┆ Certificate of Occupancy

Additional key issues are as follows:

Allocation year

- A. **Allocation year** – As previously stated in Section 1, different compliance regulations are in force depending on the year the tax credit allocation was awarded. The most important compliance issue is that all monitoring/compliance is based on the year of **allocation**. *The first two numbers of the Building Identification Number is the allocation year.* Maintain a record of this date.

Recordkeeping by building

- B. **Compliance by building** – All monitoring/compliance is a **building** issue. Records must be kept by building and by unit number, not by project or alphabetical order by tenant. Every LIHTC building receives a separate IRS Form 8609 and is assigned its own BIN (Building Identification Number). Required annual reports must be submitted by BIN.

Monitoring begins when building places in services

- C. **Placed-in-service date (PIS)**– For the LIHTC, a building's **placed-in-service date** initiates the start of compliance monitoring for that building. Each building has only one placed-in-service date for new construction or rehabilitation credits. It is possible to have the same or different dates for different buildings. For new construction, this date is the certificate of occupancy date—"the date on which the building is ready and available for its specifically assigned function, i.e., the date on which the first unit in the building is certified as being suitable for occupancy in accordance with state or local law." It is the date when the first unit in a building *could* be occupied, not when it *was* occupied. For rehabilitation of an existing building, the owner selects any date within a 24-month period over which rehab expenditures are aggregated. The placed-in-service (PIS)

To be eligible for credits, a unit must be rented to an income eligible tenant. It must be occupied on a non-transient basis.

*For Rehab:
A temporary
Certificate of
Occupancy can be
used as the Placed In
Service Date.*

*Eligible basis
equals allowable
development costs*

*Note: Market apartments
are included in eligible
basis. Be sure to include
them when completing
your end of year
reporting.*

date is recorded on the 8609 form for each building. Be sure you have documentation to back up the PIS date for every building in your project. *It is important to note: If you have Section 8 tenants, as in a HUD project based property, you must certify your tenants income eligible before you can claim the unit as a tax credit unit. You cannot rely on old certifications (previous year) for this purpose. If you will have both acquisition credits and re-hab credits, and you have performed a Tenant Certification for the Acquisition PIS date, you may rely on that certification and are not required to complete another certification for the re-hab PIS date.*

D. Eligible basis – “Eligible basis consists of

- (1) the cost of new construction,
- (2) the cost of rehabilitation, or

(3) the cost of acquisition of existing buildings acquired by purchase... . Only the adjusted basis of the depreciable property may be included in the eligible basis. The cost of land is not included in adjusted basis.” [General Explanation of the Tax Reform Act]

Eligible basis includes the cost of low-income units, facilities for use by the tenants (e.g., common areas, elevators, corridors, roofs) and other facilities reasonably required by the project. The allocable costs of tenant facilities such as swimming pools, other recreational facilities, and parking areas may be included provided there *is no separate fee* for the use of these facilities and they are made available on a comparable basis to all tenants in the project. Costs of the residential rental units in a building which are not low-income units may be included in eligible basis only if such units are not above the average quality standard of the low-income units. Rehabilitation costs may not be included in eligible basis if such expenditures improve any unit beyond comparability with the low-income units. **Eligible basis does not include commercial space.**

Any change in the eligible basis that results in a decrease in the *qualified basis* of the project is noncompliance that must be reported to the IRS. See Section 2.4.

*Compliance
period begins when
credits are claimed*

*Minimum number of
LIHTC units required*

*Criteria for
tax credit unit*

*Keep first year
records for 21 years*

E. **Initial credit period** – Owners may initially claim credits for the year that the building is placed in service or may defer claiming credits until the close of the following year. It is important for management to know when the credits were or will be claimed for the first time because the compliance period runs fifteen (15) years starting with the first year credits are claimed. The owner makes the election for the initial credit period on each building's Form 8609. Once made, the election is irrevocable. Credits may not be claimed until the minimum set-aside is met.

F. **Minimum set-aside (MSA)** – Also an irrevocable election, the minimum set-aside establishes both the minimum number of low-income units to be maintained in a project and the applicable income limit for households to qualify for all tax credit units. See discussion in Section 2.2.

G. **Qualified LIHTC unit** – A low-income unit qualifies for the tax credit when the following conditions are met:

- ┆ Tenant eligibility verified and certified
- ┆ Restricted rent
- ┆ Nontransient residency
- ┆ Unit suitable for occupancy
- ┆ Unit recorded as LIHTC unit
- ┆ Tenant eligibility re-certified annually: by third party process for mixed-use properties and by self-certification process for 100% LIHTC properties
- ┆ Available to the public on a non-discriminatory basis

Units meeting these requirements may be counted in the **qualified basis** for tax credit purposes (See Section 2.4).

H. **Recordkeeping requirements** – IRS regulations list the LIHTC recordkeeping and record retention requirements for owners to follow to maintain compliance. Project owners and managers should be familiar with this list and understand that required records could be subject to monitoring at any time. In addition, the first year records must be kept for 21 years. It is strongly recommended that these original documents be stored in a secure fireproof and waterproof location.

Minimum Set-Aside

*20/50, 40/60 or
Income Averaging
to qualify for credit*

*Multiple building vs.
building-by-building*

2.2 Minimum Set-Aside Election

The most critical compliance issue for a low-income housing tax credit project is the minimum set-aside (MSA) requirement. In order for an owner to claim tax credits, a project must have a minimum number of qualified tax credit units. The owner must select one of three minimum set-asides, which establishes both the minimum percentage of tax credit units at the project and the income limit used to determine tenant eligibility. The IRS requires the selection and adherence to a minimum set-aside as follows: “A residential rental project providing low-income housing qualifies for the credit only if

(1) 20 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 50 percent or less of the area median gross income, as adjusted for family size, or

(2) 40 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 60 percent or less of the area median gross income, as adjusted for family size.”

(3) 40 percent of the units have to be occupied by individuals where The average of the imputed income limitations designated cannot exceed 60 percent of the area median gross income, as adjusted for family size. The designated imputed income limitations must be in 10 percent increments as follows: 20%, 30%, 40%, 50%, 60%, 70%, 80%

The owner specifies the MSA when applying for a tax credit allocation and makes the MSA election on the Form 8609 for each building. This election is irrevocable and sets the applicable income limit for *all* LIHTC units in the project. The minimum set-aside must be met within the initial credit period or the property will not be eligible for tax credits. In addition, the MSA must be maintained for the entire 15-year compliance period or recapture of the credit for all units will result.

If a building is identified as part of a **multiple building project** on Line 8b of the Form 8609, the minimum set-aside may be met across all so noted buildings in the project. If the building is not identified as part of a multiple building project, the MSA must be met **within that building**. Properties with several buildings may have buildings noted differently on the form 8609, so management must be aware of the status of **each building**.

Example 2-1: The owner of a 10-building, 100-unit tax credit project has elected the 40/60 minimum set-aside to be met as a “multiple-building” project, meaning that 40% of 100, or **40 units project-wide**, must be rented by the end of the initial

Allocation year affects MSA

MSA not to be confused with state set-asides

Note: Multiple layers of financing mean multiple layers of rules. Keep Track!

credit period to tenants who are eligible at the 60% area median gross income limit or no tax credits are available.

Example 2-2: In this case, the owner of the same 10-building, 100-unit tax credit project has elected the 40/60 MSA to be met on a *building-by-building* basis. If the project were comprised of 6 buildings with 12 units each and 4 buildings with 7 units each, 40% of a 12 unit building = 4.8 or 5 units and 40% of a 7 unit building = 2.8 or 3 units. Thus the MSA = (6 buildings x 5) plus (4 buildings x 3) = 30 plus 12 = 42 units. In this example, the MSA must be met by the end of the initial credit period for each building or the building will not be eligible for tax credits. *Management must be aware of the distinction between per building and project-wide MSA.*

Depending on the year of allocation, different requirements regarding the MSA apply. For 1987-1990 projects, the MSA had to be met within 12 months of the Placed-in-Service date. For 1991 and later years, the MSA must be met no later than the close of the first year of the credit period for such building. The MSA must be met prior to any credits being claimed, thus if an owner wanted to claim credits at the end of year one, the MSA would have to be met as needed, by building or project, by 12/31 of the first year. If the owner has deferred the first credit year to the year after placing in service, the MSA must be met by 12/31 of the second year after placing in service.

The tax credit MSA should not be confused with other set-asides such as state set-asides that earned extra points in the allocation process and are recorded in the project's ELIHC. States may impose set-asides that require certain units to be rented to the elderly or to large families, or may impose lower income limits than the LIHTC would require. In addition, the MSA should not be confused with HOME fund requirements or subsidy programs such as HUD Section 8 or Rural Development. Always determine the tax credit MSA first and review allocation documents to identify any additional set-asides. Implement a tracking system for all set-asides to ensure compliance with these requirements. Follow the most restrictive set-asides so that the project will remain in compliance with all set-asides.

Income Limits

VLI=50% limits

50% x 1.2 = 60%

Use new income limits within 45 days

Qualified Basis

Determines the amount of tax credits the owner can claim each year

2.3 Income Limits

Each year, the Department of Housing and Urban Development (HUD) publishes the Section 8 and Multifamily Tax Subsidized Projects (MTSP) area median gross income limits for all states. The IRS requires MTSP income limits, as adjusted for family size, to be used when determining eligibility of LIHTC tenants. The minimum set-aside election establishes whether the 50% or 60% area median gross income (AMGI) limit applies to the project's tax credit units.

Prior to 2009

HUD's **50 Very Low Income** amounts equal the **50% AMGI** limits for households of one to eight persons. The **60% AMGI** limit equals 120% of the HUD Very Low Income amount for the corresponding family size. Calculate the 60% limits by multiplying the 50% AMGI figures by 1.2

Example 2-3: If the 50% income limit for a 2-person household equaled \$25,100, the 60% income limit for a 2-person household would be $\$25,100 \times 1.2 = \$30,120$. (While HUD rounds figures to the nearest \$50 or \$100, there is no provision in the code for rounding the 120% calculation up or down.)

After 2008 MTSP table should be utilized for eligibility purposes.

Where State set-asides at lower income percentages are in place, these limits would also need to be calculated. Most Allocating Agencies provide the income limits for any additional set-asides. *When HUD publishes new income limits, owners are required to implement the new income limits no later than 45 days after the effective date.* Be aware that any fluctuations up or down in the income limits will have a corresponding impact on maximum gross rent amounts.

2.4 Qualified Basis & Low Income Occupancy

The amount of tax credits an owner can claim depends on the number of rent-restricted, qualified LIHTC units in each building of the project. The percentage of TC units (applicable fraction) in the building multiplied against the allowable development costs (eligible basis) establishes the amount for the

Applicable fraction is lesser of unit fraction and floor space fraction

Note: Managers need to know which fraction applies in order to maintain compliance with the Next Available Unit Rule and the Vacant Unit Rule. Do not just assume it is the same fraction every year.

Maximum Gross Rent

building's qualified basis. The qualified basis multiplied by the project's particular tax credit percentage (9% or 4%) determines the amount of credit an owner can claim each year for the 10-year credit period.

The **applicable fraction** is calculated for each building and is the lesser of:

- (a) the unit fraction—the proportion of low income units to all residential rental units in the building, or
- (b) the floor space fraction—the proportion of floor space of the low-income units to the floor space of all residential rental units in the building.

Owners have until the end of the initial credit period to establish the project's original low-income occupancy—the applicable fraction for each building. The low-income occupancy achieved by the end of the initial credit period establishes the project's original qualified basis (QB). Once the QB has been initially established and credits are claimed, the QB is locked in and must be maintained for the entire 15-year compliance period or recapture will result. Only low-income units in the original qualified basis are eligible to receive the full tax credit value during the accelerated 10-year credit period. The qualified basis of a building may be increased subsequent to the initial determination only by reason of an increase in the number of low-income units or in the floor space of the low-income units. Credits claimed on such additional qualified basis are determined using 2/3 of the value of the credit which is now "de-accelerated" through year 15.

A decrease in a project's applicable fraction reduces its qualified basis. If a project's qualified basis for a given tax year decreases from the previous year, this results in noncompliance and recapture by the IRS of some or all of the accelerated portion of the project's credits claimed in prior years.

2.5 Maximum Gross Rent

Units qualifying for tax credits are subject to a rent restriction formula that sets the maximum gross rent that may be charged. The maximum gross rent may not exceed 30% of the applicable qualifying income limit. Gross rent equals the tenant portion of rent plus the cost of tenant-paid utilities (except telephone, internet, and cable) and any other non-optional charges. If low-income tenants are charged more than

Restricted Rents

the allowable rent, the unit is in noncompliance and recapture of credits may result. Whenever utility costs are paid directly by the tenant, gross rent must include an allowance for utilities. Section 2.6 provides more information regarding utility allowances.

The maximum gross monthly rent is calculated by this formula:

$$\text{Maximum Gross Rent (including Utilities)} = (\text{Applicable Income Limit divided by 12}) \times 30\%$$

If the rent calculation ends with a decimal point, always round the amount down since you may never charge more than the maximum. Rounding up would charge more than the maximum allowable rent, resulting in noncompliance.

# Persons		1	2	3	4
Income Limit	50%	13,600	15,550	17,500	19,450
	60%	16,320	18,660	21,000	23,340

# Persons		1	2	3	4
Rents	50%	340	388	437	486
	60%	408	466	525	583

Example 2-4: If the applicable income limit = \$17,500, then divide by 12 to get **\$1458.33** then multiply by .30 , to get **\$437.49**. Round down to **\$437** so as not to exceed the maximum. The maximum gross rent including utilities cannot exceed this figure.

A. 1987-89 Projects

For projects with 1987, 1988, or 1989 tax credit allocations, the unit rent was calculated using the income limit for the actual number of people in the household. Therefore, the maximum rent could increase or decrease based on respective changes in the household composition. The 1987-89 projects have all completed their compliance periods, therefore no property still regulated by Section 42 has rents based on family size.

B. 1990+ Projects

For 1990 and later allocations, rent is based on unit size, not the number of people in the household. The rent formula

# Bedrooms	0	1	2
Income Limit	1 person	1.5 person`	3 person

uses an imputed family size of 1.5 persons per bedroom to determine the applicable income limit upon which to base rent calculations. For efficiency or studio units which do not have separate bedrooms, the 1 person income limit is used.

# Persons		1	1.5	3
Income Limit	50%	13,600	14,575	17,500
	60%	16,320	17,490	21,000

Example 2-5: To determine which income limit amount to use for the bedroom size rent formula, use the imputed household size of 1.5 persons x the actual number of bedrooms, with an efficiency/studio using the one person income limit.

# Bedrooms		0	1	2
Income Limit	50%	340	363	437
	60%	408	437	525

For the 1.5 person income limit, take the 1 person limit, add to the 2 person limit and divide the answer by 2. Using the limits provided in Example 2-5 above, the income limits and resultant maximum gross rents for the bedroom size formula would be:

C. Option to Change Pre-1990 Rent Formula

Owners of pre-1990 projects were given an option to make a one-time irrevocable election by February 6, 1994 to convert to the bedroom size rent formula. If election to the bedroom size formula was made, it could only apply to new move-ins following the date of election while prior tenants remained on the household size rent formula. *The owner was required to provide documentation to their State Monitoring Agency*

Note: When completing End of Year Reporting. Do not include subsidies when listing tenant rent.

Utility Allowances

Mandatory amenities or services in gross rent

Note: If a tenant is not directly informed a service/amenity is not required as a condition of occupancy, it is presumed to be required and must be included in the gross rent calculations.

or the Authorized Agent that this election to the IRS was made.

As noted above, all pre-1990 projects have now completed their compliance periods.

D. Rent Subsidies

Gross rent does not include any housing assistance payments made to an owner to subsidize a tenant's rent, such as from Section 8 or any comparable federal or state rental assistance program to a unit or its occupants. Only the actual rent paid by the tenant, including tenant-paid utilities, is counted toward the maximum gross rent allowable. For example, if the LIHTC maximum gross rent was \$350 and the total tenant payment was \$250 with Rental Assistance paying an additional \$150 subsidy to reach the Basic or Contract Rent of \$400, there is no problem. The rent meets tax credit guidelines because the total tenant payment inclusive of utilities does not exceed \$350.

E. Section 8 Rent

The HUD Section 8 program protects subsidized tenants from ever paying more than 30% of their adjusted gross income for rent. For this reason, in 1989 the IRS ruled that if the tenant portion of rent increases above the LIHTC maximum gross rent, thereby reducing the Section 8 subsidy, the higher rent may be charged.

F. Rural Development Overage

In RD 515 projects, overage rents may result when 30% of the tenant income minus the utility allowance exceeds the RD program's Basic Rent. If this overage rent exceeds the maximum LIHTC rent, then the overage cannot always be charged. For 1991 and later year projects, the overage can be charged for amounts that are turned over to RD. In 1987-1990 projects, the overage cannot be charged to the tenant since this provision is not retroactive.

2.6 Utility Allowances

The maximum gross rent includes the amount of tenant paid utilities inclusive of costs for heat, lights, air conditioning, water, sewer, oil, and gas, where applicable. Utilities do not include telephone, internet, or cable television. Whenever the

tenant directly pays utility costs, a utility allowance must be used to determine the maximum unit rent that may be charged. The utility allowance must be subtracted from the maximum gross rent to calculate the maximum tenant portion of rent.

In addition, any *mandatory* supportive service or amenity charge must be counted as part of the gross rent for these units. Such costs may include parking fees, a telephone if required to open the door or project gate as part of a security system, housekeeping, trash removal, meal service, or other required costs. Charges for *optional* services other than housing do not have to be included in gross rent, but such services must truly be optional. *NOTE: Fees may not be charged for any item that is part of the eligible basis (See Section 2-1).*

Example 2-6: If the maximum gross rent on a unit is \$525 and the tenant pays utilities with a utility allowance of \$75, the maximum tenant portion of rent allowable is \$450 (\$525 – \$75).

Example 2-7: If the same tenant pays an additional mandatory parking fee of \$25 per month, the maximum tenant portion of rent allowable is \$425 (\$525 – \$75 – \$25).

Internal Revenue Bulletin 2008-39 was published on 9/29/08. It contains final regulations for 42-10, utility allowances. Utility allowances should be calculated as follows:

(1) Rural Housing Services (RHS) - If a building receives assistance from RHS the applicable utility allowance in the building is the RHS approved UA. Additionally, if any tenant in the building receives RHS rental assistance the applicable US for ALL units in the building (including those occupied by tenants receiving HUD assistance) is the applicable RHS allowance.

(2) HUD regulated buildings - If neither a building nor any tenant receives RHS assistance and the rents and utility allowances are reviewed by HUD on an annual basis, the applicable UA for all units in the building is the HUD utility allowance.

(3) Other buildings - If a building is not subject to either 1

or 2 above, the applicable utility allowance for rent-restricted units in the building is determined under the following methods:

- (i) For tenants receiving HUD rental assistance, use the applicable PHA utility allowance.
- (ii) For other tenants, (A) the general rule is to use the PHA utility allowance. However, if a local utility company estimate is obtained in accordance with (B) below, that estimate becomes the appropriate utility allowance.

(B) Utility company estimate. The estimate is obtained when an interested party receives, in writing, information from a local utility company providing the estimated cost of that utility.

(C) HUD Utility Schedule Model. May be found at www.huduser.org/datasets/lihtc.html.

(D) Energy consumption model. A building owner may calculate utility estimates using an energy and water and sewage consumption and analysis mode.

(E) Estimates Provided by State Agency's Agent or Private Contractor. A state agency may use an agent or other private contractor to calculate the utility estimates. The agent or contractor must be a properly licensed engineer or a qualified professional. The professional must be (1) approved by the state/local housing credit agency having jurisdiction over the building, and (2) must not be related to the building owner within the meaning of IRC 267(b) or 707(b).

Utility allowances must be updated at least annually since they are included in the maximum allowable rent calculations. Copies of utility allowance documentation must be submitted with CHFA's required annual year-end reports. Realize that any changes in utility allowances have a direct impact on the net chargeable rent to the tenant. *Any new allowance must be implemented within 90 days of the change.*

Update utility allowances at least annually and submit with annual reports.

Additional LIHTC Regulations

Recapture may result from renting comparable size units in the BIN to ineligibles while a TC unit is vacant.

2.7 Additional LIHTC Regulations

The following is a list of additional LIHTC regulations.

A. Vacant unit rule

If a low-income unit becomes vacant during the year, the unit remains LIHTC compliant and eligible for the tax credit for purposes of the set-aside requirement and determining the qualified basis provided reasonable

attempts are made to rent the unit or the next available comparable or smaller size unit to an eligible household and no other comparable or smaller size units in the project are rented to non-qualifying individuals. See [Section 25] for IRS verification of this rule.

“Reasonable attempts” indicates that efforts toward marketing and renting a unit that is suitable for occupancy must be made. *Under no circumstances can you claim credit on the unit if you violate this rule.* Concurrently, if an owner of three vacant units violates this rule by renting to a non-eligible applicant, credit on all three vacant units will be lost and the units cannot be counted toward the minimum set-aside.

Units that have never been occupied are termed “empty” rather than vacant, and cannot be counted as low-income units. However, they must be included in the building’s total unit count for purposes of calculating the applicable fraction.

Owners are required to keep records for each qualified low-income building in the project showing for each year of the compliance period the low-income unit vacancies and data for when, and to whom, the next available units were rented.

B. Deep Income Targets--Application of the Next Available Unit Rule (NAUR)

The Connecticut Housing Finance Authority’s policy pertaining to the Next Available Unit Rule (NAUR) as applied to “Deep Income Target” set-asides. This rule is provided as guidance for maintaining compliance with Section 42 of the Internal Revenue Code and the Extended Low-Income Housing Commitment.

“Deep Income Targets” are defined as households having a gross income limited at or below 50% Area Median Income adjusted for family size and rent limited to 30% of the applicable imputed income limitation. You will find the specific set-aside(s) outlined in your development’s Extended Low-Income Housing Commitment.

For purposes of compliance with the Low-Income Housing Tax Credit (LIHTC) program, a household qualified as a “Deep Income Target” unit automatically meets the income and rent test for both the 20/50 and 40/60 set-asides as defined in IRC Section 42(g)(I). Accordingly,

Available Unit/140% Rule

Remember: The “Reasonable Attempts” wording is not a part of the Next Available Unit Rule.

Relocating tenants

the Next Available Unit Rule (NAUR) shall also apply to the “Deep Income Target” units. That means a “Deep Income Target” unit shall continued to be treated as a qualified unit for tax-credit purposes until such time as the household’s income rises above 140% of the applicable income limitation (either 20/50 or 40/60). At such time the NAUR as defined in IRC Section 42(g)(2)(D)(ii) must be followed and the new household must meet the income and rent requirements of a “Deep Income Target” unit.

Please be aware that LIHTC developments must be able to demonstrate continual compliance with the terms and conditions of the Extended Low-Income Housing Commitment. Please refer to your executed Commitment for further clarification on specific requirements pertaining to set-asides, applicable fractions and unit mixes.

C. Available unit rule / 140% rule

If the household income for residents in a qualified unit increases to more than 140% of the current applicable income limit, the unit is considered an “over-income unit” but may continue to be counted as a low-income unit as long as two conditions are met. The unit must continue to be rent restricted and the next comparable size unit in the building must be rented to a qualified low-income tenant. The owner of a low-income building must rent to qualified residents *all* comparable units that are available or that subsequently become available in the same building until the applicable fraction (excluding the over-income units) is restored to the percentage on which the credit is based.

IRS Regulation 1.42-15, effective September 26, 1997, allows over-income tenants who were previously LIHTC eligible to move to a new unit within the same building, because when a current resident moves to a different unit within the building, the newly occupied unit adopts the status of the vacated unit.

Violating this rule means losing the credits on all 140% units. These units would no longer count toward the MSA.

D. Relocating existing tenants

When an existing tenant moves to another unit within the same building, the status of the two units swaps. Thus, if a qualified tenant moves to an ‘empty’ unit, the new unit

Units occupied by staff

ceases to be ‘empty’ and becomes a qualified unit. The original unit will then be deemed ‘empty’.

When the transfer occurs between different buildings in the same project, a similar rule applies as long as the tenant’s income did not exceed 140% of AMI at the most recent certification. Please note that for purposes of this test, if on the 8609 the owner elected to say ‘No’ to line 8b, then the owner has chosen to treat each BIN as a separate project. In this case, a transfer would require a new certification and the tenant would have to be qualified at the time of move-in.

During the initial credit period, existing tenants cannot be relocated for purposes of qualifying more than one LIHTC unit to count toward the minimum set-aside or applicable fraction. *Under no circumstances can one household be used to initially qualify more than one tax credit unit in the project.*

E. Staff units

Revenue Ruling 92-61, effective September 9, 1997 allows a unit for a *full-time* staff member to be considered part of a project’s “common area.” Such units are not classified as residential rental units and thus are not included in either the numerator or denominator of the applicable fraction under section 42(c)(1)(B) for purposes of determining the building’s qualified basis.

Revenue Ruling 2004-82 further expanded staff units to include a unit occupied by a full-time security officer for the building if the building owner requires the security officer to live in the unit.

Two options apply:

(1) If the staff unit is a rental unit and is to be counted as part of the qualified basis, then the staff must be income eligible, be certified, and sign a lease the same as any low-income tenant. In this case, if the staff member receives free rent or a rental discount, the imputed value of the rent or discount must be included as income.

(2) If the unit is not a residential rental unit but used as common area by full-time staff, then the staff does not have to be income eligible, certified, leased, or considered

*6-month
minimum initial
lease term required
except for SROs or
transitional housing
for the homeless*

*LIHTC
ineligible facilities*

*Know accessibility
requirements*

a tenant.

The owner's LIHTC application and the allocation documents should stipulate the number of common area units set-aside for staff. If not, the owner should work with CHFA on amending or clarifying the language in the ELIHC. This revenue ruling does not apply to any building placed in service prior to September 9, 1992 or to any building receiving an allocation of credit prior to that date unless the owner filed a tax return that is consistent with this ruling.

F. Nontransient occupancy

"Residential rental units must be for use by the general public and all of the units in a project must be used on a nontransient basis....Generally, a unit is considered to be used on a nontransient basis if the initial lease term is six months or greater."

[General Explanation of the Tax Reform Act of 1986]

"In General—A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy and used other than on a transient basis."

[Section 42(i)(3)(B)(i)]

To be in compliance, a six-month minimum lease term is required at initial occupancy of low-income units. A six-month lease addendum should be signed with in-place tenants who do not have six months left on an existing lease when the building is placed in service. The only exceptions to this requirement would be SRO housing rented on a month-by-month (30-day lease) basis or transitional housing for the homeless as specified below.

G. General public / fair housing

All residential rental units in the project must be available for use by the general public. LIHTC properties are subject to Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act, prohibiting discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability.

Tax credit units may not be provided only for members of a social organization or provided by an employer for its employees. In addition, any residential rental unit that is part of a hospital, nursing home, sanitarium, life-care

Discrimination Prohibited

facility, dormitory, trailer park, retirement home providing significant services other than housing, or intermediate care facility for the mentally and physically handicapped is not for use by the general public and is not eligible for credit under Section 42.

Housing and Economic Recovery Act of 2008, H.R. 3221 clarifies the general public use test to explicitly allow Credit developments that establish tenancy restrictions for persons with special needs, tenants who are involved in artistic or literary activities, and persons who are members of a specified group under a Federal or state program or policy that supports housing for such a specified group, effective for buildings placed in service before, during, and after date of enactment.”

The Fair Housing Act also mandates specific design and construction requirements for multifamily housing built after March 13, 1991, to provide accessible housing for individuals with disabilities. Owners are expected to be familiar with accessibility requirements applicable to their projects.

The IRS 8823 Report of Noncompliance form states:

“The failure of low-income housing credit properties to comply with the requirements of the Fair Housing Act will result in the denial of the low-income housing tax credit on a per-unit basis.”

“Available to the general public” applies to all residential rental units, market and tax credit.

Student status deter- mined on a tax-year basis

H. Students

Many students are considered to be transient and thus are not LIHTC eligible. The issue with students is only a concern when *everyone* in the household is a full-time student, defined by the IRS as taking 12 credit hours a semester or attending school full-time 5 months per year at an educational institution with regular facilities, other than a correspondence or night school. The IRS has made it clear that student status is to be monitored on a tax-year basis, thus an applicant would not be eligible if the person had been a full-time student for 5 months of the tax year, even if they had graduated prior to applying for an LIHTC unit. Owners and managers should adjust tenant certification procedures to consider student status

No grandfathering due to student status

according to this interpretation. In addition, there is no grandfathering of eligibility because the tenant was not a student when they moved in and later became one. For this reason, tenant student status must be re-verified at annual certifications to confirm continuing eligibility of the household. Failure to verify student status is noncompliance.

Exceptions: A unit would not be disqualified for tax credits if it is occupied as specified in Section 42(i)(3)(D)—

(i) by an individual who is—

- I. A student and receiving assistance under title IV of the Social Security Act,
- II. A student previously under the care and placement responsibility of the State agency responsible for administering foster care.
- III. A student who was previously under the care and placement responsibility of the State agency responsible for administering a plan under part B or Part E of title IV of the Social Security Act (foster care), or
- IV. A student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

(ii) entirely by full-time students if such students are—

- I. single parents and their children and such parents are not dependents (as defined in section 152) and the children are not dependents of another individual other than the parents, or
- II. married and (entitled to) file a joint return.

The single parent exception was changed as noted above in December, 2007.

Section (i)(II) was established with the Housing Assistance Tax Act of 2008.

I. Section 8 certificates / vouchers

Section 42 states that LIHTC properties may not refuse Section 8 certificate or voucher holders simply on the basis of their Section 8 status. However, this does not assure tenant selection, because applicants eligible for Section 8 may have incomes exceeding LIHTC income limits, may have negative references, may not be able to afford the rent

Note: Do not leave vacant units dirty, in disrepair or otherwise uninhabitable because you have other units ready for rent. The unit you leave uninhabitable is not credit worthy!

with vouchers in some situations, or the unit rent may exclude certificate holders due to a conflict with the local Fair Market Rent.

J. Suitability of unit

A unit must be suitable for occupancy in accordance with state or local codes in order for credits to be claimed. If the unit is not habitable, no credits can be claimed. In a related situation, the IRS has ruled that should a unit be destroyed due to casualty loss (i.e., fire, flood, or any other disaster) for which credits cannot be claimed while the unit is being replaced, if the unit is restored within a reasonable time within a taxable year, credits can again be claimed and no recapture would occur. Tax credit units that are vacant must be made ready to rent as soon as possible. Otherwise, they would not be considered suitable for occupancy and would not be eligible for credit.

Tenant
Eligibility for
LIHTC

*Income and student
status must be
considered*

Household Size

DETERMINING TENANT ELIGIBILITY

3.1 Overview

Owners must determine and document the eligibility of potential low-income tenants in accordance with LIHTC requirements. A tenant's income eligibility is determined by comparing the household's gross annual anticipated income per HUD guidelines to the LIHTC 50% or 60% area gross median income limits that apply to the project. As previously mentioned in Section 2.7(H) of this manual, student status may also affect the eligibility of a household. Owners must verify the household's income and the student status of all household members and the tenant and owner must certify the accuracy of the verified information. Since household composition, income, and student status may change over time, owners must re-certify the eligibility of tenants in tax credit units annually, on or before the anniversary date of the previous certification.

3.2 Household Size and Income Limits

Section 42 mandates that HUD income limits as adjusted for household size be used in determining income eligibility for the LIHTC. A household can consist of one or more persons. Members do not need to be related to be considered a household. Count all household members and compare to the per person 50%, 60% or AIT income limits currently in effect. Full-time students residing together in a unit do not constitute a household under LIHTC requirements unless one of the exceptions listed in Section 2.7(H) applies.

Certain individuals are not considered members of the household in determining the income limits.

Do NOT count the following in determining income limits:

- Live-in Attendants
- Visitors or Guests
- Foster Children
- Foster Adults

Temporarily absent members who *would* be included in the household size determination include:

Note: Spouses not currently residing with the applicant but who may return are counted as household members. Separation agreements, estrangement and divorce documents must all be on file to exclude income of spouses that are not expected to become members of the household.

Unborn children and children being adopted are counted for income limits

- Children temporarily absent due to placement in a foster home
- Children away at school, but who live with the family during school recesses
- A person confined to a hospital or nursing home per family decision
- A son or daughter on active military duty *only* if this person leaves dependents or a spouse in the unit
- CHFA recognizes unborn children and children in the process of being adopted as household members in determining income limits.

Definition of Income

3.3 Gross Annual Income

The codes states – “Tenant income is calculated in a manner consistent with the determining of annual income under Section 8 of the United States Housing Act of 1937 (“Section 8”), not in accordance with the determination of gross income for federal income tax liability.” Annual income includes, with respect to the family all amounts received from all sources by each member of the family who is 18 years of age or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age.

Total Income from all Sources		=	Annual Income	
Gross Earned/ Unearned Income	+	Net Income from Assets	=	Annual Income

For information regarding what annual income includes/excludes and how to calculate annual income, [see Section 11] for excerpts from HUD Handbook 4350.3 REV-1, Change 2, 5-6. Note that LIHTC total income is gross annual income, *not* “adjusted” annual income. Allowances used in some government programs, such as childcare allowance and medical expense allowance, are not deducted from the household’s annual gross income to determine income eligibility for LIHTC units.

Net Asset
Income

3.4 Assets

*Cash value of assets
and asset income
must be verified
for entire household*

The net income from assets must be considered when determining the tax eligibility of a household. Asset information for all household members (including minors) should be obtained at the time of application. Information regarding what net family assets include/exclude is provided in [Section 11] excerpts from HUD Handbook 4350.3 REV-1, Change 2, 5-83, Exhibit 5-2.

*If net assets exceed
the applicable imputed
income limitation*

The cash value for all assets and asset income must be verified by the owner obtaining third party documentation as specified by HUD verification procedures. When the value of net family assets exceed the current and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

*If net assets do not
exceed the applicable
Income limitation*

When the value of net family assets is at or below the applicable imputed income limitation households are allowed to self-certify assets and income from those assets by using an Asset Self-Certification Form.

*Assets disposed of
for less than fair
market value
must be considered
assets for two years.*

At each certification and annual certification, applicants and tenants must declare whether or not an asset has been disposed of

Application Procedure

for less than fair market value during the two years preceding the date of application or the effective date of the recertification. If assets have been disposed of owners must include in the total household assets the difference between the cash value of the asset and the amount received.

3.5 Tenant Application Procedure

Because the LIHTC program uses special definitions for income, assets, and household composition, standard property management application forms may not collect sufficient information to determine tenant eligibility. A comprehensive housing application is critical to the accurate identification of full-time student status, all assets, and anticipated income sources to be verified in the determination of tenant eligibility for the LIHTC. *The application must be sufficiently detailed with regard to income, assets, and student status enabling an owner to effectively make a determination of eligibility for this program.*

The **Application for Housing**, included in Section 6 of this manual, is required for use by all tax credit properties in Connecticut. The information furnished on the fully completed application is reviewed along with supplementary historical documents (i.e., most recent 1040 form, divorce decree, etc.) submitted with the application.

Interview Checklist

The application procedure *must* include an interview with all adult household members to review the application and historical documents and clarify any discrepancies or missing information. (For example, if the recent 1040 form and W-2s show two employers, but the application only lists one, question what happened to the second job and confirm its termination.) This interview is documented with the **required Interview Checklist**, also included in [Section 6] which is signed and dated by management and all adult applicants.

One application and interview checklist signed by all co-applicants should be submitted per household.

Verifying Income

3.6 Tenant Income Verification

Determination of annual income of individuals and area median gross income adjusted for family size must be made in a manner consistent with HUD Section 8 income definitions and guidelines. HUD Handbook 4350.3 REV-1 is the reference guide to be used for identifying the income/assets to be included or excluded when determining household income and appropriate excerpts from the HUD Handbook 4350.3 REV-1 are included in [Section 11] of this manual.

The projected earned income of every prospective household member 18 years of age or older must be verified. Unearned income, assets and asset income of all household members, including minors, must be verified. Verifications must be received by the owner/ management agent prior to the execution of the certification of tenant eligibility and lease. Information concerning acceptable forms of verification, the effective term of verifications, proper verification methods to follow, and how to calculate total income is provided in HUD Handbook 4350.3 REV-1 included in [Section 11]. To summarize:

A. Effective Term of Verifications

Third-party verifications are valid for 120 days following receipt. Owners may not rely on verifications that are more than 120 days old. After this time, a new written verification must be obtained.

B. Verification Methods

HUD developed a hierarchy [see Section 10] that describes verification Documentation from most acceptable to least acceptable. Owners must demonstrate efforts to obtain third party verification except instances when self-certification is explicitly allowed (e.g., net family assets that do not exceed the applicable imputed income limitation).

C. Differences in Reported Income

Significant differences between the income/asset amounts reported on the application and amounts reported from third party verifications should be explained by the applicant/ tenant and documented in the tenant file utilizing a form such as the Telephone Verification.

Note: When calculating income, be conservative. If you decide a lesser number is warranted explain why. Use of telephone clarifications when information is incomplete or vague is encouraged.

Certification of Income

Note: The purpose of the certification worksheet is to show the math that results in the amounts listed on the Tenant Income Certification. Consider highlighting the figures on the verification that are used.

Lease

Required verification forms are included in Section 6. If forms currently in use at your property are comparable to the forms in this section, you must receive permission from CHFA to continue to use your current forms. Noncompliance will occur if forms in use do not adequately meet LIHTC and HUD certification or verification requirements.

3.7 Tenant Income Certification

Once all the income and asset information has been Obtained, data should be recorded and computations done on the **Certification Worksheet** found in Section 6. If the total 12-month projected household income is less than or equal to the maximum allowable qualifying income in effect at the time of tenant certification, the household is income eligible for a tax credit unit. If the total household income exceeds the maximum allowable qualifying income, the household can not be certified eligible for a tax credit unit.

Upon receipt of all verifications, owners/managers should review all documentation and calculations. If it is determined that all requirements for eligibility are met, the **Tenant Income Certification Form** found in Section 6 must be filled out and executed along with the lease prior to move-in. All adult members of the household must sign the Certification form. It is preferred that the Certification be executed by tenants and owner/manager no earlier than 5 calendar days prior to move-in and in no event after the execution of the lease.

3.8 Lease

All tenants occupying tax credit units must be certified and under Lease (as specified in the Code) no later than the date the tenant takes possession of the unit. The lease must be signed by all parties to the agreement by the beginning lease term date to be properly in effect and the unit in compliance.

Note: Leases must be signed in good faith. A number of short tenancies despite a six month lease can raise questions about procedures. If a tenant vacates early, consider including an explanation (if known) in the file.

Note: Only when a tenant receives Section 8 subsidy can the tenant portion of rent exceed the LIHTC maximum rent limit.

While CHFA does not require a model lease to be used by owners, it is recommended that owners have their leases reviewed by legal council in order to confirm that it meets the requirements of the Connecticut State Statutes. Some leasing guidelines are listed below.

- A. The lease should include, but is not limited to:
 - The legal name of all parties to the agreement and all additional occupants
 - Identification of the unit to be rented (number, street address, etc.)
 - The date the lease becomes effective
 - The term of the lease
 - The amount for rent—If this reflects a contract rent amount which may include a subsidy payment, rather than just the tenant portion of the rent, a lease addendum listing only the tenant share of rent is recommended.
 - The rights and obligations of the parties, including the obligation of the tenant to recertify income annually (or more frequently as required).
 - The lease addendum TC-100B or TC-100B(1) must be attached to or included in the lease
 - Language addressing changes in income, utility allowance, income limits, basic rent (RD or HUD 236 projects), family composition or any other change and its impact on the tenant's rent
 - Signature dates
- B. The tenant portion of rent plus utility allowance and other mandatory fees must not exceed the maximum gross rent allowed by Section 42 of the Code.
- C. The initial lease term must be at least 6 months on all tax credit units, except for SRO housing which may have a 30-day lease or transitional housing for the homeless (as specified in Section 2.7(F) of this manual) which provides "temporary housing" and has no lease requirement. Succeeding leases are not subject to a minimum lease term.

The beginning term of the lease and effective date of the certification should be concurrent. Signatures should be no greater than 5 days prior to these dates.

Additionally, the lease should not contain any clauses that would allow termination prior to the six month tax credit requirement.

Recertification

Annual certifications ensure affordable housing units are occupied by income eligible households, and provide a means to ensure compliance with the Next Available Unit Rule and student status.

3.9 Recertification

Recent changes in IRS regulations no longer require annual certifications for properties that are 100% tax credit. Allocating agencies can still require them and CHFA is no exception.

FOR 100% TAX CREDIT AND TAX EXEMPT BOND PROPERTIES:

CHFA requires that recertification of residents be completed on at least an annual basis (though failure to recertify tenants on an annual basis is no longer cause for the issuance of IRS Form 8823). What is required has changed significantly. *Every* LIHTC household is expected to undergo a complete annual recertification *the year following move in*. Subsequent years, a Self-Certification may be completed if approved by CHFA. [See forms in Section 6.]

CHFA can require properties that have rented to ineligible households or demonstrated inadequate certification/documentation procedures to revert to full annual recertification procedures as with properties containing market units.

FOR PROPERTIES WITH MARKET UNITS:

Section 42 states: “The determination of whether the income of a resident exceeds the applicable income limit shall be made at least annually on the basis of the current income of the resident.” While the recert does not determine continued eligibility, it does identify the 140% rule situation, student status, and possible household composition changes. Properties with market units must complete a full annual recertification every year. **Self certifications cannot be used.**

FOR ALL PROPERTIES:

The timing of the recertification is critical. Recertification must be completed within 12 months from the initial certification date, or 12 months from the most recent certification.

Section 8 Qualification

Note: With a Section 8 tenant your annual recertification folder could consist of just two documents. The certification and a Section 8 income verification Form. Be careful to ensure that the information provided is no more than 120 days old.

Note: The EIV (Enterprise Income Verification) is prohibited in the LIHTC program. EIV cannot be used to verify tenant income.

3.10 Qualifying Section 8 Tenants

Additional forms of income verification may be used for tenants who receive housing assistance through the HUD Section 8 program. For these tenants only, acceptable forms of income verification include a signed copy of the appropriate HUD form 50058 or 50059, a letter from the HUD Contract Administrator (e.g., local PHA) stating that the tenant's annual gross income is less than the applicable LIHTC income limit, OR a Section 8 verification form as found in Section 6. These forms may be used as income verification documentation to support the **Tenant Income Certification Form** which must be executed for every LIHTC household.

Proof of tax credit eligibility must be on file for all Section 8 tenants. Section 8 eligibility does not guarantee tax credit eligibility. Student requirements will never be identified or verified by the local PHA. Proof of income eligibility and tax credit eligibility is the responsibility of the owner.

Recordkeeping and Retention

RECORDKEEPING & RECORD RETENTION

4.1 LIHTC Recordkeeping

The LIHTC program requires owners to maintain project records in accordance with program requirements and to provide annual reports to their State Monitoring Agency documenting project occupancy. IRS regulations set forth in 26 CFR Part I - 1.42-5(b) specify the tax credit recordkeeping and record retention provisions that owners must follow to maintain compliance. Recordkeeping responsibilities include three types of project records:

- Tenant files
- Monthly unit data tracking
- Project files, including records regarding the use of facilities included in the project's eligible basis

An owner must keep records for each qualified low-income resident by building and unit number throughout the Compliance Period.

Owners must also provide two documents regarding a project's status:

- LIHTC Owner's Compliance Certification; *annually*
- LIHTC Status Report; *annually*

In addition, Unit History information must be gathered and submitted electronically. Owners and managers will be updated on changing technology.

Failure of the owner to provide reports in a timely manner when requested is regarded as noncompliance.

4.2 LIHTC Record Retention

The owner must retain the above-described records for the first year of the credit period for at least **6 years** beyond the due date (with extensions) for filing the federal income tax return

for the last year of the Compliance Period, meaning original files must be retained for **21 years**. All other records are required to be retained for at least **6 years after the due date** (with extensions) for filing the federal income tax return for that year.

NONCOMPLIANCE

5.1 Types of Noncompliance

LIHTC noncompliance may be defined as a period of time the development, specific building, or unit has failed to follow proper procedures. These procedures may be IRS Section 42 requirements, HUD certification procedures, or CHFA regulatory requirements. Noncompliance can lead to recapture of tax credits for a given period of time.

Most noncompliance issues as identified by IRS definitions may be found on the IRS Form 8823 Low-Income Housing Agencies Report of Noncompliance. In general, noncompliance issues can occur for:

A compliance checklist

- Inadequate certification documents
- Failure to obtain and retain proper income verifications
- Missing signatures
- Late certifications or certification signature dates
- Lease issues, i.e., not signed, late, or no 6 month term
- Failure to re-certify by the certification anniversary date
- Violations of UPCS or local inspection standards
- Failure to submit year-end documentation on time
- Failure to respond to requests for additional information
- Incomplete record-keeping
- Failure to properly identify full time students
- Failure to maintain and update utility allowance documentation
- Charging unrestricted rents
- Failure to maintain the minimum set-aside
- Any change in the applicable fraction or eligible basis that results in a decrease in the qualified basis
- Housing a non-eligible tenant

- An ownership interest is disposed of
- Failure to use the CHFA designated documentation and forms
- Failure to satisfy Special Needs Services or additional
- Low-Income Set-Asides for which additional points
- were allocated

While the last two items listed above are not reportable noncompliance under Section 42, CHFA has made it clear that both should be reported to CHFA as acts of noncompliance.

This list is representative and not meant to be all-inclusive.

○ Recapture

5.2 Recapture of Tax Credits

The most serious action the IRS can take against an ownership is the recapture of credits previously claimed. Only the IRS determines this course of action. Consequences to issues of reported noncompliance are not governed by the monitoring agency. If the owner discovers at any time that credits were claimed in error, miscalculated, or the basis was incorrectly listed, IRS Form 8611 may be submitted to voluntarily recapture credits.

○ Owner Liability

5.3 Liability

Compliance with the regulatory requirements of Section 42 is the responsibility of the owner(s) of the building for which credit is allowable. CHFA's obligation to monitor for compliance and report any issues of noncompliance with Section 42 regulations to the IRS does not make CHFA liable for an owner's noncompliance.

FORMS

6.1 Required and Recommended Forms

NOTE: Don't confuse required forms with required paperwork.

With the possible exception of Section 8 Voucher holders, every tenant file must have an application or recertification update and verifications. You are also required to prove you have interviewed the tenant/applicant to ensure the information you received is adequate and complete.

This section contains a list of **required** and recommended forms. You will note that the Section A forms are now **required** in addition to the annual year end forms in Section B. The combination of these forms sufficiently meets the Section 42 code requirements for recordkeeping and, in striving to reach a consistent standard of accurate tenant file documentation, their use is **mandatory** for all Connecticut LIHTC properties.

In filling out each form, see that every line item is addressed. Make certain that all forms are filled out completely, including returned verification forms. Do not assume that a blank line means "Not Applicable." *Third party verifications should be mailed or faxed to the source, never hand-carried.* Pursue phone verification to clarify any missing or ambiguous information.

Never use correction tape or liquid to revise information on any document. If revision or correction is required, draw a line through the change, then write the correct information above it. All parties must initial each change or correction.

A. Required Forms For Tenant Certification

1. Tenant Application
2. Interview Checklist
3. Tenant Income Certification
4. Unemployed or Zero Income Statement
5. Re-certification Update
6. Certification Worksheet
7. Student Verification (TC-100A)
8. Lease Addendum Mixed Income (TC-100B)
9. Lease Addendum 100% Qualified (TC-100B1)
10. Asset Self-Certification (TC-100H)
11. Self-Certification (for 100% LIHTC properties)
12. CHFA's Tenant Guide to Section 42 LIHTC

All required forms can be downloaded from the SPECTRUM website at www.Spectrumlihtc.com

B. Annual Year End Forms (including Post Year 15 Projects)

These forms are **required** as of close of every calendar year of the compliance period for each building and must be submitted by April 1. They can be downloaded from the SPECTRUM website, www.spectrumlihtc.com.

1. CHFA Annual Report/Owner's Certification
2. Evidence of LIHTC training within the past three years
3. Utility Allowance Information
4. Software Download / Status Report database

C. Recommended Forms for Tenant Certification

Note: If the corresponding forms currently in use at your property are comparable to the forms in this section, you may continue to use your current forms with permission from CHFA. However, since these forms are being provided at no additional expense as examples of tenant information to request/verify and document for tenant files, noncompliance will occur if the form in use does not adequately meet LIHTC and HUD certification or verification requirements. Should there be any question regarding comprehensiveness of your forms, please submit your forms to SPECTRUM for approval.

Note:
Contact CHFA or their authorized agent if your tenant's circumstances are unusual. They can provide specific forms or inform you what information you need to obtain.

1. Annuity Verification (Third Party)
2. Child Support or Alimony Certification (Third Party & Self Affidavit)
3. Financial Aid Affidavit
4. Household Student Status Verification (Retroactive, Self-Affidavit)
5. Investment Verification (Third Party)
6. Life Insurance Verification (Third Party)
7. No Change in Income Statement (Self-Affidavit)
8. Pension Verification (Third Party)

9. Public Assistance/TANF Verification (Third Party)
10. Real Estate Asset Worksheet
11. Real Estate Verification (Third Party)
12. Section 8 Income Verification (Third Party)
13. Self-Employment Affidavit
14. Social Security/SSI Verification (Third Party)
15. Student verification (Third Party)
16. Telephone Verification/Clarification (Third Party)
17. Unable to Obtain Third Party Verification
18. Unemployed Status Affidavit
19. Unemployment Verification (Third Party)
20. Verification of Terminated Employment (Third Party)
21. Veteran's Pension/Benefits Verification (Third Party)
22. Employment Verification (TC-100D)

All required, recommended and End of Year forms can be downloaded from the SPECTRUM Website www.Spectrumlihtc.com

COMPLIANCE MONITORING

7.1 Fulfilling Compliance Obligations

Your compliance monitoring *begins when you place in service*. The IRS requires specific recordkeeping requirements that may be found in Recordkeeping Requirements of Section 42 in Section 4 of this manual. **In order to maintain compliance with Section 42 and Connecticut Requirements, you should immediately notify CHFA when you place in service.** CHFA will help you identify specific submission requirements for your property.

A review of the low income units in the projects set forth in the Low Income Housing Credit Minimum Unit Sample Size Reference Chart (page 7-10) will be conducted for 1/3 of the LIHTC properties annually is required by the IRS. Currently, SPECTRUM Enterprises performs compliance monitoring under contract as the Authorized Delegate for the State of Connecticut. On the SPECTRUM web site, www.spectrumlihtc.com, you will find information regarding yearly submission requirements. You will need to contact SPECTRUM to receive specific details for the yearly submission requirements and to notify SPECTRUM & CHFA of your placed in service dates. You will be placed on the SPECTRUM mailing list and e-mail blast as soon as it is determined you have placed in service, and you will be notified when any required yearly submissions are due. However, if you place in service earlier than targeted and do not contact SPECTRUM & CHFA, you may miss submission deadlines required by the IRS. Information and updates will be posted on the SPECTRUM web site. This information will include but not be limited to forms, industry Web links, and industry information. Additionally, we will be sending notices via email, in an attempt to reduce paper communications.

Yearly submission requirements

What are the yearly submission requirements? In short, an owner is required to submit an annual report and certification [Section 6] and unit history for all tax credits units. Unit history information is collected electronically for the previous year. You may download software and instructions from the SPECTRUM Web site at www.spectrumlihtc.com.

This information is required by law, so it is very important that information submitted is timely and accurate. Failure to submit on time, incomplete submissions, or inaccurate

Site visit within two years of PIS date

submissions may be determined noncompliant.

An Owner must realize that the *Owner* is required to maintain and submit the records. Managers must realize that the Owner is financially responsible for late submissions or inaccurate submissions. Be advised that CHFA and Spectrum provide compliance monitoring requirement notices to Owners only and management agents upon written request of owners.

When will SPECTRUM visit the site? By 12/31 of the second year after the last building places in service and at least once every three years thereafter SPECTRUM review will be the lesser of 20% of the low income units in the projects OR the Minimum Unit Sample Size Reference Chart (page 7-10) as a requirement of the Tax Credit Program. You will be notified at least 15 days in advance of the site visit. While we can accommodate emergency situations, audit dates are not negotiable. Our schedules are tight and geographically coordinated. Normal procedures are as follows:

1. A SPECTRUM Monitor will contact Management by phone to inform them of an upcoming on-site review. The monitor will answer any questions or concerns about the review.
2. A Confirmation Letter (see sample below) will be sent to the owner as well as the site verifying the date, time, and requirements for the review.
3. We visit the site, auditing the tenant files, inspecting the LIHTC units and all common areas.
4. An Owner's Report is then written and forwarded to the Owner after review with CHFA, with management copied with permission of the Owner. There is a thirty (30) day period in which to respond. Late submissions will be considered noncompliance. Submissions after an IRS Form 8823 is generated will only be reviewed subject to CHFA's additional review policy.
5. The Owners' responses to the Owner's Report will be reviewed and, after review with CHFA, a notification to the Owner will be sent out informing the Owner of his compliance status. Management is again copied with permission of the Owner. If non-compliance is being reported, an unsigned copy of the generated Form 8823 will be included as an attachment.

Sample confirmation letter

The following is a sample confirmation letter:

[date]

[name]

[address]

Re: LIHTC Compliance Monitoring For **[property name]**

Dear [name] :

This letter is to confirm our scheduled inspection and review of the referenced property on **[Date]** beginning at **[time]**. We will review (#) LIHTC files and inspect (#) LIHTC units and all common areas. The files and units will be chosen at random upon our arrival. To help prepare for our inspection and review, please comply with all of the following:

1. Ensure that all LIHTC residents are notified of the upcoming site inspection. **Additionally, it is required that an Owner's representative be present at all times during the site inspection, preferably a maintenance staff person familiar with the building systems and also an administrative person familiar to the residents.** Spectrum Monitors **will not** enter a unit or a room in any building unaccompanied. Our time at each property is limited and we ask that you help us maintain our schedule.
2. All common area emergency lighting will be tested during the inspection by throwing the circuit breakers and walking the hallways. Circuit breakers for emergency lighting must be identified, labeled, and accessible at the time of inspection. This system test is the most accurate portrayal of an emergency situation. Please notify any emergency system/security monitoring firm of the time and date of the inspection to avoid unnecessary emergency personnel response. This type of system test will be conducted unless loss of power to the building would automatically bring the fire department. If you have back up power systems and do not rely on battery power, a physical test of the system will not be conducted. Instead we will need a copy of the current inspection and test report showing the system is fully operational. Powered emergency lights and exit signs that don't remain illuminated when power is interrupted must be reported as a major violation of safety and building codes. We strongly encourage you test these systems regularly, and prior to our arrival.
3. The following documents are required for the review. Please make copies of those documents identified as items C - H so we may take them with us. **An Owner's representative familiar with the**

resident files must be present during the file review and is required to sit with the monitor during the review.

- A. LIHTC resident files including certifications, verifications, applications and lease agreements;
- B. Rent Rolls showing rents charged to LIHTC residents for all years under review (one month for each year);
- C. Copies of original 8609's, signed and executed by the owner (first review only), and also Schedule(s) A and form(s) 8586 for the past 3 years.
- D. Copy of the project State Tax Credit Extended Low-Income Housing Use Agreement (EUA);
- E. Copies of Utility Allowance documentation for all years under review;
- F. Copy of a listing of all LIHTC units, organized by BIN (Building Identification Number);
- G. A list of all owners for the property including mailing addresses and EIN or Social Security number;
- H. A management forms package including: tenant application, income certification, interview/questionnaire, worksheet, employment verification, certification of child support, and other applicable third party verifications.

PLEASE NOTE: Failure to comply with any of these monitoring requirements will hinder the review and will be reported to the IRS as noncompliance. Should you have any questions or concerns, please contact our office directly. Noncompliance with the tax credit program may preclude Owners and Management Agents from participating in future tax credit projects in Connecticut.

Beginning in 2006, SPECTRUM will send one copy of any compliance monitoring reports to an additional person of the Owner's choice. In order to do this, please complete the attached form to designate to whom the additional copy will be sent. If the form is not returned, SPECTRUM will continue to send the compliance monitoring reports only to the Owner.

Thank you for your assistance.

LIHTC Monitoring Specialist

*What we expect
regarding a file
review*

*Remember:
A BLANK DOES
NOT MEAN “NO.”
Be sure to get
answers to all
questions on all
forms and document
the file appropriately.*

Please review the requirements listed in sections two and three of the sample letter. It is essential that these documents are available for the review. No excuses will be accepted. “Failure to comply with these requests will be considered noncompliance and would be reported to the Internal Revenue Service as such.”

What expectations does SPECTRUM have regarding file review?

- * Uniformly organized files
- * Move-in certifications effective for the LIHTC move-in date and signed not more than 5 days prior to the effective date
- * Back-up verification for all certifications
- * Annual certification effective on or before the anniversary date
- * Student Status identified and/or verified for every certification
- * Worksheets showing calculations used on the certification
- * A documented tenant interview at move-in
- * An application sufficient to determine eligibility for a LIHTC property
- * A re-certification update or questionnaire for the annual certifications
- * Phone clarifications for any ambiguities or missing information on verifications (NO BLANKS)
- * Child support and zero income affidavits addressing historical and anticipated income
- * Zero employment affidavits
- * Third-party verification of gross Pension benefits, including verification of changes
- * Verification of termination of employment where applicable
- * All HUD criteria for acceptable forms of verification and what to verify satisfied
- * At minimum, a six-month lease in effect for the LIHTC move-in date without an early termination clause prior to six-months
- * Utility allowance verification for each year of the credit

Will SPECTRUM look at anything else? SPECTRUM will review your submissions on an annual basis. During the year you are selected for an on-site visit, this will happen

What expectations we have regarding the physical inspection

Note: All items noted during the physical inspection are expected to be addressed, even if they do not rise to the level of a building code violation. You could receive a report of noncompliance for failing to respond to minor inspection items.

Inoperable emergency lights and exit signs are the biggest source of 8823s in Connecticut!

conjunctively. Otherwise, this review is separate from the on-site reviews. Additionally, SPECTRUM will monitor compliance with the ELIHC, the original qualified basis, deep income targeting, next available unit rules, 140% rules, Fair Housing, ADA, and utility allowance requirements.

7.2 Physical Inspection of Units

SPECTRUM uses National Standards for the Physical Inspection of Real Estate (NSPIRE) and State Building Codes. A review will be the lesser of 20% of the low income units in the projects OR the Minimum Unit Sample Size Reference Chart (page 7-10) as a requirement of the Tax Credit Program. Physical inspections will generally be performed at the same time as file reviews. State physical inspection guidelines are strictly adhered to. The IRS requires reporting of violations. As all properties have knowledge of our arrival there is no excuse for common area violations such as smoke detectors, emergency lights, and fire alarm panels system faults. All must be reported to the IRS as non-compliance unless repaired prior to our leaving the property.

Examples of health and safety findings include:

- Structural and roof problems
- Blockage of fire exits
- Elevators functioning improperly
- Smoke detectors or sprinklers not functioning
- Pest infestation
- Serious electrical, heating, or plumbing problems
- Common area safety lighting problems

Routine violations are those that require correction but do not impair essential services and tenant safeguards.

What expectation does SPECTRUM have regarding the physical inspections?

- * All LIHTC residents should be notified of the upcoming site inspection
- * An Owner's representative *must* be present at all times during the site inspection, preferably a maintenance staff person familiar with the building systems and an administrative person familiar to the residents. SPECTRUM Monitors *will not* enter a unit or a room

- in any building unaccompanied
- * Circuit breakers for emergency lighting *must* be identified, labeled, and accessible at the time of inspection
- * All common area emergency lighting will be tested during the inspection by throwing the circuit breakers and walking the hallways. This system test is the most accurate portrayal of an emergency situation. This type of system test will be conducted unless loss of power to the building would automatically bring the fire department or unless the building has a generator back up.
- * Since smoke detector, emergency lighting, fire alarm panel system faults, and blocked egress issues in common areas are automatic non-compliance, be sure to inspect all of these systems before our arrival

It is important to note that a site representative capable of keeping up with our inspectors must be present during all times of the inspection. CHFA and SPECTRUM policy forbids any inspector going into any unit or part thereof unaccompanied. Failure to provide assistance will result in a failed unit, possible loss of credit and/or a re-inspection billed to the owner. The IRS requires that unit inspections be performed on the same units that are selected for file review. Units where admittance is not possible for any reason may be failed and/or subject to re-inspection at the owner's expense.

7.3 Owner Responsibilities After the 15th Year

After fifteen years, properties enter their "extended use period" as required under IRS regulations. Issues with compliance during this time are *not* reported to the IRS. However, they *are* reported to CHFA. The principle requirements during the extended use are the same as during the first fifteen years:

- *Rent units to income eligible households
 - *Rents charged to tenants must continue to be restricted.
 - *Maintain a quality living environment, and safe/sanitary housing.
- 1) While there is some easing of the procedural requirements (outlined below) it is imperative owners and managers don't lose sight of the underlying objective of the tax credit

After 15 years:

- *Full cert at move in
- *Full recert year 2
- *Self certifications year 3 and beyond.

Owners are expected to maintain good living conditions at all times. Even after fifteen years.

What changes after 15 years?

Easier certification requirements

- * No Vacant Unit Rule
- * Fewer student restrictions
- * Possibly fewer units inspected

income. With this in mind, the following is a summary of the process for monitoring compliance during the post year fifteen compliance period:

OWNERS MUST:

- 1) Complete a move in certification for new low income households using the same standards that are expected during the first fifteen years, with one exception. Households can now be comprised entirely of full time students, as long as at least the head of household, or co-head, are not claimed as dependants on another's tax return.
- 2) Complete an annual certification for existing low income households the year following initial move in. They must use the same standards that are expected during the first fifteen years, with an exception for independent, full time students, and students in kindergarten, elementary and high school. An independent student is one who is not claimed as a dependant on another's tax return.
- 3) After the second year of occupancy, Owners are required to obtain *self certifications* from every household. The purpose of these certifications is primarily to maintain compliance with deep skews, student status requirements and the NAUR and changes in household composition.
- 4) Maintain physical conditions consistent with the requirements for the first fifteen years.

Compliance monitoring after fifteen years:

The monitoring agent will continue to monitor once every five years. A review will be the lesser of 20% of the low income units in the projects OR the Minimum Unit Sample Size Reference Chart (page 7-10) as a requirement of the Tax Credit Program. Standards for the physical inspection will be consistent with those applied to properties still within the first 15 years.

Prior to the inspection/review, Owners/management will be notified of the upcoming review.

After the review, a report will be prepared and submitted to the Owner and CHFA for consideration. CHFA or the Owner may request a re-review. If a re-review is requested, the scope of the review will be limited to those areas that were previously found to be deficient. A second report will be prepared and submitted.

7.4 Additional Review Policy

The Authority's Board of Directors reserves the right to impose additional fees at anytime for compliance monitoring or other purposes in implementing the requirements of Section 42 of the Code.

CHFA has adopted the following Additional Review Policy when Owner's request further review following the filing of Form 8823.

1. Section 1.42-5(e)(3) of the LIHTC Compliance Regulations states that if noncompliance or failure to certify is corrected within three (3) years after the end of the correction period, the HCA is required to file Form 8823 with the Service reporting the correction of the noncompliance or failure to certify.
2. Requests to correct noncompliance after the end of the Correction Period described in Section C, will be processed under the Authority's Additional Review Policy.
3. An Additional Review is defined as that process required when an owner submits information to Spectrum or CHFA past the deadline imposed in Section 1.42-5(e)(4) of the Compliance Regulations and in the Spectrum "Forwarding of noncompliance Letter" and after submission of IRS Form 8823 (Low-Income Housing Credit Agencies Report of Noncompliance) by CHFA to the Internal Revenue Service (The Service).
4. Spectrum will charge the owner a fee, as determined by the Authority's Board of Directors, in order to process as Additional Review request. The current fee of \$225.00, is based on a minimum of three (3) hours work. Any amount of time beyond the initial three (3) hours will be billed at \$75.00 per hour. This fee is subject to adjustment annually by the Authority's Board of Directors.
5. Upon receipt of information that corrects previously reported continuing noncompliance and, upon payment in full for the review, an amended Form 8823 will be submitted to CHFA for execution and forwarding to the IRS. The owner will receive a copy of the Form 8823 submitted to the Service.

Low Income Housing Credit Minimum Unit Sample Size Reference Chart

# Units	Sample	# Units	Sample
1	1	30-34	15
2	2	35-40	16
3	3	41-47	17
4	4	48-56	18
5-6	5	57-67	19
7	6	68-81	20
8-9	7	82-101	21
10-11	8	102-130	22
12-13	9	131-175	23
14-16	10	176-257	24
17-18	11	258-449	25
19-21	12	450-1461	26
22-25	13	>1461	27
26-29	14		

Sections 8, 9 and 10

Sections 8, 9 and 10 provide guidance on Implementation of Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

HOTMA makes some significant changes to the LIHTC program, particularly income and asset calculations. Please be aware that not all of HOTMA impacts the Low-Income Housing Program. Specific changes have been made to the CHFA compliance manual in previous Sections 1 through 7.



HOTMA Sections 102 and 104: Income and Assets Fact Sheet

This sheet provides an overview of the changes related to income reviews and asset limitations from the implementation of HOTMA Sections 102 and 104.

Income Definitions — 24 CFR 5.609 (a): Income is now defined broadly with an expanded and clarified list of income exclusions. Annual income includes all amounts received from all sources by each adult family member 18 years or older or the head of household or their spouse, plus unearned income by or on behalf of each dependent under 18 years, plus income from assets.

- **Income Exclusions — 24 CFR 5.609(b):** See the [Income and Exclusions Resource Sheet](#) for the list of all excluded amounts.
- **Student Financial Assistance — 24 CFR 5.609(b)(9):** See the [Student Financial Assistance Resource Sheet](#) for information on deductions, exclusions, and calculating exclusions.

Income from Assets — 24 CFR 5.609(a): In general, income from assets is considered income. If it is possible to calculate actual returns from an asset, the PHA should use that amount. If it is not possible to calculate an actual return on an asset, the PHA must impute income from assets based on the current passbook savings rate as determined by HUD when the family has net assets over \$50,000 (adjusted annually by CPI-W). See the [Asset Resource Sheet](#) for the list of all excluded amounts.

Calculation of Income — 24 CFR 5.609(c): For initial occupancy/assistance and interim reexaminations, the PHA must estimate the family income for the upcoming 12-month period using current income. For all annual reexaminations, the PHA must determine the family income for the previous 12-months **unless** using a streamlined income determination, taking into account any redetermination from an interim reexamination and any unaccounted for income changes.

Interim Income Reexaminations — 24 CFR 960.257(b), 982.516(c), and 882.515(b): A family may request an interim reexamination because of family income or composition changes since the last examination. An interim reexamination should be conducted when a family's adjusted income decreases by 10% or more (or lower threshold per HUD or PHA policy). An interim reexamination should also be conducted when a family's adjusted income increases by 10% or more; however, the PHA may not consider any increase in the *earned* income of the family when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the certification period. See the [Interim Reexaminations Fact Sheet](#).



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HOTMA Sections 102 and 104: Income and Assets Fact Sheet

Safe Harbor: Income Determinations from Other Programs — 24 CFR 5.609(c)(3): The PHA may determine a family's pre-deduction income based on income determinations made by other means-tested federal public assistance programs within the previous 12-months. PHAs are not required to use this method.

Eliminates the Earned Income Disregard: Only families already participating in EID on the effective date of the final rule may continue receiving the benefits up to 2 years from that date. Families receiving the Jobs Plus Earned Income Disregard pursuant to the FY2022 NOFO or earlier may continue to receive the EID under the terms of the NOFO.

Mandatory Deductions — 24 CFR 5.611 (a)(1)-(a)(2): Changes the mandatory deduction amounts to \$480 per dependent and \$525 per elderly and disabled family. These amounts are 2024 figures, adjusted annually for inflation and rounded to the next lowest multiple of \$25.

Health and Medical Expense Deduction — 24 CFR 5.611(a)(3): Increases the threshold for the deduction of unreimbursed health and medical care expenses plus unreimbursed reasonable attendant care and auxiliary apparatus expenses that enable employment to 10% of annual income.

Permissive Deductions — 24 CFR 5.611(b): A PHA may adopt, through written policies, additional deductions from annual income. PHAs will not be eligible for additional HUD funding based on application of these deductions.

Hardship Exemptions to the Health and Medical Expenses Deduction — 24 CFR 5.611(c)(1)-(c)(2): There are two categories of hardship exemptions to the new 10% threshold for unreimbursed health and medical expenses: a phase-in for families already receiving a deduction for expenses over 3% of their income and a general hardship exemption.

Exemption to Continue the Child Care Expense Deduction — 24 CFR 5.611(d): A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue the deduction.

Limitation on Assets — 25 CFR 5.618(a): The new rule restricts families from receiving public housing or Section 8 benefits if their net family assets exceed \$100,000 (as adjusted annually) or if the family owns real property deemed suitable for the family to live in.

Exclusion from Assets — 24 CFR 5.603(b)(3): There are new exclusions from assets, including related to necessary items of personal property, non-necessary items of personal property when the total value does not exceed \$50,000 (as adjusted), and real property that the family does not have the legal authority to sell.

See the [Assets, Asset Exclusions, and Limitation on Assets Resource Sheet](#) for a complete list and more information on exclusions and real property.

Additional Resources on HOTMA Sections 102/ 104

- HUD Exchange: [HOTMA Income and Assets Training Series](#)



Student Aid and Financial Assistance Resource Sheet

HOTMA mandates the exclusion of earned income for full-time dependent students and the exclusion of certain financial aid for both full and part-time students.

Mandatory Deduction for Full-time Students **24 CFR 5.609(b)(14)**

The earned income of dependent full-time students in excess of the amount of the deduction for a dependent is excluded from income. Since there is a mandatory \$480 deduction* for dependents, the result is that all earned income of dependent students will either be excluded or deducted from income. (*The deduction amount will be adjusted annually for inflation and rounded to the next lowest multiple of \$25.)

Educational Savings Account **24 CFR 5.609(b)(10)**

Any amount in or from, or any benefits, income, or distributions from, any Coverdell educational savings account or any qualified tuition program under IRS sections 529 and 530 shall be excluded from income.

Student Financial Assistance **24 CFR 5.609(b)(9)**

The new rules create two categories of student financial aid. The first category, is any assistance that section 479B of the Higher Education Act of 1965, as amended, requires to be excluded from a family's income, referred to here as, "Title IV HEA Assistance." For public housing residents, all assistance in this category must be excluded from income. See the exception for some Housing Choice Voucher participants below in the final section.

The second category is any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education.

Exclusion in both categories apply equally to full and part-time students.

Title IV HEA Assistance **24 CFR 5.609(b)(9)(i)**

Title IV HEA Assistance refers to any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires to be excluded from a family's income. This includes:

- Bureau of Indian Affairs/ Education student assistance programs. Current examples include:
 - » The Higher Education Tribal Grant, and
 - » The Tribally Controlled Colleges or Universities Grant Program.



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Student Aid and Financial Assistance Resource Sheet

- Student assistance received under Title IV of HEA currently includes, but is not limited to:
 - » Federal Pell Grants
 - » Teach Grants
 - » Federal Work-Study Programs
 - » Federal Perkins Loans

Beginning January 1, 2024, PHAs shall exclude from income amounts received for the forms of assistance listed in the revised version of Section 479B of the HEA. This will expand the forms of excluded income to include:

- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA), including: **workforce investment activities for adults and workers dislocated** as a result of permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster that results in mass job dislocation, in order to assist such adults or workers in obtaining reemployment as soon as possible.

Section 479B of the HEA requires that all assistance under Title IV of the HEA as well as Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations. (See the exception for some Housing Choice Voucher participants below.)

Other Student Financial Assistance

24 CFR 5.609(b)(9)(ii)

This category of excluded student financial assistance recognizes that student aid can take a variety of forms and come from a variety of sources.

It seeks to cover student financial assistance, for both full and part-time students, that is **not** included under Title IV of the HEA or under Bureau of Indian Affairs student assistance programs.

To qualify as excluded student financial assistance under this category, the aid must be:

- Used for “actual covered costs”
- Expressly to assist the a student with the costs of higher education; or
- Expressly to assist a student who is not the head of household or spouse, with the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit;
- A grant or scholarship received from:
 - » The federal government;
 - » A State, Tribe, or local government;
 - » A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);



Work Study: Amounts received under work study may only be excluded if provided pursuant to Title IV of the HEA or deducted as earned income if performed by a dependent full-time student (24 CFR 5.609(9)(ii)(B)(2)).

Loans: Loan proceeds for educational expenses, though considered student financial assistance if provided under a loan program in Title IV of the HEA, are not considered student financial assistance in the second category (Student Financial Assistance) but are already excluded from income as a loan (24 CFR 5.609(b)(20)).

Student Aid and Financial Assistance Resource Sheet

- » A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- » An institution of higher education.

The aid may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA as consistent with this section (24 CFR 5.609 (b)(9)(ii)).

Student financial assistance, excluded here, does **not** include:

- Any assistance that is already excluded under Title IV of the HEA
- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded as Title IV HEA Assistance).
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with HEA assistance exceeds the actual covered costs of the student.



Employer Grants: A grant includes a qualified tuition remission, reduction, waiver, or reimbursement (i.e., for costs of tuition, books, and fees, etc. paid for by the student) by the educational institution, such as for an employee of the institution of higher education or an eligible family member of that employee. A grant would also include assistance provided by an employer as part of an employee educational assistance program or tuition reimbursement program.



Actual covered costs of the student are the actual costs of: tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. The educational institution must meet the definition of an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).

Calculating Exclusions from Both Categories

When the student is receiving assistance that is excluded under both categories, the Title IV HEA Assistance must be applied first. Student Financial Assistance can then be applied to any remaining actual covered costs. Once actual costs are covered, any remaining Student Financial Assistance would be considered income.

Steps:

1. Calculate the “actual covered costs.”
2. Apply the Title IV HEA Assistance.
3. Subtract the actual covered costs from the total amount of Title IV HEA Assistance.
 - a. If the amount of assistance excluded as Title IV HEA Assistance is equal to or exceeds the actual covered costs, none of the assistance included under “Student Financial Assistance”

Student Aid and Financial Assistance Resource Sheet

would be excluded from income. This is because this assistance would no longer be needed to cover actual costs and therefore would not meet the definition of Student Financial Assistance.

- b. If the amount of Title IV HEA Assistance is less than the actual covered costs, go to the next step.
4. Exclude the amount of Student Financial Assistance up to the amount of the remaining actual covered costs (those not covered by Title IV HEA Assistance).

Example 1

Title IV HEA Assistance:	\$26,000
Other Student Financial Assistance:	\$5,000
Actual covered costs:	\$25,000
Excluded income:	\$26,000

Explanation: All assistance under Title IV HEA Assistance must be excluded from income. This exclusion must be taken first. Student Financial Assistance could then cover any remaining actual covered costs. However, since there were no remaining actual covered costs, this assistance would be counted as income.

Example 2

Title IV HEA Assistance:	\$15,000
Other Student Financial Assistance:	\$5,000
Actual covered costs:	\$22,000
Excluded income:	\$20,000

Explanation: All financial assistance (\$20,000) is still less than the student's actual covered costs (\$22,000). Therefore, all financial assistance should be applied.

Example 3

Title IV HEA Assistance:	\$15,000
Student Financial Assistance:	\$5,000
Actual covered costs:	\$18,000
Excluded income:	\$20,000

Explanation: In this case, the student's actual covered costs are only \$18,000. The amount of the scholarship that is considered Student Financial Assistance and excluded from income would be \$3,000. This is because

Student Aid and Financial Assistance Resource Sheet

\$3,000 is the amount by which actual covered costs exceed the assistance excluded as Title IV HEA assistance (\$18,000 - \$15,000). The amount of the scholarship that is in excess of the student's actual covered costs (\$2,000) is not student financial assistance and is not excluded under § 5.609(b)(9)(ii).

Another way to explain this is that, Student Financial Assistance (§ 5.609(b)(9)(ii)) excluded from income is the lower of either:

1. the total amount of scholarships and grants the student received that are not covered by 479B of the HEA or
2. the amount by which the student's actual covered costs exceeds the assistance the student received that is excluded under section 479B of the HEA.

HCV Limitation for Student Assistance in Excess of Covered Costs

Section 479B of the HEA requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations. However, for over 10 years through FY 2022, HUD appropriations have included a provision that for Section 8 students who are age 23 and under or without dependent children any amounts received in excess of tuition and any other required fees and charges shall be considered income. This limitation has been interpreted to apply when the student is the head of household or spouse, but not when the student resides with parents in a Section 8 unit (71 FR 18146). For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to Section 8 participants. HUD will notify PHAs if this requirement is removed from the appropriations act.

Student Aid and Financial Assistance Resource Sheet

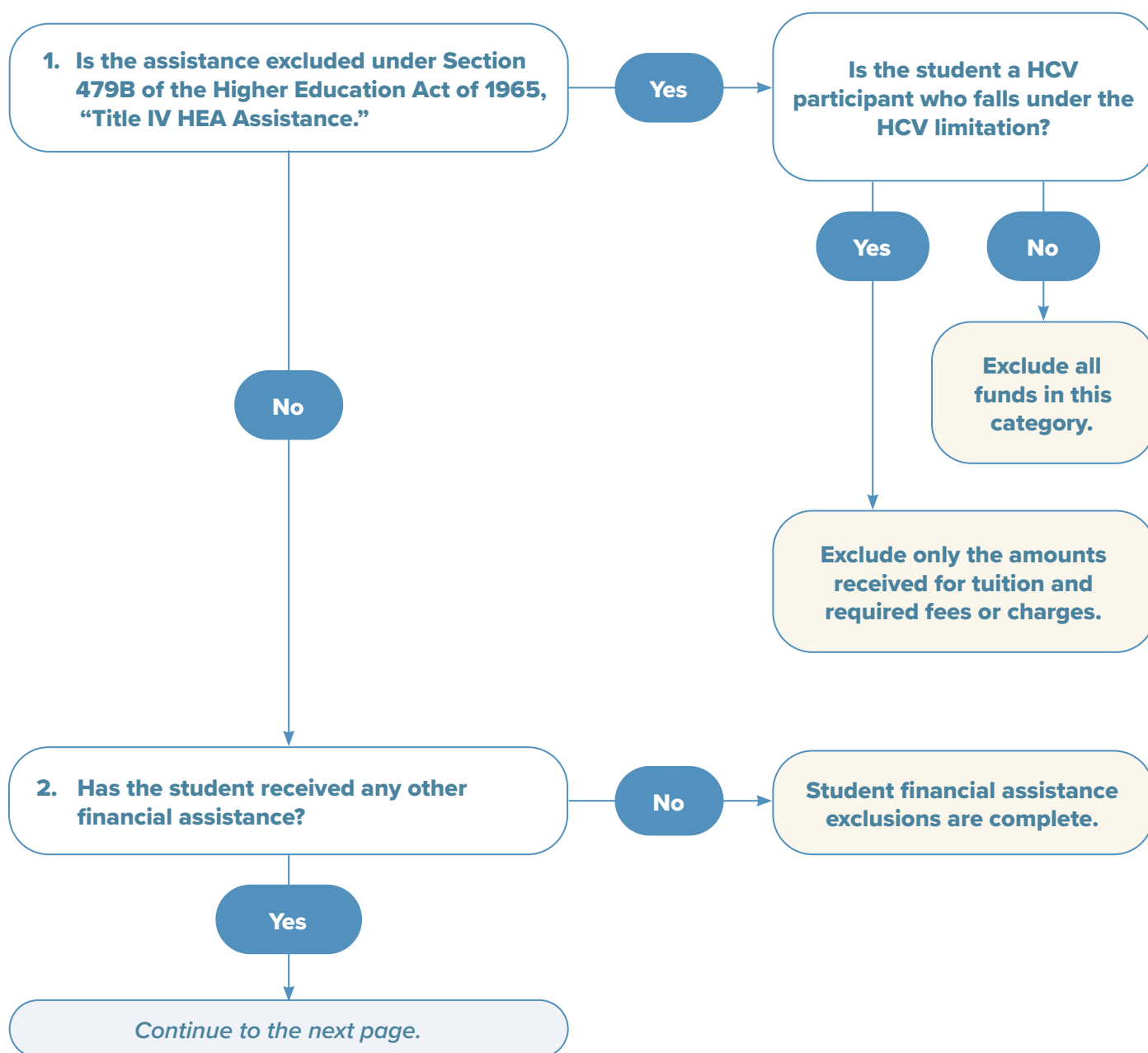
Student Financial Assistance Exclusion Decision Tree

Before going through the decision tree, determine:

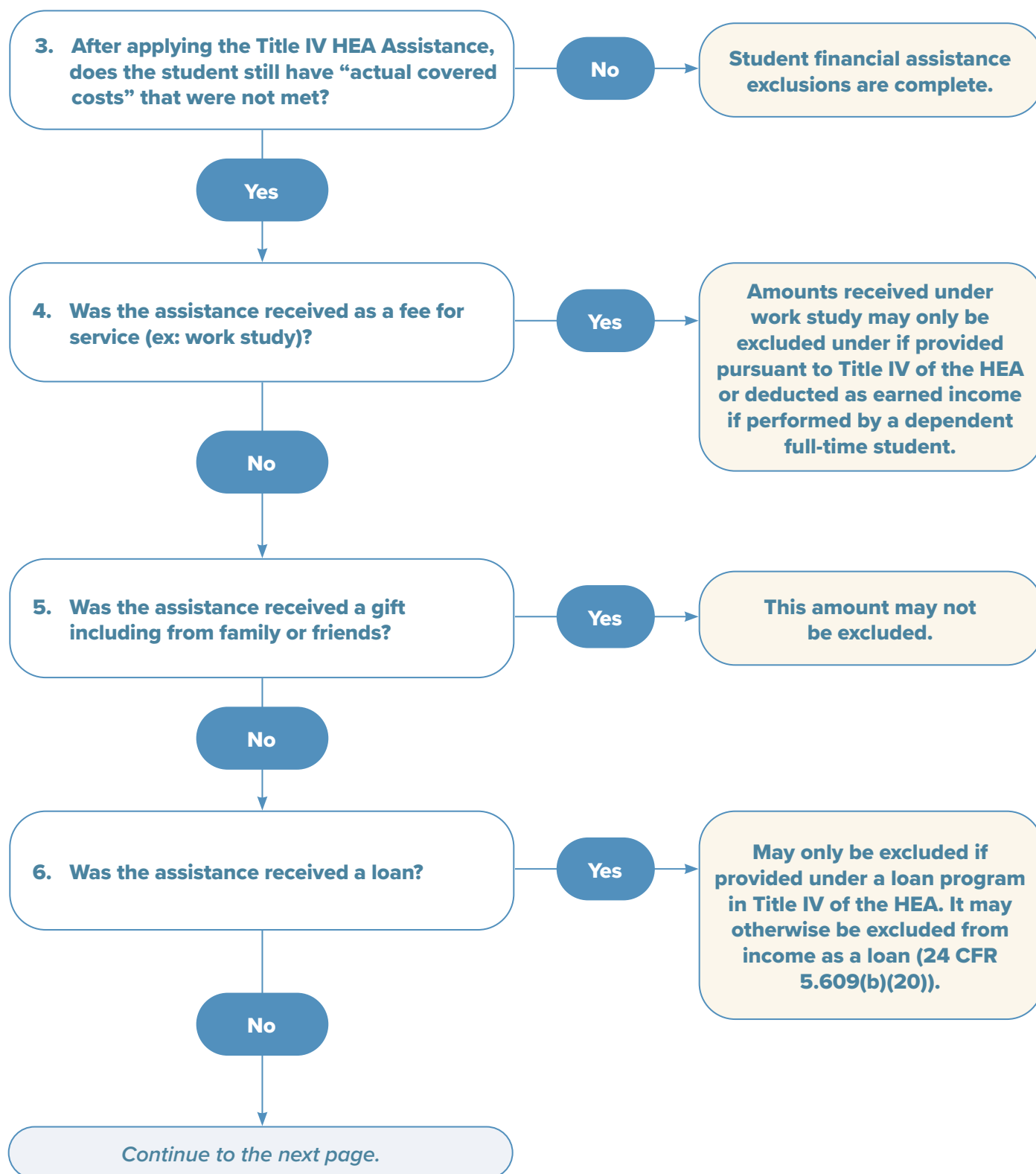
Title IV HEA Assistance:

Other Student Financial Assistance:

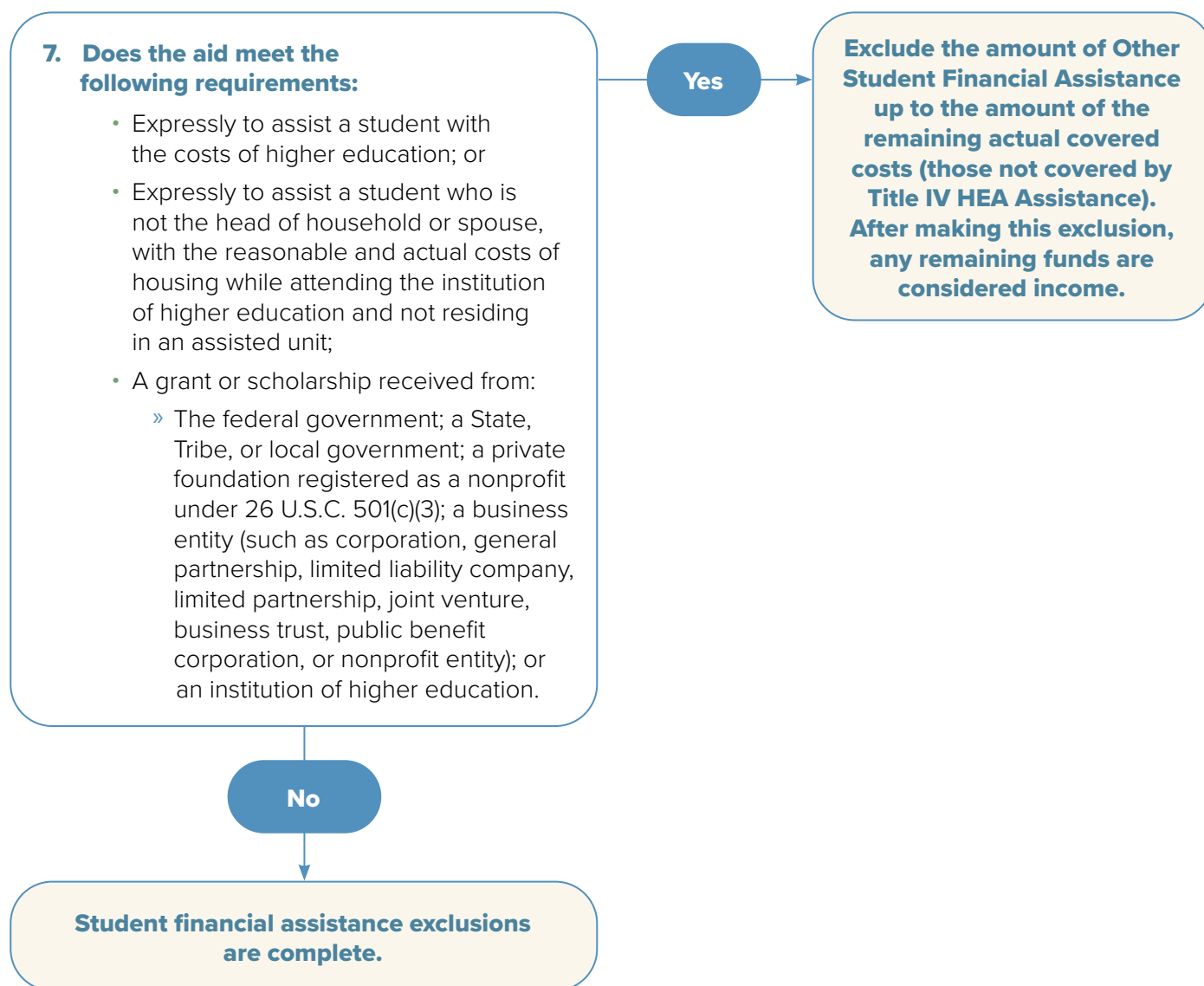
Actual covered costs:



Student Aid and Financial Assistance Resource Sheet



Student Aid and Financial Assistance Resource Sheet





U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Housing Office of Public and Indian Housing

Special Attention of:

Multifamily Asset Management Division
Directors
Multifamily Contract Administrators
Multifamily Project Owners
Multifamily Regional Center Directors
Public Housing Agencies
Public Housing Hub Office Directors
Public Housing Program Center Directors
Regional Directors
Field Office Directors
Resident Management Corporations

Notice H 2023–10**Notice PIH 2023–27**

Issued: September 29, 2023

Expires: This Notice remains in effect until amended, superseded, or rescinded.

Cross References:

Regulations: 24 CFR Parts 5, 882, 891, 960, 966, 982

Office of Housing Notices: H 2020–06; H 2019–06; H 2016–01; H 2015–12

Office of Public and Indian Housing Notices: PIH 2019–09; PIH 2017–05 (HA); PIH 2016–05; PIH 2015–21; PIH 2013–04 (HA); PIH 2012–29; PIH 2012–03; PIH 2012–1 (HA)

Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA)

1. PURPOSE

The purpose of this notice is to provide guidance to Public Housing Agencies (PHAs) and Multifamily Housing (MFH) Owners on the implementation of the many program changes brought about by the Housing Opportunity Through Modernization Act of 2016 (HOTMA) sections 102 and 104 and detailed in the final rule published in *Federal Register* Notice 88 FR 9600 on February 14, 2023. Although the final rule addresses sections 102, 103, and 104, this notice addresses guidance for sections 102 and 104 only.¹

Through this notice, HUD is also modernizing its documentation requirements to reduce the burden on families accessing housing assistance in support of Office of Management and Budget (OMB) Memo M-22-10, *Improving Access to Public Benefits Programs Through the Paperwork Reduction Act*.

2. BACKGROUND

HOTMA was signed into law on July 29, 2016 (Public Law 114–201, 130 Stat. 782). The HOTMA statute consists of 14 sections of law that affect the Public Housing and Section 8 rental assistance programs. On September 17, 2019, HUD issued a proposed rule to

¹ The Office of Public and Indian Housing (PIH) published a separate notice on section 103 of HOTMA. See *Supplemental Guidance for Implementation of Section 103; Limitation on Public Housing Tenancy for Over-Income Families under the Housing Opportunity Through Modernization Act of 2016 (HOTMA)* (Notice PIH 2023–03 (HA)).

update its regulations according to HOTMA's statutory mandate. The proposed rule may be found at 84 FR 48820 (September 17, 2019).

Sections 102 and 104 of HOTMA make sweeping changes to the United States Housing Act of 1937 (1937 Act), particularly those affecting income calculations and reviews.

Section 102 changes requirements related to income reviews for Public Housing and Section 8 programs. **Section 104** sets maximum asset limits for Public Housing and Section 8 applicants and participants.

Section 102 of HOTMA applies to all PHAs operating a Housing Choice Voucher (HCV) (including Project-Based Vouchers), Public Housing; Section 8 Moderate Rehabilitation, or Section 8 Moderate Rehabilitation Single Room Occupancy (SRO), including Moving to Work (MTW) Agencies (see Section 4 (Notice Applicability) of this notice). Section 102 also applies to the following programs administered by MFH: Section 8 Project-Based Rental Assistance (PBRA), 202/8, 202/162 Project Assistance Contract (202/162 PAC), Section 202/811 Capital Advance with Project Rental Assistance Contract (202/811 PRAC), non-insured 236 projects with Interest Reduction Payments (236 IRP), Section 811 Project Rental Assistance Demonstration (811 PRA), and Senior Preservation Rental Assistance Contracts (SPRAC).² Section 102 is effective on January 1, 2024. HUD plans to address the applicability of HOTMA to the 202/162 Project Assistance Contract (202/162 or 202/PAC) program in a subsequent update to this notice.

Section 104 of HOTMA applies to all PHAs operating an HCV, Public Housing, Section 8 Moderate Rehabilitation, or Section 8 Moderate Rehabilitation SRO program, including MTW Agencies (see Section 4 (Notice Applicability) of this notice). Section 104 also applies to the following programs: Section 8 PBRA and 202/8. Section 104 does not apply to following programs: 202/811 PRAC, 236 IRP, 811 PRA, and SPRAC. Section 104 is effective on January 1, 2024. HUD plans address the implementation of Section 104 to HUD programs in a subsequent update to this notice.

HUD, through rulemaking,³ implemented sections 102 and 104 through several changes to the following Public Housing and Section 8 regulations:

- 24 CFR Part 5: General HUD Program Requirements; Waivers
- 24 CFR Part 882: Section 8 Moderate Rehabilitation Programs
- 24 CFR Part 960: Admission to, and Occupancy of, Public Housing
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

HUD also made conforming changes to its regulations found in 24 CFR Part 891, which govern the Section 202 and 811 Capital Advance programs and the Section 202 Direct Loan program (202/8). These programs are affected by various changes to the income regulatory provisions in 24 CFR Part 5. HUD, in error, did not make conforming changes

² HUD administratively extended the applicability of Section 102 of HOTMA to the following programs: 202/162, 202/811 PRAC, 811 PRA, and SPRAC.

³ *Federal Register*: Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104.

to certain Section 202 Direct Loan regulations, consistent with the HOTMA final rule, in 24 CFR Part 891, Subpart E, including 891.655, 891.740, and 891.750, which govern 202/162 PAC projects. HUD intends to publish conforming changes to the Section 202/162 PAC program regulations as a technical correction that is anticipated to become effective on January 1, 2024.⁴ The revised Section 202 Direct Loan regulatory references in this notice will become effective with the effective date of the forthcoming technical correction.

Note: The final rule does not otherwise revise or modify any other federal laws or regulations. PHAs/MFH Owners must continue to follow all laws and regulations as codified in statute and in the Code of Federal Regulations.

3. **BURDEN REDUCTION AND PROGRAM ALIGNMENT**

OMB Memo M-22-10, *Improving Access to Public Benefits Programs Through the Paperwork Reduction Act*, challenges federal agencies to review documentation requirements for those accessing public benefits programs like HUD's rental assistance programs. Through the process of implementing HOTMA, HUD has reviewed its verification and documentation requirements for admission and continued occupancy, including the use of HUD's Enterprise Income Verification (EIV) system in the Public Housing, Housing Choice Voucher, and the Multifamily Housing programs listed above. These programs share regulatory language around the requirement to obtain third-party verification of family annual income, the value of assets, expenses related to deductions from annual income and other factors that affect the determination of adjusted income (§§ 5.659(d), 960.259(c), 982.516(a)(2)).

Through this notice, HUD is aligning the timeframes within which documentation must be dated and the breadth of documentation required to verify tenant bank accounts and employment income across PIH and MFH programs. Consistency among HUD's programs will reduce burden among tenants who move from one program to another and among entities that administer multiple HUD programs.

4. **NOTICE APPLICABILITY**

HOTMA updates and creates new rules for HCV (including Project-Based Vouchers), Moderate Rehabilitation, Moderate Rehabilitation SRO, Public Housing, and Multifamily Housing (MFH) programs. HUD's revisions to the Part 5 income regulations will also affect certain programs administered by the Office of Community Planning and Development (CPD).⁵ HUD reminds PHAs/MFH Owners that they are required to meet all program requirements on rental units assisted and/or developed by multiple HUD programs.

This notice applies only to the following programs:

- Housing Choice Voucher (HCV);

⁴ There are several areas in the regulatory timeline that HUD does not control and may impact the effective date.

⁵ CPD will issue separate guidance on how HOTMA impacts its programs.

- Public Housing;
- Section 8 Moderate Rehabilitation (Mod Rehab);
- Section 8 Moderate Rehabilitation Single Room Occupancy (SRO);
- Section 8 Project-Based Rental Assistance (PBRA);
- Section 202/8;
- Section 202/811 Capital Advance with Project Rental Assistance Contracts (202/811 PRAC);
- Non-insured 236 projects with Interest Reduction Payments (236 IRP);
- Section 811 Project Rental Assistance (811 PRA); and
- Senior Preservation Rental Assistance Contracts (SPRAC).

The contents of this notice apply to PHAs participating in the MTW program except where an approved MTW waiver is in place. For example, MTW PHAs that have previously developed a different method of measuring prior-year income as part of the Rent Reform Demonstration or Stepped and Tiered Rent Demonstration may continue to use those methods after this notice takes effect. References to form HUD–50058 in this notice take on the meaning of form HUD–50058 MTW for MTW PHAs and form HUD–50058 MTW Expansion for MTW Expansion PHAs.

5. STRUCTURE OF THIS PUBLICATION

This notice is organized by distinct topic areas to assist PHAs/MFH Owners in identifying programmatic changes that affect their operations. Each topic area is presented as an attachment to the notice. Each attachment follows a uniform structure:

- Regulation(s)
- Affected Program(s)
- Summary of Change(s)
- Subtopics

Within each topic area, and in some cases within subtopic areas, the notice indicates whether PHAs/MFH Owners have discretion in establishing policies within their individual programs.

6. EFFECTIVE DATE, COMPLIANCE, AND UPDATES TO PHA/MFH OWNER POLICIES

The final rule’s effective date is January 1, 2024. HUD recognizes, however, that HOTMA includes significant program and systems changes and that PHAs/MFH Owners and families need time to understand the changes and implement them. HUD understands that the system development timeframes for the Housing Information Portal (HIP) and Tenant Rental Assistance Certification System (TRACS) make full implementation and compliance with the final rule by the January 1, 2024, deadline unlikely. Additionally, because these HOTMA changes apply to all current participants and new admissions, implementation of the HOTMA final rule cannot be achieved immediately on a universal basis but rather is an ongoing process that will happen over the course of a year as routine

program activities occur. Subparagraphs 6.1 and 6.2 describe HUD's implementation requirements by program office.

6.1 Compliance Date and Required Actions for PHAs (Office of Public and Indian Housing)

To comply with HOTMA, PHAs must be able to submit transactions to the Housing Information Portal (HIP). This requires the PHA's software vendor to make system updates and fully convert to making all submissions to HIP. Each PHA will set its own compliance date as early as January 1, 2024, but no later than January 1, 2025.

"Compliance" means, in this instance, utilizing the HOTMA rules as it applies to the affected programs and corresponding reporting in HIP. The Real Estate Assessment Center (REAC) will issue a separate HIP transition notice later this year.

Requirements for Updating PHA Annual Plans:

- The deadline to submit the updated PHA Annual Plan to HUD will depend on the PHA's fiscal year start date. However, the PHA's chosen compliance date should also be considered.
- The regulations (24 CFR § 903.5(b)(3)) require that a PHA submit its PHA Annual Plan 75 days prior to the beginning of its fiscal year. To best utilize the required PHA Plan process for review and discussion of the ACOP at the public hearing, PHAs must also submit their PHA Annual Plan to HUD at least 75 days before their compliance date or their Fiscal Year start date, whichever is sooner. See Table 1, below, to determine the due date of your PHA's Annual Plan based on your fiscal year start date and compliance date.
- PHAs must update their Public Housing Admissions and Continued Occupancy Policies (ACOP) and HCV Administrative Plans to reflect HOTMA rules and discretionary decisions, including the required public notification and review.
- The plans will indicate that policies are not effective until the PHA's compliance date.

Note: PHAs must continue to follow their existing ACOPs and Administrative Plans until the PHA's software is compliant with HIP.

What PHAs must do once their software is HOTMA compliant:

- Each PHA will establish a compliance date based on when the PHA's software is able to submit to HIP. All transactions **effective** on the PHA's compliance date or later will be processed using HOTMA policies. In setting a compliance date the PHA must consider when its software will be ready to submit to HIP and the time needed to ensure that all transactions effective on that day are processed using HOTMA rules. For example, a PHA with a May 1, 2024, compliance date will need to send Annual Reexamination packets reflecting the HOTMA changes in January 2024. The PHA must inform the family as to whether their income determination is being conducted under the pre-HOTMA regulations or in accordance with the HOTMA final rule.
- PHAs must implement their revised ACOP and Administrative Plans.

PHA Annual Plan Due Date Based on PHA's Fiscal Year Start Date and Compliance Date:

The 4 columns on the right represent Fiscal Year Start Dates and the rows represent possible Compliance Dates. When a PHA determines its Compliance Date, it can use this table to determine the Annual Plan due date by locating the appropriate Compliance Date row and then finding the column with its Fiscal Year Start Date.

Note: PHAs must pick a compliance date that falls before the deadline for their PHA Plan submission.

Table 1: Recommended Annual Plan Due Date

Compliance Date	FY Start: July 1, 2024	FY Start: October 1, 2024	FY Start: January 1, 2025	FY Start: April 1, 2025
January 1, 2024	October 18, 2023	October 18, 2023	Oct 18, 2024	October 18, 2023
February 1, 2024	November 18, 2023	November 18, 2023	November 18, 2023	November 18, 2023
March 1, 2024	December 17, 2023	December 17, 2023	December 17, 2023	December 17, 2023
April 1, 2024	January 16, 2024	January 16, 2024	January 16, 2024	January 17, 2024
May 1, 2024	February 16, 2024	February 16, 2024	February 16, 2024	February 16, 2024
June 1, 2024	March 18, 2024	March 18, 2024	March 18, 2024	March 18, 2024
July 1, 2024	April 17, 2024	April 17, 2024	April 17, 2024	April 17, 2024
August 1, 2024	April 17, 2024	May 18, 2024	May 18, 2024	May 17, 2024
September 1, 2024	April 17, 2024	June 18, 2024	June 18, 2024	June 18, 2024
October 1, 2024	April 17, 2024	July 18, 2024	July 18, 2024	July 18, 2024
November 1, 2024	April 17, 2024	July 18, 2024	August 18, 2024	August 18, 2024
December 1, 2024	April 17, 2024	July 18, 2024	September 17, 2024	September 17, 2024

January 1, 2025	April 17, 2024	July 18, 2024	October 18, 2024	October 18, 2024
Latest Submission Deadline	April 17, 2024	July 18, 2024	October 18, 2024	October 18, 2024

By January 1, 2025:

Full compliance with the HOTMA final rule is mandatory effective January 1, 2025. HUD expects many PHAs will comply before this date, once software systems are ready.

Compliance Example:

In March 2024, the PHA's software vendor says they will be ready to submit to HIP in June 2024. The PHA sets their compliance date as August 1, 2024, to allow for enough time to send out recert packets that reflect HOTMA changes in April 2024 for families with an August 1, 2024, annual reexamination effective date. The PHA's fiscal year start date is October 1, 2024. Based on the compliance date table above, the PHA determines that they must submit their updated Annual Plan to HUD by May 18, 2024. The PHA posts on their Web site that they will be applying the new HOTMA changes to all transactions effective August 1, 2024. They also send notifications to participants, so they understand the new rules for reporting interim changes.

6.2 Compliance Date and Required Actions for MFH Owners (Office of Multifamily Housing)

By March 31, 2024:

- By March 31, 2024, MFH Owners must update their Tenant Selection Plans and EIV policies and procedures to reflect HOTMA rules and discretionary policies.
- MFH Owners must make the revised Tenant Selection Plan publicly available.

Note: MFH Owners must continue to follow their existing Tenant Selection Plans and EIV policies & procedures until the MFH Owner's software is compliant with TRACS 203A.

What MFH Owners must do once their software is HOTMA compliant:

Once a MFH Owner's software is HOTMA compliant (i.e., TRACS 203A system requirements have been fully implemented), the following things must happen:

- MFH Owners must provide tenants at least 60 days' notice that their lease will be modified at the end of the lease term after the expiration of the 60 days' notice. Once proper notice is given, MFH Owners must begin using the revised Model Leases at the expiration of a family's lease term.
- MFH Owners must implement their revised Tenant Selection Plans and EIV policies and procedures.
- All tenant data submissions must comply with the HOTMA regulations. Prior to their first reexaminations under HOTMA, MFH Owners must inform families that their income determinations will be conducted in accordance with the HOTMA final rule.

As a best practice, HUD recommends that MFH Owners describe to families how their income determinations will change with the implementation of the final rule.

- MFH Owners must use the revised Tenant Consent form (form HUD-9887/9887A) and Fact Sheets (“How Your Rent is Determined”).

How HUD will monitor MFH Owner compliance prior to January 1, 2025:

- Prior to January 1, 2025, MFH Owners will not be penalized for HOTMA-related tenant file errors during Management and Occupancy Reviews (MORs). Instead, the Contract Administrator will issue observations with corrective actions.

By January 1, 2025:

- Full compliance with the HOTMA final rule is mandatory effective January 1, 2025.

How HUD will monitor owner compliance on or after January 1, 2025:

- Contractor Administrators will issue HOTMA-related findings during MORs.
- MFH Owners must correct all HOTMA-related observations that were issued by Contract Administrators during 2024.
- MFH Owners who fail to implement HOTMA may be found in default of their business agreements with HUD.

Questions about compliance should be directed to MFH_HOTMA@hud.gov.

MFH Model Leases

MFH is updating the five program Model Leases to conform to the requirements in the HOTMA final rule. MFH Owners must begin using the new HUD-approved leases once HOTMA is fully implemented at the property.

The following information outlines the process that MFH Owners must follow to renew families under the applicable revised Model Lease:

- **Any modification to the lease may be effective only at the end of a lease term for all MFH programs.** Lease terms are listed in paragraph 2 in form HUD-90105-A (Section 8 Model Lease); paragraphs 1 and 9 in form HUD-90105-B (202/8 Model Lease); paragraphs 1 and 8 in form HUD-90105-C (202 PRAC Model Lease); paragraphs 1 and 8 in form HUD-90105-D (811 PRAC Model Lease); and paragraphs 1 and 8 in form HUD-92236 (811 PRA Model Lease).
- MFH Owners must provide families with copies of the HUD-approved lease at least 60 days prior to the end of a family’s lease term.
- MFH Owners must include a letter clearly stating that the family can either accept the modification or move, but that a response is due from the family within 30 days.

- Families must either accept the modification by signing both copies of the modification and returning one to the MFH Owner⁶ or refuse the modification and give the owner a 30-day notice of intent to vacate.
- If, within 30 days, the family indicates that the modification is unacceptable or does not respond, the MFH Owner may begin the procedures for terminating tenancy.

The lease modification notice must be served to families in the following manner⁷:

- 1) The MFH Owner must send a letter by first-class mail, properly stamped, and addressed and including a return address, to the family at the unit address; **and**
- 2) The MFH must deliver a copy of the notice to any adult person answering the door at the unit. If no adult answers the door, the person serving the notice may place it under or through the door or affix it to the door.

The date on which the notice is deemed received by the family is the later of:

- 1) The date the first-class letter is mailed; or
- 2) The date the notice is properly given.

Service of the notice is deemed effective once the notice has been both mailed and hand-delivered. **MFH Owners are not permitted to deliver lease modification notices to families electronically.**

Families who are under old leases after the MFH Owner becomes compliant with HOTMA must continue to report income and household composition changes between annual reexaminations in accordance with their existing leases until they sign a revised lease. MFH Owners will be required to determine whether changes reported by families under the old lease will require an interim reexamination consistent with HOTMA's requirements. Since the remaining provisions reflect changes to existing regulatory provisions during the period of an existing lease, all other HOTMA final rule provisions can be implemented without the family's execution of a revised lease.

No other modifications may be made to the Model Leases without HUD's approval. MFH Owners may incorporate existing HUD-approved lease addenda into the revised Model Leases if the addenda do not conflict with the requirements of the final rule.

7. SUPERSEDED AND RESCINDED NOTICES

7.1 Guidebooks and Handbooks

This notice supersedes relevant portions of HUD's guidance as provided in the HCV Guidebook, the Public Housing Occupancy Program Guidebook, and the HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs. HUD will update and replace all the sections and chapters listed below. Before consulting one of these resources, please ensure you are using a version dated after the publication date

⁶ Electronic signature is acceptable pursuant to Notice H 2020-10, except where not permitted by state and/or local laws.

⁷ 24 CFR § 247.4(b), as applicable to 24 §§ CFR 891.430(b), 891.630(b), and 891.770(b).

of this notice. Questions regarding the relevancy of existing handbook/guidebook guidance should be directed to the HOTMA mailbox maintained by each program office.

HCV Guidebook chapters to be updated:

- Eligibility Determination and Denial of Assistance
- Reexaminations

Public Housing Occupancy Guidebook chapters to be updated:

- Eligibility Determination and Denial of Assistance
- Income Determination
- Reexaminations

HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs chapters to be updated:

- Chapter 3. Eligibility for Assistance and Occupancy
- Chapter 4. Waiting List and Tenant Selection
- Chapter 5. Determining Income and Calculating Rent
- Chapter 7. Recertification, Unit Transfers, and Gross Rent Changes
- Chapter 9: Enterprise Income Verification (EIV)
- Glossary

7.2 Housing and PIH Notices

This notice supersedes and replaces the guidance provided in the following program notices:

- *Exclusion from Annual Income of Temporary Employment from the U.S. Census Bureau* (H 2020–06)
- *Verification of Social Security Numbers (SSNs), Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System’s Identity Verification Report* (PIH 2018–24)
- *Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System* (PIH 2018–18)
- *Income exclusion under temporary Census employment and Census access* (PIH 2017–05)
- *Passbook Savings Rate Effective February 1, 2016* (H 2016–01)
- *Amendment to the Definition of Tuition* (PIH 2015–21/H 2015–12)
- *Guidance on Verification of Excluded Income* (PIH 2013–04 (HA))
- *Establishing the Passbook Savings Rate* (PIH 2012–29)

- *Housing Choice Voucher – Homeownership Option 10 Year Asset Exclusion* (PIH 2012–03)
- *Income Exclusion of Kinship, Kin-GAP and Other Guardianship Care Payments* (PIH 2012–01 (HA))

Streamlining Administrative Practices in the Housing Choice Voucher program (Notice PIH 2012–15) is still useful for PHAs who are streamlining their programs. Numerous provisions in that notice are no longer applicable or additional flexibilities have been offered through more recent PIH notices. As it relates to the HOTMA final rule, however, the notice includes numerous recommendations surrounding interim reexaminations and annual reexaminations that are no longer applicable. Therefore, HUD is rescinding PIH Notice 2012–15.

The following sections of *Streamlining Program Regulations for Programs Administered by Public Housing Agencies* (Notice PIH 2016–05) are rescinded:

C: “Exclusion of mandatory education fees from income”

E: “Earned income disregard”

F: “Family declaration of assets under \$5,000”

N: “Family income and composition: regular and interim examinations”

The following Housing notices are partially rescinded by this notice:

- *Streamlining Administrative Regulations for Multifamily Housing Programs* (H 2016–09)
 - “24 CFR 5.216 – Verification of Social Security Numbers” (Section IV). This section of the notice states that an interim reexamination is required to add or update a household member’s Social Security Number (SSN).
 - “24 CFR 5.609 – Definition Change – Exclusion of mandatory education fees from income” (Section VI). This section of the notice references the outdated income exclusion in 24 CFR § 5.609(b)(9).
- *Section 811 Project Rental Assistance (PRA) Occupancy Interim Notice* (H 2013–24)
 - “Annual Recertification” (Section IV.F). This section of the notice states that MFH Owners must conduct interim reexaminations as described in HUD Handbook 4350.3 REV-1, Chapter 7.
- *Enterprise Income Verification (EIV) System* (H 2013–06)
 - “Using EIV Reports” (Section VII). This section of the notice states that MFH Owners are required to use EIV Income Reports as a third-party source to verify a tenant’s employment and income information during interim reexaminations.
 - “Use of EIV Reports” (Attachment 6). This attachment to the notice states that the use of EIV Reports (Income Report, Income Discrepancy Report, and Summary Report) is mandatory at interim reexaminations.

8. PAPERWORK REDUCTION ACT

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. The information collection requirements of this notice were assigned OMB Control Number 2577–0169, 2577–0295, 2577–0083, 2502–0204, 2577–0226, 2577–0282.

For questions regarding this notice please contact MFH_HOTMA@hud.gov for Multifamily Housing program questions or HOTMAQuestions@hud.gov for PIH program questions.



Julia R. Gordon
Assistant Secretary for Housing —
Federal Housing Commissioner



Richard J. Monocchio
Principal Deputy Assistant Secretary
Public and Indian Housing

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ATTACHMENT A: TOPIC: ASSET LIMITATION

Regulations

24 CFR §§ 5.100 (real property); 5.603; and 5.618

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance), Section 202/8	Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	No	Yes

Summary

Per requirements in Section 104 of HOTMA, 24 CFR 5.618 creates a restriction on the eligibility of a family to receive assistance if the family owns real property that is suitable for occupancy by the family as a residence or has assets in excess of \$100,000, as adjusted annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers.

Pursuant to 24 CFR 5.618(c), PHAs/MFH Owners are given discretion at reexamination in enforcing the asset limitation on eligibility for assistance in § 5.618(a). HUD will issue additional guidance on the use of this discretionary authority.

ATTACHMENT B: TOPIC: CALCULATING INCOME

Regulations

24 CFR §§ 5.609(c)(1); 5.609(c)(2); 5.609(c)(4); 5.657(f); 882.515; 882.515(f); 882.808; 882.808(i)(5); 891.105; 891.410(c); 891.410(g)(1); 891.410(g)(2); 891.610(c); 891.610(g)(1); 891.610(g)(2); 960.257; 982.516; and 982.516(f)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

See each subtopic.

Subtopics

B.1 New Admissions and Interim Reexaminations

Regulations: 24 CFR §§ 5.609(c)(1); 882.515; 891.410(c) and (g)(2); 891.610(c) and (g)(2); 960.257; and 982.516

Summary: When calculating a household's income, including asset income, at the time of admission to the program or during interim reexaminations, PHAs/MFH Owners must use anticipated income (current income) (i.e., the family's estimated income for the upcoming 12-month period). This requirement is consistent with the pre-HOTMA process for conducting income examinations at admission and for interim reexaminations.

B.2 Annual Reexaminations

Regulations: 24 CFR §§ 5.609(c)(2); 882.808; 891.410(g)(1); and 891.610(g)(1) 960.257; and 982.516

Summary: The final rule revises the standards for income calculation during annual reexamination.

PHAs/MFH Owners have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. See [Attachment J](#) (paragraph J.4) (Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor")) of this notice for an example of how to calculate annual income using the safe harbor method.

During annual reexaminations, except where the PHA/MFH Owner uses a streamlined income determination under 24 CFR §§ 5.657(d), 960.257(c), or 982.516(b) (see [Attachment I](#) (paragraph I.8) (Streamlined Income Determination)), PHAs/MFH Owners must first determine the family's income for the previous 12-month period and use this

amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with the PHA/MFH Owner's policies and 24 CFR §§ 5.657(c), 960.257(b), or 982.516(c), must be considered. Income from assets is always anticipated, irrespective of the income examination type.

A change in income, for example, may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. PHA/MFH Owners will look at the entirety of the family's unearned income and earned income from the prior year, in which earned income may have been one constant job or many different jobs that start and stop. Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law.^{B1} See Attachment B (paragraph B.3) of this notice for more information on the COLA. The three steps outlined below apply for both earned and unearned income.

Overview of Calculating Annual Income at Annual Reexamination

Step 1: Determine the annual income for the previous 12-month period as defined at 24 CFR § 5.609(a) and (b). If there have been no changes to income beyond this calculation, then this is the amount that will be used to determine the family's rental assistance.

The PHA/MFH Owner reviews the following information to determine prior-year income:

- The EIV Income Report (must be pulled within 120 days of the effective date of the annual reexamination to be considered current);
- The income reported on the most recent reexamination HUD-50058/HUD-50059; and
- What the family certified to on the PHA/MFH Owner's annual reexamination paperwork for prior-year income.

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA/MFH Owner must use the annual income from the interim to determine the family's rental assistance, if there are no additional changes.
- If the PHA/MFH Owner did not perform an interim or there have been changes since the last reexamination, move to Step 3.

Step 3: If there were changes in annual income not processed by the PHA/MFH Owner since the last reexamination, use current income.

^{B1}P.L. 92-336: <https://www.govinfo.gov/content/pkg/STATUTE-86/pdf/STATUTE-86-Pg406.pdf#page=16>.

- Family reports their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA/MFH Owner may use documentation of prior-year income to calculate the annual income used for the current annual reexamination HUD–50058/HUD–50059. For example, the PHA/MFH Owner could use the following documentation and certification from the family:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current level 4^{B2} documents verifying prior-year income that are dated within the required timeframe (120 days of receipt by the PHA/MFH Owner), for example:
 - Year-end statement
 - Paycheck with year-to-date amount
 - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA/MFH Owner notes discrepancies between EIV and what the family reports, follow the verification hierarchy to document and verify income. See [Attachment J](#) (paragraph J.5) (Verification Hierarchy) of this notice for information about verification.

Example B1: Calculating Annual Income at Annual Reexamination Using EIV

<u>Background:</u> Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA/MFH Owner since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.	
<u>Last reexamination – 3/1/2023 Annual Reexamination</u>	
Ruby:	Georgia:
Wages: \$30,000	SSI: \$10,980 (\$915 monthly)
<u>The EIV report pulled on 12/15/2023</u>	
Ruby:	Georgia:
Wages Total: \$33,651	SSI Total: \$10,980
Quarter 3 of 2023: \$8,859 (City Public School)	2023 benefit \$915 monthly
Quarter 2 of 2023: \$8,616 (City Public School)	
Quarter 1 of 2023: \$8,823 (County Public School)	
Quarter 4 of 2022: \$7,353 (County Public School)	

^{B2} See Table J2.

<u>Income Reported on Reexamination Application</u>	
Ruby:	Georgia:
Wages at City Public School: \$32,000 (switched jobs but no permanent change to amount)	SSI benefits: \$10,980 (no changes in income)
<u>Calculating Ruby's wages:</u> Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA/MFH Owner will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.	<u>Calculating Georgia's SSI benefit:</u> Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA/MFH Owner must adjust the prior-year income (2023 SSI benefit) by the 7-percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: \$64.05 (\$915 x 0.07) New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)
If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy in Attachment J (paragraph J.5) (Verification Hierarchy) of this notice.	
<u>Summary of Annual Income (as reported on the HUD-50058/HUD-50059)</u>	
Ruby (Head of Household):	Georgia (Other Youth Under 18):
Other Wage: \$33,651	SSI: \$11,748
Myers Family Total Annual Income: \$45,399	

**Example B2: Calculating Annual Income at Annual Reexamination Using EIV:
Family Disagrees with EIV**

Background: Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

<p style="text-align: center;"><u>5/1/2023 Annual Reexamination</u></p> <p>Wages: \$28,000</p>
<p style="text-align: center;"><u>Last Reexamination: 7/1/2023 Interim Reexamination</u></p> <p>Wages: \$7,500</p>
<p style="text-align: center;"><u>The EIV report pulled on 1/15/2024</u></p> <p>Wages Total: \$18,271</p> <p>Quarter 3 of 2023: \$2,500 (Viking Bakery)</p> <p>Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)</p> <p>Quarter 2 of 2023: \$1,300 (Sasha's Sweets)</p> <p>Quarter 2 of 2023: \$584 (Larry's Concessions)</p> <p>Quarter 2 of 2023: \$2,401 (Viking Bakery)</p> <p>Quarter 1 of 2023: \$6,500 (Sasha's Sweets)</p> <p>Quarter 4 of 2022: \$600 (Sasha's Sweets)</p> <p>SS/SSI: No history of benefits.</p>
<p style="text-align: center;"><u>Income Reported on Reexamination Application</u></p> <p>Wages: \$0 (permanent change; no longer receiving)</p> <p>Social Security: \$14,400 (\$1,200 monthly)</p> <p>Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.</p>
<p style="text-align: center;"><u>Calculating Wages and SS Benefit</u></p> <p>Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)</p> <p>Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.</p> <p>Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.</p> <p>Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.</p>

<u>Summary of Annual Income (as reported on the HUD–50058/HUD–50059)</u>
Paul (Head of Household): \$14,400 (SS)
Hewson Family Total Annual Income: \$14,400

Example B3: Calculating Annual Income at Annual Reexamination

<p><u>Background:</u> Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Poole, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed, because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA/MFH Owner did not establish a lower threshold (see Attachment I, paragraph I.1). Samantha did not report any additional changes to the PHA/MFH Owner.</p>	
<p><u>Last reexamination – 11/1/2023 Annual Reexamination</u></p>	
<p>Samantha:</p> <p>Business income: \$28,000</p> <p>VA disability pension: \$12,000</p> <p>Child support: \$2,400</p>	<p>Fergus:</p> <p>Wages: \$8,250</p> <p>Other non-wage income: \$3,000 (Go Fund Me online fundraiser)</p>
<p><u>The EIV report pulled on 9/16/2024</u></p>	
<p>Samantha:</p> <p>Wages Total: \$0 (no wage data reported since Q1 2023)</p>	<p>Fergus:</p> <p>Wages Total: \$8,600</p> <p>Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)</p> <p>Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)</p> <p>Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)</p> <p>Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)</p> <p>Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)</p>
<p><u>Current Family Circumstances: Income Reported on Reexamination Application</u></p> <p>Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA/MFH Owner's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA/MFH Owner for the 11/1/2024 annual reexamination.</p>	
<p>Samantha:</p> <p>Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)</p>	<p>Fergus:</p> <p>Wages: \$6,000</p>

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Calculating Samantha's Net Business Income

Step 1: Determine prior annual *net business income* (i.e., \$28,000 on last HUD–50058/HUD–50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current **net business income**. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA/MFH Owner must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual **net business income** determined in Step 3.

Calculating Samantha's VA Pension Income

Step 1: Determine prior annual **VA pension income** (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA/MFH Owner needs to adjust to reflect current **VA pension income**. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual **VA pension income** determined in Step 3 (\$12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual **child support income** (i.e., \$2,400 on the last HUD–50058/HUD–50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA/MFH Owner must adjust to reflect current **child support income**. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual **child support income** determined in Step 3 (\$1,200 in this example).

Calculating Fergus's Wages

Step 1: Determine prior annual income from **wages** in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA/MFH Owner must verify and adjust to reflect current annual income from **wages**. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA/MFH Owner projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA/MFH Owner must do the following: resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies. The PHA/MFH Owner determined that Fergus reported his net vs. gross annual income from **wages**, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA/MFH Owner verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from **wages** determined in Step 3 (\$9,360 in this example).

Calculating Fergus's Other Non-Wage Income

Step 1: Determine prior annual income from other **non-wage income** (i.e., \$3,000 on the last HUD-50058/HUD-50059).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD-50058/HUD-50059. The PHA/MFH Owner must verify and adjust to reflect current **non-wage income**. The PHA/MFH Owner must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual **non-wage income** of \$0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058/HUD-50059)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860

B.3 Applying the Current SSA COLA at Next Annual and Interim Reexamination

Regulations: 24 CFR §§ 5.609(c)(2); 960.257; 982.516; and 891.105

Summary: Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal SS and SSI benefits are adjusted to reflect the increase, if any, in the cost of living as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers prepared by the Bureau of Labor Statistics. The purpose of the COLA is to ensure that the purchasing power of SS and SSI benefits are not eroded by inflation. The federal COLA does not apply to state-paid disability benefits. Additional information regarding the SSA COLA is available online at www.socialsecurity.gov.

Effective the day after SSA has announced the COLA, PHAs/MFH Owners are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.

Example B4: Adjusting the SS Benefit by the COLA

Elizabeth Peterson receives \$500 a month (SS benefit). The PHA/MFH Owner is processing her annual reexam (in November 2023), which is effective 1/1/2024. The PHA/MFH Owner must determine annual SS income as follows:

- Current benefit amount: \$500
- COLA: \$18.00 (\$500 x 3.6 percent [or 0.036])
- New gross SS benefit effective 01/01/2024: \$518.00 (\$500 current benefit + \$18 COLA)
- Annual SS income effective 1/1/2024: \$6,216 (\$518 x 12)

B.4 De Minimis Errors

Regulations: 24 CFR §§ 5.609(c)(4); 5.657(f); 960.257(f); 982.516(f); 882.515(f); 882.808(i)(5); 891.105; and 891.655

Summary: PHAs/MFH Owners will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when a PHA/MFH Owner's determination of a family's income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (or \$360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. PHAs/MFH Owners will not be issued a finding by HUD or the Contract Administrator (MFH only) for de minimis errors in income calculation.

As PHAs/MFH Owners become aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. PHAs/MFH Owners must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when PHAs/MFH Owners make de minimis errors in the income determination. Families will not be required to repay the PHA/MFH Owner in instances where the PHA/MFH Owner miscalculated income resulting in a family being undercharged for rent.

PHAs/MFH Owners must revise their Administrative Plans, ACOPs, and Tenant Selection Plans, as applicable, to reflect how they will repay or credit a family the amount they were overcharged as a result of the PHA/MFH Owner's de minimis error in income determination.

PHA/MFH Owner Discretion: None.

ATTACHMENT C: TOPIC: DEDUCTIONS AND EXPENSES

Regulations

24 CFR §§ 5.603; 5.611(a)(1); 5.611(a)(2); 5.611(a)(3); 5.611(a)(3)(ii); 5.611(b)(1); 5.611(b)(1)(i); 5.611(b)(1)(ii); 5.611(c)(1); 5.611(c)(1)(D); 5.611(c)(2); 5.611(d); 5.611(e); 5.611(e)(2); and 891.105

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

PHAs/MFH Owners must consider mandatory deductions when determining a family's annual adjusted income. PHAs may also consider additional (permissive) deductions to a family's annual income if established by a written policy in the PHA's ACOP or Administrative Plan.

Subtopics

C.1 Dependent Deduction

Regulation: 24 CFR § 5.611(a)(1)

Summary: Effective January 1, 2024, the dependent deduction amount is \$480. This amount will be adjusted annually (see [Attachment H](#)) and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner. Not later than September 1 annually, HUD will publish the CPI-W adjusted dependent deduction to the HUDUser Web site.^{C1} PHAs/MFH Owners must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

PHA/MFH Owner Discretion: None.

C.2 Elderly/Disabled Family Deduction

Regulation: 24 CFR § 5.611(a)(2)

Summary: Effective January 1, 2024, the elderly/disabled family deduction increases from \$400 to \$525 and applies to a family's next interim or annual reexamination, whichever is sooner. The amount of the deduction will be adjusted annually (see [Attachment H](#)). Not later than September 1 annually, HUD will publish the CPI-W adjusted elderly/disabled family deduction to the HUDUser Web site. PHAs/MFH Owners must implement the adjusted elderly/disabled family deduction for all income examinations that are effective on January 1 or later.

^{C1} https://www.huduser.gov/portal/pdrdatas_landing.html.

PHA/MFH Owner Discretion: None.

C.3 Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

C.3.a New Higher Threshold for Deducting Health and Medical Care Expenses and Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulation: 24 CFR § 5.611(a)(3)

Summary: The final rule establishes that the sum of unreimbursed health and medical care and reasonable attendant care and auxiliary expenses that exceed 10 percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was 3 percent of the family's annual income.

C.3.b New Definition of Unreimbursed Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses Deduction

Regulation: 24 CFR § 5.603

Summary: Health and medical care expenses, as defined in 24 CFR § 5.603, include costs incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed. Medical insurance premiums continue to be eligible health and medical care expenses. However, health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of health and medical care expenses to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs/MFH Owners to specifically align their policies with IRS Publication 502^{C2} for determining which expenses are included in HUD's mandatory deduction for health and medical care expenses. IRS Publication 502, in some instances, may instruct that certain expenses are not to be considered medical expenses that would otherwise be allowed under HUD's definition of health and medical care expenses. PHAs/MFH Owners must review each expense to determine whether it is eligible in accordance with HUD's definition of health and medical care expenses.

PHA/MFH Owner Discretion: None.

C.3.c Unreimbursed Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulation: 24 CFR § 5.611(a)(3)(ii)

^{C2} Publication 502 explains the itemized deduction for medical and dental expenses used for tax purposes, including what expenses, and whose expenses, can and cannot be included in figuring the deduction.

Summary: Auxiliary apparatus items can include, for example, expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read, or type or special equipment to assist a person who is deaf or hard of hearing. Some examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.

In order to claim the deduction for the cost of unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. If the unreimbursed reasonable attendant care and auxiliary apparatus expense exceeds the amount earned by the person who was enabled to work, the deduction will be capped at the amount earned by that individual.

PHA/MFH Owner Discretion: None.

C.4 Hardship Exemptions for Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses

Regulations: 24 CFR §§ 5.611(c)(1); 5.611(c)(1)(D); and 5.611(c)(2)

Summary: As stated in C.3.a, the threshold to deduct health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses has been increased from an excess of 3 to an excess of 10 percent of annual income. Concurrently with this increase, the regulations provide financial hardship exemptions for unreimbursed health and medical care expenses, and for reasonable attendant care and auxiliary apparatus expenses for eligible families. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of 5 percent of annual income. In order to claim **unreimbursed health and medical care expenses**, the family must have a head, co-head, or spouse that is elderly or a person with a disability. In order to claim **unreimbursed reasonable attendant care and auxiliary apparatus expenses**, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

To initiate, extend,^{C3} or conclude a hardship exemption only, PHAs/MFH Owners will process and submit a non-interim reexamination transaction as described in [Attachment I](#) (paragraph I.4) (Non-Interim Reexamination Transactions) of this notice.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Note: A family receiving phased-in relief may request to receive general hardship relief instead; **once a family chooses to obtain general relief, a family may no longer receive the phased-in relief.**

^{C3} See paragraph C.6.e, below.

C.4.a Phased-In Relief

This section describes the phased-in relief for families affected by the statutory increase in the threshold to receive unreimbursed health and medical care and reasonable attendant care and auxiliary apparatus expense deductions from annual income.

All families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024, will begin receiving the 24-month phased-in relief at their next annual reexamination or interim reexamination, whichever occurs first after January 1, 2024. Families who receive phased-in relief will have eligible expenses deducted that exceed 5 percent of annual income for 12 months. Twelve months after the 5 percent phase-in began, families will have eligible expenses deducted that exceed 7.5 percent of annual income for the immediately following 12 months. After the family has completed the 24 months phase-in at the lower thresholds, as described above, the family will remain at the 10 percent threshold, unless the family qualifies for relief under the general hardship relief provision.

When an eligible family's phased-in relief begins at an interim reexamination, the PHA/MFH Owner will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

The following table demonstrates when the phased-in relief will begin and increase every 12 months during the 24-month phase-in period.

Table C1: Phased-in Relief Timing

Phased-in Relief Timing	In Excess Threshold Percentage for Families Receiving the Health and Medical Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expense Deduction as of January 1, 2024	Reexamination Type
First annual reexamination or interim reexamination, whichever occurs first on or after January 1, 2024	5 percent	Annual or Interim Reexamination
Twelve months after the 5-percent phase-in began	7.5 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA/MFH Owner processes with a non-interim transaction.

Twelve months after the 7.5-percent phase-in began	10 percent	Annual Reexamination or Interim Reexamination If no Interim Reexamination is triggered, then the PHA/MFH Owner processes with a non-interim reexamination transaction.
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Example C1: Phased-In Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Ms. Bell's annual reexamination is due on June 1, 2024. Her last annual reexamination was effective June 1, 2023, and she received a deduction for unreimbursed health and medical expenses. She did not have any interim reexaminations after her annual reexamination was completed. Ms. Bell's unreimbursed health and medical expenses were 8 percent of her annual income. For her annual reexamination effective June 1, 2024, the PHA determines that Ms. Bell's annual income is \$10,000 and her unreimbursed health and medical expenses are \$800 (8 percent of her annual income).

Although Ms. Bell's unreimbursed health and medical care expenses are not in excess of the new 10-percent threshold to receive the deduction, since she was receiving a deduction for unreimbursed health and medical expenses on January 1, 2024, Ms. Bell is automatically eligible for the deduction pursuant to the phased-in hardship exemption. The PHA/MFH Owner will apply the phased-in relief threshold to deduct the expenses that exceed 5 percent of her annual income which is \$300 (\$800 - \$500) for this reexamination.

Since her expenses are more than 7.5 percent of her annual income, Ms. Bell will receive the benefit of the unreimbursed health and medical expense deduction until her next annual reexamination on June 1, 2025, or interim reexamination (whichever occurs first), when the threshold will be increased to 7.5 percent. Assuming her medical expenses are still \$800, she will be able to deduct \$50 (\$800 - \$750).

PHAs/MFH Owners **must** track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move with continued assistance in the HCV program or port to another PHA. The phase-in must also continue for families who move to another Public Housing unit at the same PHA, or who transfer internally to another unit within the same MFH property. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024.

The table below describes the potential phased-in relief outcomes based on a family's status in PIH and MFH programs:

Table C2: Phased-in Relief Outcomes According to Family's Status in Program for Multifamily Housing Program

Family's Status in Program	Is Family Receiving Phased-in Relief?	Outcome of Phased-in Relief	Required Documentation
Family's assistance is terminated in any program.	Yes	Phased-in relief ends upon termination. When readmitted, family's expense deduction will be	N/A. No documentation of phased-in relief is needed.

		calculated using the 10-percent threshold unless request for general relief is approved by the PHA/MFH Owner.	
<p>Public Housing: Family transfers PH units within the same PHA.</p> <p>Housing Choice Voucher: Family moves with continued assistance in the HCV program with the same PHA or ports to a new PHA.</p> <p>MFH: Family transfers units within the same MFH property and are not treated as a new admission.</p>	Yes	Families must continue to receive the phased-in relief. The family will receive the remaining calendar months of the percentage phase-in in their new unit.	The PHA or MFH Owner will use the existing phase-in documentation to determine the remaining calendar months of the percentage phase-in.
Family is treated as a new admission under a different property/program (e.g., family moves from one MFH property to another MFH property, the family moves from Public Housing to the HCV program, etc.).	Yes	Unless the PHA/MFH has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by PHA/MFH Owner.	<p>If the PHA/MFH Owner elects to continue the phased-in hardship relief, then the following documentation is required: Copy of forms HUD-50058 or 50059 from the family showing phased-in relief.</p> <p>If the forms are unavailable, then the PHA/MFH Owner may obtain self-certification from family declaring effective date of 5-percent or 7.5-percent phase-in. The PHA/MFH Owner must document in the file the reason that the forms HUD-50058 or 50059 were unavailable.</p>
Unit in which family resides converts to PBV or PBRA funding	Yes	Families must continue to receive the phased-in relief.	Copy of forms HUD-50058 or 50059 from the family showing

under the Rental Assistance Demonstration.		The family will receive the remaining calendar months of the percentage phase-in in their new unit.	phased-in relief. If the forms are unavailable, then the PHA/MFH Owner may obtain self-certification from family declaring effective date of 5-percent or 7.5-percent phase-in. The PHA/MFH Owner must document in the file the reason that the forms HUD-50058 or 50059 were unavailable.
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PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a policy to continue the phased-in hardship relief for families who were eligible for relief as of January 1, 2024, and who are treated as new admissions under a different program.

C.4.b General Relief

This section describes when a family is eligible for general relief related to the health and medical care expense and reasonable attendant care and auxiliary apparatus expense deduction.

To receive general relief, a family must demonstrate that the family's unreimbursed health and medical care expenses or unreimbursed reasonable attendant care and auxiliary apparatus expenses increased, or the family's financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination.

Relief is available regardless of whether the family previously received an unreimbursed health and medical care expense deduction, unreimbursed reasonable attendant care and auxiliary apparatus expense deduction, are currently receiving phased-in hardship relief, or were previously eligible for either this general relief or the phased-in relief.

If a PHA/MFH Owner determines that a family is eligible for general relief, the family will receive a deduction for the sum of the eligible expenses that exceed 5 percent of annual income. The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever comes earlier. However, PHAs/MFH Owners may, pursuant to their own discretionary policy, extend the relief for one or more additional 90-day periods while the family's hardship condition continues.

Example C2: General Relief (Health and Medical Care Expenses and Reasonable Attendant Care and Auxiliary Apparatus Expenses)

Mr. Beck's annual reexamination is due on August 1, 2024. In his last reexamination, he did not have any unreimbursed health and medical expenses and/or auxiliary and attendant care expenses. However, Mr. Beck has since been in a car accident, and he has increased eligible health and medical

expenses equal to 6 percent of his annual income. On February 15, 2024, Mr. Beck asks the PHA/MFH Owner for a hardship exemption to allow him to receive a health and medical care expense deduction, which will help him cover his rent.

The PHA/MFH Owner determines that the family is eligible for general relief and an Interim reexamination would not have otherwise been triggered, the PHA/MFH Owners processes a non-interim change that applies a health and medical expense deduction for the eligible expenses that exceed 5 percent of annual income for 90 days. The PHA/MFH Owner may extend the relief for one or more additional 90-day periods while Mr. Beck's hardship condition continues and may extend the exemption beyond 90 days if a policy for extending hardship relief is included in the written policy for the PHA/MFH Owner.

PHA/MFH Owner Discretion: PHAs/MFH Owners must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs/MFH Owners must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

Examples of circumstances constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances as determined by the PHA/MFH Owner.

PHAs/MFH Owners must not conduct an interim reexamination to add, remove, or to extend a hardship exemption, unless another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance with the PHA/MFH Owner's discretionary policies on conducting interim reexaminations for adjusted income decreases that are less than ten percent. Instead, the PHA/MFH Owner will process and submit a non-interim reexamination transaction as described in Section 16.4 (Non-Interim Reexamination Transactions) of this notice.

C.5 Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction

Regulation: 24 CFR §§ 5.603 Child-Care Expenses and 5.611(d)

See also [Attachment I](#) (paragraph I.4) (Non-Interim Reexamination Transactions).

Summary: Under 24 CFR § 5.611(d), any reasonable child-care expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable child-care expenses are defined in 24 CFR § 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed child-care expenses are paid from the family's annual income and not from another source, such as

a stipend from the child welfare agency), age 12 and younger, when all the following statements are true:

- The care is necessary to enable a family member to be employed or to further his or her education (e.g., work, look for work, or further their education (academic or vocational));
- The expense is not reimbursed by an agency or individual outside the household; and
- The expenses incurred to enable a family to work do not exceed the amount of employment income that is included in annual income.

A family whose eligibility for the child-care expense deduction **is ending** may receive a hardship exemption to continue receiving a child-care expense deduction in certain circumstances when the family no longer has a member that is working, looking for work, or seeking to further their education, and the deduction is necessary because the family is unable to pay their rent.

When a family requests a hardship exemption to continue receiving a child-care expense deduction that is ending, the PHA/MFH Owner must recalculate the family's adjusted income and continue the child-care deduction if the family demonstrates to the PHA's/MFH Owner's satisfaction that the family is unable to pay their rent (see [Attachment C](#) (paragraph C.6.a) (Policy for Determination of the Family's Inability to Pay Rent)) because of loss of the child-care expense deduction and the child-care expense is still necessary even though the family member is no longer working, looking for work, or furthering their education. The hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days. The PHA/MFH Owner, at their discretion, may extend such hardship exemptions for additional 90-day periods based on family circumstances.

To initiate, extend or conclude a hardship exemption, PHAs/MFH Owners will submit a non-interim transaction code on form HUD-50058/HUD-50059, unless there is an accompanying event that triggers an interim reexamination.

Example C3: Hardship Exemption to Continue Child-Care Expense Deduction

Ms. Branch had been paying \$250 per week for her child, Violet, to attend child care, while she was employed at a local coffee shop. Ms. Branch became unemployed when the coffee shop permanently closed. Ms. Branch has plans to enroll in college in two months. Although Ms. Branch has the availability to watch Violet, the child-care center has a long waiting list, and if Ms. Branch pulls Violet out temporarily, she would likely be without reliable child care when she starts college. Continuing to pay child-care expenses while not receiving earned income has made the family unable to pay their rent portion.

The MFH Owner determined that Ms. Branch met the hardship exemption criteria, as established in the MFH Owner's written policies, and is unable to pay rent. The MFH Owner will allow Ms. Branch to continue to receive the child-care expense deduction for 60 days as Ms. Branch is anticipated to enroll in college in the next two months.

PHA/MFH Owner Discretion: PHAs/MFH Owners must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. PHAs/MFH Owners may extend hardship

exemptions for additional 90-day periods based on family circumstances as stated in their written policies.

C.6 Hardship Policy Requirements

C.6.a Policy for Determination of the Family's Inability to Pay Rent

Regulation: 24 CFR § 5.611(e)

Summary: PHAs/MFH Owners must establish policies on how they define what constitutes a hardship (i.e., when a family is unable to pay rent, triggering eligibility for a hardship exemption).

PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion to establish policies for the purpose of determining eligibility for general hardship relief for the health and medical care expense deduction and for the child-care expense hardship exemption. PHAs/MFH Owners must describe these policies in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child-care expenses or health and medical expenses) is more than 45 percent (for example) of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent. PHA/MFH Owners may use different percentage thresholds or methods for determining a family's inability to pay rent; the examples provided in this paragraph are for consideration purposes.

C.6.b Family Notification of Hardship Exemption

Regulation: 24 CFR § 5.611(e)(2)

Summary: PHAs/MFH Owners must promptly notify families in writing of the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption. The written notice must also inform the family of the dates that the hardship exemption will begin and expire and the requirement for the family to report to the PHA/MFH Owner if the circumstances that made the family eligible for relief are no longer applicable. The notice must also state that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption. PHAs/MFH Owners must provide families 30 days' notice of any increase in rent.

PHAs/MFH Owners are encouraged to communicate the availability of hardship exemptions and how to request a hardship to all applicants and families prior to January 1, 2024.

PHA/MFH Owner Discretion: None.

C.6.c Family Notification of Hardship Exemption Denial

PHAs/MFH Owners must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. The notification must specifically state the reason for the denial.

C.6.d Family Notification of Hardship Exemption Termination

PHAs/MFH Owners must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

Example C4: Termination of Hardship Exemption

The Olivera family is currently receiving a hardship exemption for child-care expenses. The family received an interim reexamination to decrease their earned income when an adult family member went on unpaid medical leave. The family is unable to pay rent during this time but still needs child care while the adult family member is receiving physical therapy. The family subsequently reports to the PHA/MFH Owner that the adult family member will resume employment in 3 weeks on March 23, at which point the family will no longer need the child-care hardship exemption. When the hardship exemption ends, the PHA/MFH Owner will process an interim reexamination to add the family's earned income and restart the non-hardship child-care expense deduction. The PHA/MFH Owner has a policy to consider earned income increases following an interim reexamination due to a decrease in income (see [Attachment I](#) (paragraph I.2)).

The PHA/MFH Owner must notify the family in writing that the hardship exemption will be terminated effective March 23 and provide the family with 30 days' notice of any rent increase. The family's rent increase will be effective on May 1.

C.6.e Extension of Hardship Exemption for Additional 90-Day Period(s)

PHAs/MFH Owners may at their discretion extend hardship exemptions for additional 90-day periods if the hardship continues pursuant to the PHA/MFH Owner's hardship policies. This provision applies to families receiving hardship exemptions for the child-care expenses deduction and general hardship relief for health and medical care expenses and reasonable attendant care and auxiliary apparatus expenses.

PHA/MFH Owners may extend the hardship relief for as many 90-day periods as the hardship continues to affect the family. Policies for extending hardship relief for additional 90-day periods must be established in PHAs' Administrative Plans or ACOPs, and in MFH Owners' Tenant Selection Plans.

PHAs/MFH Owners must obtain third-party verification of the family's inability to pay rent or must document in the file the reason that third-party verification was not available. PHAs/MFH Owners must attempt to obtain third-party verification prior to the end of the 90-day period.

C.7 Additional (Permissive) Deductions

Regulation: 24 CFR § 5.611(b)(1)

Summary: A PHA may, but is not required to, establish an additional deduction or deductions from a family's annual income. These deductions are also known as "permissive deductions." Note that the public housing Operating Fund formula is not revised to account for any decrease in PHA revenue attributable to implementing permissive deductions. Likewise, the subsidy costs attributable to implementing permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding or moderate rehabilitation funding. PHAs that adopt permissive

deductions are required to incorporate these policies as part of the Administrative Plan or ACOP, as applicable.

MFH Owners are not permitted to adopt permissive deductions.

PHAs can respond to community needs by establishing a wide range of permissive deductions, including permissive deductions to provide incentives for families to work. Program regulations do not specify what types of permissive deductions are allowable. PHAs operating the Public Housing program have previously adopted permissive deductions that incentivize or encourage self-sufficiency and economic mobility.

As an example, a PHA may adopt an earned income deduction based on the following:

- The amount earned by certain members of the family (e.g., all income earned by elderly family members, etc.);
- The amount earned by families having certain characteristics (e.g., all income earned by family members employed by nonprofit organizations, etc.);
- the amount received by families or members from guaranteed income programs offered by select states and local governments;
- The amount earned by families or members during a certain time period or from certain sources (e.g., all income earned by full-time dependent students between June-August, all income earned by family members employed by nonprofit organizations, etc.)

PHAs are still subject to federal nondiscrimination requirements, including the obligation to provide reasonable accommodations that may be necessary for households with family members with disabilities.

C.7.a Additional (Permissive) Deductions: Public Housing Only

Regulation: 24 CFR § 5.611(b)(1)(i)

Summary: PHAs may continue to adopt additional deductions from annual income in the Public Housing program. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility. **A PHA that adopts such deductions will not be eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of such deductions,** so the financial impact of implementing permissive deductions must be carefully evaluated. PHAs may adopt permissive deductions for Public Housing only if they have established a written policy for such deductions.

PHAs must put the total dollar amounts of any permissible deductions in column 8d and line 8e of the form HUD-50058.

PHA/MFH Owner Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the Public Housing program must create written policies in the PHA's ACOP. MFH Owners are not permitted to adopt permissive deductions.

C.7.b Additional (Permissive) Deductions: HCV and Moderate Rehabilitation Only

Regulation: 24 CFR § 5.611(b)(1)(ii)

Summary: When deciding whether to adopt a permissive deduction for the HCV program, the PHA will need to review its Housing Assistance Payments (HAP) funds utilization and projected leasing closely to ensure that enough HAP is available to support the number of families currently or planned to be leased. The costs attributable to permissive deductions will not be taken into consideration in determining the PHA's HCV renewal funding or Moderate Rehabilitation/SRO funding. A PHA must have sufficient funding to cover the increased HAP cost of the deductions.

For the HCV program, PHAs will be required to report any HAP spent on permissive deductions into VMS monthly. Additional guidance for reporting HAP spent on permissive deductions in VMS will be provided in the VMS Manual.

For Moderate Rehabilitation programs, PHAs will be required to report the additional subsidy cost as part of the Moderate Rehabilitation Year End Settlement they are currently required to submit to HUD.

Since permissive deductions will be excluded from the renewal calculation, PHAs may use outside funding to cover the cost. For example, the PHA may receive non-federal funding to cover the cost of a particular permissive deduction. This could also apply for research studies where the research director asks the PHA to exclude stipends or basic/guaranteed income amounts received during the study period, and the research study provides funding to the PHA to cover the cost.

PHA/MFH Owner Discretion: PHAs are not required to adopt permissive deductions, but any PHA establishing permissive deductions in the HCV or Moderate Rehabilitation/SRO programs must create written policies in the PHA's HCV Administrative Plans.

MFH Owners are not permitted to adopt permissive deductions.

ATTACHMENT D: TOPIC: APPLICABLE FAIR HOUSING AND CIVIL RIGHTS REQUIREMENTS

Regulations

24 CFR §§ 5.105(a), 8.6, 982.53; 28 CFR §§ 35.160 and 36.303

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

While HOTMA did not revise existing Fair Housing or Civil Rights requirements, PHAs/MFH Owners are reminded to follow all applicable nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a) and 24 CFR § 982.53, including but not limited to:

- the Fair Housing Act;
- Section 504 of the Rehabilitation Act of 1973;
- Title VI of the Civil Rights Act of 1964;
- the Age Discrimination Act;
- HUD's Equal Access Rule; and
- Title II of the Americans with Disabilities Act of 1990.

These requirements prohibit discrimination on the basis of race, color, religion, sex (including gender identity and sexual orientation), familial status, national origin, disability, age, and marital status. PHAs/MFH Owners must also comply with Title III of the Americans with Disabilities Act of 1990, as applicable (see 28 CFR part 36).

When an assisted household includes a person with disabilities, a reasonable accommodation may be necessary. A reasonable accommodation is a change, exception, or adjustment to rules, policies, practices, or services that may be necessary in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common areas, or to participate in or access programs and activities. Under Section 504, reasonable accommodations may also include a structural change to a unit, or to a public or common use area. In addition, the PHAs/MFH Owners must provide effective communication to persons with disabilities, including those with vision, hearing, and other communication-related disabilities, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., Braille, audio, large type, assistive listening devices, sign language interpreters, accessible Web sites; and other accessible electronic communications). See 24 CFR § 8.6.

PHAs/MFH Owners must also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP). LEP guidance and LEP information is available here: <https://www.federalregister.gov/documents/2007/01/22/07-217/final-guidance-to-federal-financial-assistance-recipients-regarding-title-vi-prohibition-against>.

In addition, PHAs/MFH Owners must comply with the Violence Against Women Act (VAWA), HUD's implementing VAWA regulation at 24 CFR part 5 – subpart L, and applicable program regulations.

ATTACHMENT E: TOPIC: HOUSEHOLD COMPOSITION

Regulations

24 CFR §§ 5.403; 5.603; 5.609; and 891.105

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/811 PRAC, Section 236 IRP, Section 811 PRA	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes ^{E1}	Yes

Summary

See subtopics.

Subtopics

E.1 Definition of Family

Regulation: 24 CFR § 5.403

Summary: The final rule revises the definition of family to also include a single person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age;
- Has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)); and
- Is homeless or is at risk of becoming homeless at age 16 or older.

The definition of “family” in the final rule incorporates revisions made to the 1937 Act by the Fostering Stable Housing Opportunities provisions of the Consolidated Appropriations Act, 2021, which expands the definition of “single persons.” Due to the modification of the statute prior to this final rule, HUD is making a conforming change to 24 CFR § 5.403 to align with the new statutory language.

PHA/MFH Owner Discretion: None.

E.2 New Definitions of Foster Adult and Foster Child

Regulation: 24 CFR § 5.603

Summary: The final rule establishes definitions for “foster adult” and “foster child.” A foster adult is defined as a member of the household who is 18 years or older and meets

^{E1} SPRACs have a program-specific definition of Family found in paragraph 2.3 (Families to be Housed) of the SPRAC II (form HUD-93742a).

the definition of a foster adult under state law. State-level agencies define who is considered a foster adult/child, so the classification may vary from state to state.

In general, a foster adult is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A foster child is defined as a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster adults/children are not considered **family members** and must not be included in calculations of income for eligibility and rent determination purposes. However, foster adults/children are considered **household members** and must be included when determining unit size or subsidy standards based on established policies.

The definition of “dependent” under § 5.603 was revised to explicitly **exclude** foster children and foster adults. PHAs/MFH Owners may not provide a dependent deduction under § 5.611(a) for a foster child or foster adult. Consistent with the determination that foster adults/children are not family members, income earned by foster adults/children, payments received for the care of foster adults/children, and expenses incurred related to foster adults/children are not considered to be family income or family expenses used in the determination of annual income. Reasonable unreimbursed child-care expenses (as defined in § 5.603) for foster children under 13 years of age may be deducted from annual income if those expenses are necessary to enable a member of the family to work, look for work, or to further their education.

Families may be eligible to continue to receive the child-care expense deduction, pursuant to a hardship exemption, when the unreimbursed child-care expense is for the care of a foster child under the age of 13, but only if the unreimbursed child-care expense for the care of the foster child is paid from the family’s annual income (and not another source, such as a stipend from a child welfare agency). See [Attachment C](#) (paragraph C.5) (Child-Care Expenses Deduction and Hardship Exemption to Continue Child-Care Expenses Deduction) of this notice.

When a member of an assisted family is temporarily placed in foster care (as confirmed by the state child welfare agency), the member is still counted as a family member in the unit from which they were removed. This means that a foster child or foster adult could be considered an assisted family member in one household while also being a foster child or adult in another household and receiving consideration in both families’ voucher size and/or unit size.

PHA/MFH Owner Discretion: None.

E.3 Alignment of Family Member Definition Across Programs

Regulations: 24 CFR §§ 5.403; 5.603; and 5.609

Summary: Since approximately 2008, MFH programs have treated foster children and foster adults as family members. Effective with the final rule, foster children and foster adults will be treated as household members in MFH programs. This policy alignment is

not a direct result of HOTMA but serves rather to conform MFH programs with the existing treatment of foster children/adults across other HUD programs.

HUD reminds PHAs and MFH Owners that the income and net family assets of household members are excluded when determining initial eligibility or eligibility for continued assistance; however, household members are considered for purposes of unit size and subsidy standards. For example, a live-in aide must be considered for bedroom size requirements for a unit, but their income and expenses would not be included for the purposes of income eligibility and assistance levels. Household members do not qualify for expenses or deductions, except that reasonable unreimbursed child-care expenses may be deducted for foster children under the age of 13 if it enables a member of the family to work, look for work, or go to school.

PHA/MFH Owner Discretion: None.

ATTACHMENT F: TOPIC: INCOME

Regulations

24 CFR §§ 5.100; 5.603; 5.603(b); 5.603(b)(3) – (b)(4); 5.609; 5.609(a)(1) – (a)(2); 5.618; 882.515(a); 882.808(i)(1); 891.105; 960.259(c)(2); and 982.516(a)(3)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

See subtopics.

Subtopics

F.1 Annual Income

Regulations: 24 CFR §§ 5.609(a)(1)–(a)(2); and 891.105

Summary: Annual income includes all amounts received from all sources by each member of the family who is 18 years of age or older, the head of household, or spouse of the head of household, in addition to unearned income received by or on behalf of each dependent who is under 18 years of age. Annual income does not include amounts specifically excluded in paragraph (b) of 24 CFR § 5.609. See [Attachment G](#) (Income Exclusions). All amounts received by the head of household, co-head, or spouse, including the income of a day laborer, independent contractor, and seasonal worker (see paragraphs F.2.a, F.2.b, and F.2.c, below) are included in annual income regardless of age, unless otherwise excluded in paragraph (b) of 24 CFR § 5.609.

Note: Annual income includes “all amounts received,” not the amount that a family **may be** legally entitled to receive but which they do not receive. For example, a family’s child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

Annual income also includes all actual anticipated income from assets even if the asset is excluded from net family assets but the income from the asset is not otherwise excluded. Imputed returns on net family assets are included in annual income only when net family assets exceed \$50,000 (a figure that is annually adjusted for inflation) and actual asset income cannot be calculated for all assets (see F.6.b, below, for a discussion of scenarios where income can be calculated for some but not all assets). PHAs/MFH Owners will not impute income from assets if the total value of net family assets is equal to or less than \$50,000 (as adjusted by inflation). See paragraph F.4.a (Determining Net Family Assets),

below, for the definition of net family assets and paragraph F.6 (Actual and Imputed Income from Assets).

PHA/MFH Owner Discretion: None.

F.2 Earned Income

Regulation: 24 CFR § 5.100

Summary: Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

PHA/MFH Owner Discretion: None.

F.2.a Definition of Day Laborer

Regulation: 24 CFR § 5.603(b)

Summary: A day laborer is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

Income earned as a day laborer is not considered nonrecurring income under 24 CFR § 5.609(b)(24) (see [Attachment G](#) (paragraph G.1) (Nonrecurring Income) of this notice) and must be included, unless specifically excluded in 24 CFR § 5.609(b) (e.g., earnings of full-time students in excess of the dependent deduction (24 CFR §§ 5.609(b)(3), (b)(14), etc.)).

PHA/MFH Owner Discretion: None.

F.2.b Definition of Independent Contractor

Regulation: 24 CFR § 5.603(b)

Summary: An independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax.

In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered “gig workers,” such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor.

Income earned as an independent contractor is not considered nonrecurring income (see [Attachment G](#) (paragraph G.1) (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., 24 CFR §§ 5.609(b)(3), (b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.2.c Definition of Seasonal Worker

Regulation: 24 CFR § 5.603(b)

Summary: A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer); and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry.

Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver.

Income earned as a seasonal worker is not considered nonrecurring income (see [Attachment G](#) (paragraph G.1) (Nonrecurring Income)) and must be included unless specifically excluded in 24 CFR § 5.609(b) (e.g., § 5.609(b)(14), etc.).

PHA/MFH Owner Discretion: None.

F.3 Definition of Unearned Income

Regulation: 24 CFR § 5.100

Summary: Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

PHA/MFH Owner Discretion: None.

F.4 Assets

Asset requirements in 24 CFR §§ 5.603 and 5.609 apply to HCV (including Project-Based Vouchers and all special purpose vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO, and MFH programs.

F.4.a Determining Net Family Assets

Regulations: 24 CFR §§ 5.100 and 5.603

Summary: Net family assets are defined as the net cash value of **all assets owned by the family**, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of investment, except as excluded (see [Attachment F](#) (paragraph F.4.b) (Exclusions from Net Family Assets) of this notice).

Assets with negative equity. The cash value of real property^{F1} or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

^{F1} Real property, as used in 24 CFR Part 5, has the same meaning as that provided under the state law in which the real property is located.

Assets disposed of for less than fair market value. In determining the value of net family assets, PHAs/MFH Owners must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust,^{F2} but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received.

For example, if a family gave away a home with a net value of \$80,000, the value of the home must be included in the calculation of net family assets for two years following the transfer of property. If a family sold a home for less than fair market value, the difference between the value and the amount for which they sold it would be included in net family assets for two years following the transfer of property. For example, if a family sold a property with a fair market value of \$80,000 to a friend for \$20,000, then the difference in value (\$60,000) minus the cost to dispose of the property (\$10,000), which is in this example totals \$50,000, would be counted in net family assets for two years from the date of the property's transfer to the other party.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.

Asset owned by business entity. If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

Jointly owned assets. For assets jointly owned by the family and one or more individuals outside of the assisted family, PHAs/MFH Owners must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (see F.4.b of this notice), or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded (see [Attachment G](#)), or unless the family demonstrates that they do not have access to

^{F2} A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family.

the income from that asset, or that they only have access to a portion of the income from that asset.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

PHA/MFH Owner Discretion: None.

F.4.b Exclusions from Net Family Assets

Regulations: 24 CFR § 5.603(b)(3)–(b)(4)

Required exclusions from net family assets include the following:

- The value of necessary items of personal property. (See paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice.)
- The value of all non-necessary items of personal property with a total combined value of \$50,000 or less, annually adjusted for inflation. (See paragraph F.4.c (Necessary and Non-Necessary Personal Property) of this notice.)
- The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including Individual Retirement Accounts (IRAs), employer retirement plans (e.g., 401(k), 403(b)), and retirement plans for self-employed individuals.
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located. Examples of this include but are not limited to: co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; inherited property in dispute.
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family being a person with disabilities.
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986; the value of any qualified tuition program under section 529 of such Code; and the amounts in, contributions to, and distributions from any Achieving a Better Life Experience (ABLE) account authorized under section 529A of such code.
- The value of any “baby bond” account created, authorized, or funded by the federal, state, or local government (money held in trust by the government for children until they are adults).
- Interests in Indian trust land.
- Equity in a manufactured home where the family receives assistance under 24 CFR Part 982.

- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982.
- Family Self-Sufficiency accounts.
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.
- The full amount of assets held in an irrevocable trust. (See paragraph F.4.d (Trusts) of this notice.)
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household. (See paragraph F.4.d (Trusts) of this notice)

PHA/MFH Owner Discretion: PHAs/MFH Owners may need to revise application forms, interview guides and individual verification forms to ensure that they are gathering adequate information to make appropriate asset exclusion determinations.

F.4.c Necessary and Non-Necessary Personal Property

Regulation: 24 CFR § 5.603

Summary: Necessary personal property is excluded from net family assets. Non-necessary personal property with a combined value greater than \$50,000, as adjusted by inflation, is considered part of net family assets. When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

All assets are categorized as either real property (e.g., land, a home) or personal property. Personal property includes tangible items, like boats, as well as intangible items, like bank accounts. For example, a family could have non-necessary personal property with a combined value that does not exceed \$50,000 but also own real property such as a parcel of land. Even though the non-necessary personal property would be excluded from net family assets, the real property would be included in net family assets regardless of its value unless the real property meets a different exclusion under 24 CFR § 5.603.

Necessary personal property are items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items.

Determining what is a necessary item of personal property is a highly fact-specific determination, and therefore it is incumbent on PHAs/MFH Owners to gather enough facts to qualify whether an asset is necessary or non-necessary personal property.

Items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

The following table lists examples of necessary and non-necessary personal property. **This is not an exhaustive list.**

Table F1: Examples of Necessary and Non-Necessary Personal Property

Necessary Personal Property	Non-Necessary Personal Property
<ul style="list-style-type: none"> • Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies • Religious and cultural items • Medical equipment and supplies • Health care–related supplies • Musical instruments used by the family • Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books • Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities • Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment) 	<ul style="list-style-type: none"> • Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business • Items such as gems/precious metals, antique cars, artwork, etc.

Example F1: Necessary and Non-Necessary Personal Property

The Cross family owns three items of personal property. The family has a checking account valued at \$5,000, a \$15,000 recreational boat, and Ms. Cross's \$3,000 engagement ring.

The checking account and recreational boat are both considered non-necessary personal property. They are worth a combined \$20,000. The engagement ring is considered necessary personal property, because it is jewelry used in a religious/cultural celebration or ceremony. Since the total value of non-necessary personal property is less than \$50,000, the family's non-necessary personal property will not be considered when calculating the Cross family's net family assets.

<u>Cross Family's Personal Property</u>			
Item	Estimated Value	Type	Amount to be considered as non-necessary personal property
Checking account	\$5,000	Non-necessary Personal Property	\$5,000
Ring (engagement ring)	\$3,000	Necessary Personal Property	\$0
Recreational boat	\$15,000	Non-necessary Personal Property	\$15,000
Total Non-necessary Personal Property:			\$20,000
<u>Calculation of Cross Family's Total Net Assets</u>			
Asset		Total to be Considered in Net Family Assets	
Non-necessary Personal Property		\$0	
Real Property		\$0	
Total:		\$0	
The Cross family's total net family assets are \$0.			

PHA/MFH Owner Discretion: None.

F.4.d Trusts

Regulations: 24 CFR §§ 5.603 and 5.609

Summary: Whether the value of a trust counts as a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- Whether the trust is under the control of the family;
- Whether distributions are made from the trust's principal; and

- The purpose of the distribution, if the distribution is made from income earned on the trust's principal.

F.4.d.i Trusts as Net Family Assets

The value of irrevocable trusts and revocable trusts that are not under the control of the family are both excluded from net family assets.

The distinguishing feature of a revocable trust is that the grantor can terminate and/or amend the trust at any time for any reason before his or her death. In circumstances when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family, the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee.

A revocable trust that is under the control of the family or household (e.g., the grantor is a member of the assisted family or household) is included in net family assets, and, therefore, income earned on the trust is included in the family's income from assets. This also means that PHAs/MFH Owners will calculate imputed income on the revocable trust if net family assets are more than \$50,000, as adjusted by inflation, and actual income from the trust cannot be calculated (e.g., if the trust is comprised of farmland that is not in use).

F.4.d.ii Actual Income from a Trust

If the PHA/MFH Owner determines that the revocable trust is included in the calculation of net family assets, then the actual income earned by the revocable trust is also included in the family's income.

Where an irrevocable trust is excluded from net family assets, the PHA/MFH Owner must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed.

F.4.d.iii Trust Distributions and Annual Income

- **Revocable trust considered part of net family assets:** If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family.
- **Revocable or irrevocable trust not considered part of net family assets:** If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:
 - All distributions from the trust's principal are excluded from income.
 - Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's

principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Table F2 below is a tool to assist PHAs/MFH Owners in determining whether a trust should be considered a net family asset and/or whether a trust's earned interest or distributions are considered income to the family.

Table F2: Annual Income/Net Family Assets Scenarios based on Trust Type

Trust Type	Is the trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

PHAs/MFH Owners must be careful to distinguish between distributions of principal and distributions of earnings on a trust's principal when verifying family income from irrevocable trusts and revocable trusts where the grantor is not part of the assisted family or household, so as not to unintentionally include distributions of principal that are not considered income.

Note: The policy implemented under HOTMA is a change from the previous policies of both PIH and MFH. Previously, PIH considered all distributions of principal or income earned on the principal as income unless the distribution

qualified as an income exclusion. In determining whether a distribution from a trust should be counted as income to the beneficiary, MFH considered how the trust was funded, whether the distribution was from trust income or principal, and whether any distribution from trust income met an existing income exclusion. The policy under HOTMA aligns the policies of MFH and PIH and clarifies that the term “income” means “trust income” and not **any** distribution from the trust to the beneficiary.

PHA/MFH Owner Discretion: None.

F.4.e Federal Tax Refunds or Refundable Tax Credits

Regulation: 24 CFR § 5.603

Summary: All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family’s net family assets for a period of 12 months after receipt by the family.

Taxpayers have several options for receiving their tax refunds: via paper check or direct deposit into a checking or savings account; via TreasuryDirect to buy savings bonds; via direct deposit into a Traditional, Roth, or Simplified Employee Pension Plan-IRA; or via purchase of savings bonds, a Health Savings Account, an Archer Medical Savings Account, or a Coverdell Education Savings Account. Refundable tax credits, such as the Earned Income Tax Credit (EITC), are determined as part of an overall tax return submission to the Internal Revenue Service (IRS). Taxpayers receive one federal tax refund reflecting the taxpayer’s tax liability, if negative, including any applicable refundable tax credits.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0. If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA/MFH Owner to subtract the amount of the deposit from the value of the excluded asset).

Note: Only the amount that the family receives is excluded from net family assets. For example, if a family anticipates a \$500 federal tax refund but only receives \$250, then only \$250 will be excluded from the net family assets because that is the amount that the family received.

PHAs/MFH Owners are not required to verify the amount of the family’s federal tax refund or refundable tax credit(s) if the family’s net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA/MFH owner does not accept self-certification of assets. PHAs/MFH Owner must verify the amount of the family’s federal tax refund or refundable tax credits if the family’s net assets are greater than \$50,000.

The anticipated income earned by the assets in which a family has deposited their federal tax refund or refundable tax credits must be included in the family's annual income unless the income is specifically excluded under 24 CFR § 5.609(b).

Example F2: Federal Tax Refund Excluded from Net Family Assets

The Rodriguez family received a \$4,500 federal tax refund on 3/1/2024 and deposited the refund into their checking account. At their next annual reexamination with an effective date of 8/1/2024, the PHA/MFH Owner asks the family about any assets they own, the anticipated income from the assets, and if they received a federal tax refund or refundable tax credits in the past 12 months and where they deposited the refund/refundable tax credits or if they purchased savings bonds with the refund.

The Rodriguez family explain that they received a \$4,500 refund and that they deposited the refund into their checking account, which has a balance of \$10,000. The Rodriguez family reports that they have actual income of \$100 from the checking account this year. The family owns no other assets. In determining the total value of net family assets, the PHA/MFH Owner subtracts \$4,500 from the overall \$10,000 balance, for a total countable asset of \$5,500. The full value of actual income is included as income, because actual income is always included even on excluded assets.

F.4.f Net Family Assets Examples

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets. These concepts are illustrated in the three examples below.

Example F3: Retirement Accounts

Background: The value of any account under a retirement plan recognized by the Internal Revenue Service, including IRAs, employer retirement plans, and retirement plans for self-employed individuals, is not considered in determining net family assets. Any income earned on the funds while stored in such a retirement account is not considered actual income from assets. However, any distribution of periodic payments from the retirement account is considered income at the time it is received by the family (§ 5.609(b)(26)).

Scenario

Prior quarter ending balance of 401(k) account: \$157,500

Prior quarter yield: 5 percent (\$7,500)

Distributions made to family: \$12,000 in prior year, same amount is anticipated to be received this year.

Result: In this example, the family's income reexamination will not include the 401(k), because the value of the 401(k) and the earnings will be considered neither net family assets nor income to the family; however, the family's income reexamination will include the \$12,000 in distributions (unearned income) which has been paid from the retirement account in increments of \$1,000 monthly to the family.

Example F4: Civil Rights Settlements

Background: A civil rights settlement, regardless of how the settlement is paid (lump sum or several distributions), is excluded from annual income; however, the amounts would be considered part of net family assets, if held in a savings account, revocable trust, or in some other asset that is not excluded from the definition of net family assets.

Scenario

Jessica receives a civil rights settlement in the amount of \$20,000, because she was not provided a reasonable accommodation. Jessica deposits the \$20,000 into her savings account, which already contains \$5,000, and earns 0.5 percent interest annually.

Total civil rights settlement received: \$20,000 (excluded from income under § 5.609(b)(25))

Value of savings account: \$25,000 (which includes the \$20,000 settlement)

Actual income earned from savings account: $\$25,000 \times 0.005 = \125 included in annual income

Result: In this example, the family's income reexamination will not include the amount received from the civil rights settlement, because the funds are not considered income under § 5.609(b)(25). However, the value of the savings account where the settlement was deposited will be used in the calculation of net family assets, and the actual income earned from interest accrual (as self-certified by the family) will be included in the family's annual income.

Example F5: Life Insurance

Background: The cash value of life insurance policies that are available to the participant before death are included in net family assets (e.g., the surrender value of a whole life policy or a universal life policy). Net family assets will not include the value of term life insurance, which has no cash value to the individual before death.

Scenario A: The Johnson family has a whole life insurance policy with a face value of \$100,000 and a surrender value of \$30,000. Net family assets will include \$30,000 for the life insurance policy. The Johnson's family policy also pays an annual dividend of \$100. This will be included as actual income.

Scenario B: The Dexter family has a term life insurance policy with a face value of \$100,000 payable upon death. The total amount included in the family's net family assets for this insurance policy will be \$0.

F.5 Passbook Rate

Regulation: 24 CFR § 5.609(a)(2)

Summary: HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis. PHAs/MFH Owners must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (a figure that is annually adjusted for inflation). The HUD-published passbook rate will be posted to a dataset on the HUDUser Web site, alongside annual inflationary adjustments (see [Attachment H](#)).

To determine the passbook rate for the next calendar year, HUD will average the most recent three months of FDIC updates to the National Deposit Rate for savings accounts, rounded to the nearest hundredth of 1 percent. In order to ensure updated passbook rates may be used for reexaminations with an effective date of January 1, HUD will calculate

the update in July each year, using FDIC data from April, May, and June. for publication on HUDUser not later than September 1.

For 2024, the passbook rate will be 0.40 percent. Below is an explanation of how the passbook rate was calculated for 2024. For reexaminations with effective dates before January 1, 2024, PHAs may continue to set their own passbook rates, and MFH Owners must continue to use the 0.06 percent passbook rate.

Table F3: Calculation of Passbook Rate for 2024

FDIC Monthly Update, Date of Publication	National Deposit Rate, Savings Accounts
4/17/2023	0.39 percent
5/15/2023	0.40 percent
6/20/2023	0.42 percent
HUD Passbook Rate (average of 3 months of FDIC National Deposit Rates)	0.40 percent

PHA/MFH Owner Discretion: None. PHAs were previously permitted to set their own passbook rates within a HUD-published range; effective with the final rule, PHAs/MFH Owners will be required to use the HUD-published passbook rate. The final rule supersedes Notice H 2016–01 (Passbook Saving Rate Effective February 1, 2016).

F.6 Actual and Imputed Income from Assets

Regulation: 24 CFR § 5.609(a)(2)

Summary: Actual income and imputed income are treated as described below.

F.6.a Actual Income

Actual income from assets is always included in a family’s annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR § 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The following examples illustrate how to calculate actual income from assets.

Example F6: Actual Asset Income from an Asset Excluded from Net Family Assets

Background: Eugene Park owns a checking account with \$3,500 that earns 0 percent interest. He also has a savings account with a balance of \$10,000 for which he expects to earn \$300 in annual interest. Mr. Park has no other assets. Because those assets are classified as non-necessary personal property, and their combined value of \$13,500 does not exceed \$50,000, the combined value of all non-necessary personal property is excluded from the calculation of net family assets (see paragraph

F.4.c (Necessary and Non-Necessary Personal Property) of this notice). The total value of Eugene Park's net family assets is \$0, and \$300 is included in annual income.

Scenario

Total value of assets: \$3,500 + \$10,000 = \$13,500

Net family assets: \$0.00 (total value of assets is less than \$50,000, therefore the value is excluded from net family assets)

Result: Actual income from assets (must be included in the calculation of annual income for Eugene Park): \$300 (\$0 from checking account + \$300 from savings account)

**Example F7: Calculating Net Family Assets and Actual Asset Income
when Net Family Assets Exceed \$50,000 (As Adjusted)**

Background: Sherry McNeil received a federal tax refund of \$1,200 and deposited the refund into her checking account. At the time of her annual reexamination six months later, the account had a balance of \$10,000 and earns 0-percent interest. Sherry also owns a stock portfolio with a verified value of \$45,000. The stocks earned \$405 in cash dividends last year, which Sherry expects to earn again in the coming year.

Scenario

Total value of assets: \$55,000 (\$10,000 + \$45,000)

Net family assets: \$53,800 (\$55,000 – \$1,200) (tax refund received in the last 12 months is excluded from net family assets under § 5.603(b)(3)(xi).) Because the total value of Sherry's non-excluded assets exceeds \$50,000, this value (\$53,800) is included as net family assets and must be confirmed via third-party verification.

Actual Income from Checking Account: \$0 earned (\$10,000 x 0 percent)

Actual Income from Stock Portfolio: \$405 earned in dividends last year on \$45,000

Result: Total actual income from assets (must be included in the calculation of annual income for Sherry McNeil): \$405 (\$0 + \$405)

F.6.b Imputed Income

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

- The value of net family assets exceeds \$50,000 (as adjusted for inflation);
- The specific asset is included in net family assets; and
- Actual asset income cannot be calculated for the specific asset.

If the actual income from assets can be computed for some assets but not all assets, then PHAs/MFH Owners must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated. After the PHA/MFH owner has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over \$50,000.

When the family's net family assets do not exceed \$50,000 (as adjusted for inflation), imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets. When actual income for an asset — which can equal \$0 — can be calculated, imputed income is not calculated for that asset.

Example F8: Combining Actual and Imputed Asset Income

Background: The Jorgensen family owns a small piece of vacant land with a cash value of \$25,000. The family also owns a savings account with a verified balance of \$55,000, with an interest rate of 0 percent. The family's total net assets are \$80,000. The PHA/MFH Owner can calculate the actual income of the savings account as \$0, as seen below. The PHA/MFH Owner is unable to calculate the actual income earned for the property owned by the family, because the property neither generates any income for them nor could an income amount be computed as a matter of interest or dividend earnings. Therefore, imputed asset income for the real property must be calculated. The passbook savings rate in effect is 0.10 percent.

Scenario

Actual Income from savings account: $\$55,000 \times 0 \text{ percent} = \0 actual income of savings account
Imputed income from family's property: $\$25,000 \times 0.001 = \25 imputed income

Result: Total asset income (must be included in the calculation of annual income for the Jorgensen family): $\$25 (\$0 + \$25)$

PHAs/MFH Owners should not conflate an asset with an actual return of \$0 (as in the example above), with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets that are items of non-necessary personal property. If the asset is a financial asset and there is no income generated (for example, a bank account with a 0 percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

Example F9: Imputing Income when Actual Income Cannot Be Calculated

Background: The Conrad family owns a recreational boat with a Kelley Blue Book value of \$15,000. They also own a checking account with \$10,000 that earns 0 percent interest and a savings account with \$30,000 that earns 3 percent interest, putting their net family assets value at \$55,000. No actual returns on the boat can be computed, however actual income can be calculated for the savings account. The passbook savings rate in effect is 0.10 percent.

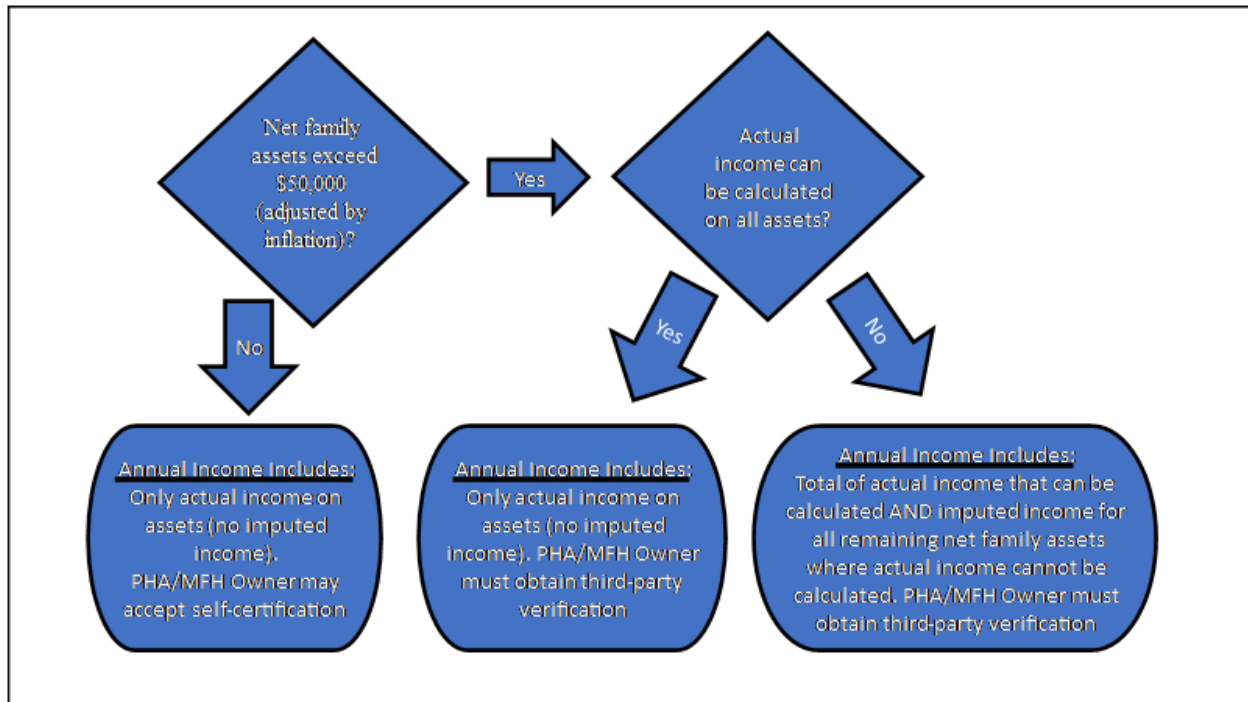
Scenario

Actual income from assets: $\$900 ((\$10,000 \times 0 \text{ percent}) + (\$30,000 \times 0.03))$
Imputed income from assets: $\$15 (\$15,000 \times 0.001)$

Result: Total income from assets (must be included in the calculation of annual income for the Conrad family): \$915 (\$900 + \$15)

The following chart illustrates different net family asset scenarios and whether to include actual and/or imputed assets in the family's annual income determination.

Chart F1: Decision Chart for Determining Income from Assets



PHA/MFH Owner Discretion: None.

F.7 Self-Certification of Net Family Assets Equal to or Less Than \$50,000 (as adjusted for inflation)

Regulations: 24 CFR §§ 5.603; 5.609; 5.618; 5.659(e); 882.515(a); 882.808(i)(1); 891.105; 960.259(c)(2); and 982.516(a)(3)

Summary: PHAs/MFH Owners may determine net family assets based on a self-certification by the family that the family's total assets are equal to or less than \$50,000, adjusted annually for inflation, without taking additional steps to verify the accuracy of the declaration at admission and/or reexamination. PHAs/MFH Owners are not required to obtain third-party verification of assets if they accept the family's self-certification of net family assets. When PHAs/MFH Owners accept self-certification of net family assets at reexamination^{F3}, the PHA/MFH Owner must fully verify the family's assets every three years.

^{F3} See 24 CFR § 5.659(e); 960.259(c)(2); 982.516(a)(3).

PHAs/MFH Owners may follow a pattern of relying on self-certification for two years in a row and fully verifying assets in the third year.

The family's self-certification must state the amount of income the family anticipates receiving from such assets. The actual income declared by the family must be included in the family's income, unless specifically excluded from income under 24 CFR § 5.609(b). PHAs/MFH Owners must clarify, during the self-certification process, which assets are included/excluded from net family assets.

PHAs/MFH Owners may combine the self-certification of net family assets and questions inquiring about a family's present ownership interest in any real property into one form.

Example F10: Self-Certification of Net Family Assets

We know from Example F1 that the Cross family's net family assets are \$0. In this case, the checking account earns 0.07 percent interest annually.			
<u>Cross Family's Personal Property</u>			
Item	Estimated Value	Type	Amount to be Considered as Non-Necessary Personal Property
Checking account	\$5,000	Non-necessary personal property	\$5,000
Ring (engagement ring)	\$3,000	Necessary personal property	\$0
Recreational boat	\$15,000	Non-necessary personal property	\$15,000
Total Non-necessary personal property			\$20,000
<u>Calculation of Cross Family's Total Net Assets</u>			
Asset	Total to be considered in Net Family Assets		Anticipated Income
Non-necessary Personal Property (Checking Account)	\$0		\$3.50
Real Property	N/A		N/A
Total:	\$0		\$3.50
The PHA/MFH Owner may accept a self-certification of assets from the Cross family if the PHA/MFH Owner has a policy to do so (see paragraph below this example for PHA/MFH Owner Discretion on accepting self-certification). The self-certification must include any anticipated income from assets. In this example, if the PHA/MFH Owner is accepting a self-certification of assets, then the calculations above would not need to be included on the self-certification form. Only the total anticipated income from assets must be included on the form.			

Note that in this instance, even though the checking account is excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), the family must report actual asset income from the checking account (in this case, \$3.50).

PHA/MFH Owner Discretion: PHAs/MFH Owners are not required to adopt a policy to allow for self-certification of net family assets for families with net family assets that are equal to or below \$50,000, adjusted annually for inflation. PHAs/MFH Owners who choose not to accept self-certifications of assets must verify all families' assets on an annual basis. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

Accepting a family's self-certification at admission may reduce the initial burden on applicants and speed up the lease-up process. In deciding whether to accept a self-certification of assets at admission, PHAs/MFH Owners are encouraged to consider the local needs and priorities in their communities along with the potential risks of accepting self-certification of net family assets, including the requirement to repay funds for participants/tenants who are later found to be ineligible for assistance.

PHAs/MFH Owners must include in their ACOPs, Administrative Plans, or Tenant Selection Plans, as applicable, whether and when they accept a self-certification of assets equal to or less than \$50,000, which amount will be adjusted annually by HUD. See [Attachment H](#) (Inflationary Adjustments) of this notice for more information.

ATTACHMENT G: TOPIC: INCOME EXCLUSIONS

Regulations

24 CFR §§ 5.609(b)(4)–(5); 5.609(b)(7)–(10); 5.609(b)(14)–(15); 5.609(b)(17); 5.609(b)(19)–(24); 5.609(b)(24)(i)–(vii); 5.609(b)(25); 5.609(b)(27)–(28); 5.611; and 891.105

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

The section below provides descriptions and clarifying information for new and updated income exclusions referenced in 24 CFR § 5.609(b). Please note that this section does not address all income exclusions listed in 24 CFR § 5.609(b) but only those that are newly added or updated by the final rule.

PHAs/MFH Owners must revise their interview guides and individual verification forms to ensure that adequate information will be collected to make appropriate income exclusion determinations.

Subtopics

G.1 Nonrecurring Income

Regulation: 24 CFR §§ 5.609(b)(24) and CFR 891.105

Summary: The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad exclusion of temporary, nonrecurring, or sporadic income.

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, an increasing number of cities and states are piloting guaranteed income

programs that have discrete beginning and end dates. This income can be excluded as nonrecurring in the final year of the pilot program. For example, for an annual reexamination effective 2/1/2024, guaranteed income that will be repeated in the coming year but will end before the next reexamination on 2/1/2025 will be fully excluded from annual income.

Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general one-time payments received by or on behalf of the family.

The following list of exclusions is codified at 24 CFR § 5.609(b)(24) as nonrecurring income. Please note that the list is not exhaustive:

- Payments from the U.S. Census Bureau for employment lasting no longer than 180 days and not culminating in permanent employment;
- Direct federal or state economic stimulus payments;
- Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received;
- Amounts directly received by the family as a result of federal refundable tax credits or federal tax refunds at the time they are received;
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding, baby shower, or anniversary gifts);
- In-kind donations (e.g., food, clothing, or toiletries received from a food bank or similar organization); and
- Lump-sum additions to net family assets (e.g., lottery winnings, contest winnings, etc.).

PHAs/MFH Owners may accept a self-certification from the family stating that the income will not be repeated in the coming year.

Example G1: Recurring and Nonrecurring Income

Scenario A: Non-recurring earned income excluded from annual income: Justin Clark worked for four months over the past year for a company that has since gone out of business. During the Clark family's reexamination interview, the PHA/MFH Owner asks Justin whether he expects to work for the company again in the coming year. Justin provides proof that the company went out of business. The PHA/MFH Owner must exclude Justin's earned income received from the company that went out of business from the family's annual income.

Scenario B: Recurring earned income included in annual income: Ana Johnson works as an independent information technology (IT) contractor during various times of the year, when her clients require additional IT contract support. Ana reasonably believes that she will be contracted again the following year based on discussions with her clients. The PHA/MFH Owner must include the income that Ana earns as an IT contractor in the family's annual income.

Scenario C: Guaranteed Basic Income (GBI) excluded from annual income: Lucretia Jones reports at her upcoming annual reexamination effective on 5/1/24 that her GBI program will be ending

on 1/31/25. The PHA/MFH Owner excludes this income because the programs will stop before the next annual reexamination on 5/1/25. This income must be excluded, because there is a set term for the program, and the payments will not be repeated beyond the coming year, which is the final year of a GBI program.

Scenario D: Research stipend included as annual income: Lillian Gonzalez reports at the annual reexamination that will be effective on 5/1/24 that she receives monthly payments for participation in a research project that is expected to last for 18 months and will end on 9/30/25. The PHA/MFH Owner includes this as income because the amounts will be received through the next annual reexamination on 5/1/25. For the 5/1/25 annual reexamination, the family provides a letter stating that the income will end on 9/30/25, so the PHA/MFH Owner will exclude the income received after the 5/1/25 annual reexamination.

PHA/MFH Owner Discretion: None.

G.1.a Nonrecurring Income: Temporary U.S. Census Bureau Employment

Regulation: 24 CFR § 5.609(b)(24)(i)

Summary: Payments from the U.S. Census Bureau for employment relating to the decennial census or the American Community Survey lasting no longer than 180 days and not culminating in permanent employment are excluded from annual income. However, it should be noted that any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

PHA/MFH Owner Discretion: None.

G.1.b Nonrecurring Income: Economic Stimulus or Recovery Payments

Regulation: 24 CFR § 5.609(b)(24)(ii)

Summary: Direct federal or state payments intended for economic stimulus or recovery are excluded from annual income.

HUD will continue to advise PHAs/MFH Owners of which payments are considered economic stimulus or recovery payments for the purposes of income calculation.

PHA/MFH Owner Discretion: None.

G.1.c Nonrecurring Income: State Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iii)

Summary: Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.d Nonrecurring Income: Federal Tax Refunds

Regulation: 24 CFR § 5.609(b)(24)(iv)

Summary: Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.e Nonrecurring Income: Gifts

Regulation: 24 CFR § 5.609(b)(24)(v)

Summary: Gifts for holidays, birthdays, or other significant life events or milestones (e.g., weddings, baby showers, anniversaries) are excluded from annual income.

Example G2: Gifts for Holidays, Birthdays, or Other Significant Life Events or Milestones

Mariah Smith received a check for \$250 on her 25th birthday from her favorite aunt and \$30 from her cousin. These gifts are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.1.f Nonrecurring Income: In-Kind Donations

Regulation: 24 CFR § 5.609(b)(24)(vi)

Summary: Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization are excluded from annual income. When calculating annual income, PHAs/MFH Owners are prohibited from assigning monetary value to non-monetary in-kind donations received by the family.

Non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income. See (24 CFR § 5.609(b)(24)).

Example G3: In-Kind Donations

Jonas Crandall receives a basket weekly from the local food bank that includes both food and toiletries. Because this is an in-kind donation from the local food bank, the PHA/MFH Owner must not include the basket items in the calculation of annual income.

PHA/MFH Owner Discretion: None.

G.2 Lump-Sum Additions to Net Family Assets

Regulation: 24 CFR § 5.609(b)(24)(vii)

Summary: Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings, are excluded from annual income. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Example G4: Lump-Sum Additions to Net Family Assets

Scenario A: Trevor Lucky bought 10 lottery tickets and discovered that one of the tickets won Trevor \$1,000. Trevor reported his winnings as part of an interim reexamination. The PHA/MFH Owner determined that the lottery winnings are a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario B: Logan fundraises \$5,000 online to help pay for personal expenses (e.g., “Go Fund Me”). The PHA/MFH Owner verified with Logan that this was a one-time solicitation for donations of cash and

that Logan does not intend for this to be a recurring source of income. The \$5,000 is a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Scenario C: At the next annual reexamination, the PHA/MFH Owner determines that Logan solicited for donations online a second time and raised an additional \$4,500. Again, Logan certified that he does not intend for this to be a recurring source of income, but, because the PHA/MFH Owner can establish a pattern, the \$4,500 is **not** considered a lump-sum addition to net family assets and **should** be included in the annual income calculation.

PHA/MFH Owner Discretion: None.

G.3 Income Earned on Amounts Placed in a Family's Family Self Sufficiency (FSS) Account

Regulation: 24 CFR § 5.609(b)(27)

Summary: Income earned on amounts placed in a family's FSS account is excluded from the family's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.4 Income of Live-in Aides, Foster Children, and Foster Adults

Regulation: 24 CFR § 5.609(b)(8)

Summary: Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is excluded from the family's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.5 Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments

Regulation: 24 CFR § 5.609(b)(4)

Summary: Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments, are excluded from annual income.

This income exclusion also applies to Kinship Guardian Assistance Payments (Kin-GAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

PHA/MFH Owner Discretion: None.

G.6 Insurance Payments or Settlements

Regulation: 24 CFR § 5.609(b)(5)

Summary: Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation continue to be included in annual income.

Example G5: Insurance Payments or Settlements

Bethanne Williams received a settlement from her insurance company in the amount of \$2,500 because of a car accident. Bethanne's car accident settlement payment is excluded from annual income.

Example G6: Workers' Compensation Received In Lieu of Wages

Tobias Reynolds was injured in a work accident. He is receiving worker's compensation equal to his salary paid in biweekly installments for a period of less than one year. These amounts are excluded from annual income.

PHA/MFH Owner Discretion: None.

G.7 Civil Action Recoveries or Settlements

Regulation: 24 CFR § 5.609(b)(7)

Summary: Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a person with disabilities are excluded from annual income. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment.

Example G7: Civil Action Recoveries or Settlements

Jacob Mitchell became a person with disabilities due to a construction site accident. He received \$60,000 from a civil negligence case. The \$60,000 received by Jacob is excluded from annual income.

PHA/MFH Owner Discretion: None.

G.8 Earned Income of Dependent Full-Time students

Regulation: 24 CFR § 5.609(b)(14)

Summary: Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the first \$480 of the income earned by dependent full-time students will be included in the family's calculation of annual income.

The dependent deduction will be adjusted annually in accordance with the (CPI-W). See [Attachment H](#). Full-time dependent students are eligible to receive both the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA/MFH Owner Discretion: None.

G.9 Adoption Assistance Payments

Regulation: 24 CFR § 5.609(b)(15)

Summary: Adoption assistance payments in excess of \$480 per adopted child are excluded from the family's calculation of annual income. This amount will be adjusted annually in accordance with the CPI-W. See [Attachment H](#).

All dependents, including adopted family members, are eligible to receive the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

PHA/MFH Owner Discretion: None.

G.10 Veterans Regular Aid and Attendance

Regulation: 24 CFR § 5.609(b)(17)

Summary: Payments to veterans in need of regular aid and attendance are excluded from annual income under 38 U.S.C. 1521. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse.

Certain veterans are eligible for “aid and attendance” payments from the Veterans Affairs (VA) Administration. These payments are distinct from payments made to veterans under other VA programs, including the Veterans Pension program. PHAs/MFH Owners should carefully review any income documentation provided by the family, because many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income.

PHA/MFH Owner Discretion: None.

G.11 Home-Based Care Payments for a Family Member(s) with a Disability(ies)

Regulation: 24 CFR § 5.609(b)(19)

Summary: Payments made by or authorized by a state Medicaid agency (including through a managed-care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family’s assisted unit are excluded from the calculation of the family’s annual income. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through a managed-care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family’s assisted unit.

A family member with a disability qualifies for this income exclusion. Amounts received may be intended for items such as services, equipment, and compensation provided to a family member. The payments are excluded from income as long as the amounts are provided to enable a family member with a disability to remain in the family’s assisted unit. Both the person providing the care and the person who has the disability must be family members (not household members) and must live in the same assisted household. The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.

PHA/MFH Owner Discretion: None.

G.12 Loan Proceeds

Regulation: 24 CFR § 5.609(b)(20)

Summary: Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family to finance the purchase of a car) are excluded from annual income. The

loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable.

Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

PHA/MFH Owner Discretion: None.

G.13 Certain Payments Received by Tribal Members

Regulation: 24 CFR § 5.609(b)(21)

Summary: Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code (IRC) or other federal law, are excluded from annual income.

Generally, payments received by tribal members in excess of the first \$2,000 of per-capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained below, payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by this notice.^{G1}

The following two subsections describe the circumstances when settlement payments paid to Tribal members are excluded from annual income through federal law or as required under the IRC.

G.13.a Cobell Settlement

In *Elouise Cobell et al. v. Ken Salazar et al.*,^{G2} a class of individual members of Indian tribes filed suit against the United States for its failure to adequately manage certain trust assets. The settlement was authorized pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). In accordance with the Act, lump-sum or periodic payments received by an individual Indian under the Cobell Settlement are statutorily excluded from counting toward a family's annual income, or as a resource, for purposes of determining initial eligibility or level of HUD assistance, for a period of one year from the time of receipt of that payment. This exclusion from income applies to all HUD programs and is included in the

^{G1} A payment received by a tribal member from the tribe for distribution of Indian gaming profits is not a per-capita payment within the meaning of the Per Capita Distribution Act and does not qualify for income exclusion. If a family member who is a tribal member receives the Internal Revenue Service (IRS) Form 1099–MISC, Miscellaneous Income, from the tribe for reporting Indian gaming profits, then this payment must be counted toward the family's annual income.

^{G2} https://naturalresources.house.gov/uploadedfiles/cobellsettlementagreement_120709.pdf.

list of federally mandated exclusions from annual income that HUD periodically publishes in the *Federal Register*.^{G3}

G.13.b Tribal Trust Settlements

The United States has entered into settlements with a number of federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted in, or will result in, per-capita payments to Indian families by Indian tribes. To date, at least 70 Indian tribes have settled Tribal Trust cases.

24 CFR 5.609(b)(21) requires that certain payments received by Tribal members, to the extent that such payments are excluded from gross income under the IRC, must be excluded from family income. The Internal Revenue Service (IRS) issued guidance in IRS Notice 2013–1, “Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases,” advising that per-capita payments made from the proceeds of the enumerated Tribal Trust Settlements are excluded from the gross income of the members of the tribe receiving the per-capita payments under 25 USC 117b(a) and 25 USC 1407.

IRS Notice 2013–1 also clarifies, however, that per-capita payments that exceed the amount of the Tribal Trust Settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are included in the gross income of the members of the tribe receiving the per-capita payments. For example, if an Indian tribe receives proceeds under a settlement agreement, invests the proceeds in a private bank account that earns interest, and subsequently distributes the entire amount of the bank account as per-capita payments, then a member of the tribe excludes from gross income that portion of the member’s per-capita payment attributable to the settlement proceeds under 25 USC 117b(a) and 25 USC 1407 and must include the remaining portion of the per-capita payment in gross income in accordance with the guidance provided in IRS Notice 2013-1. Per-capita payments not excluded from gross income in accordance with the IRC should be reviewed for potential exclusion as “nonrecurring income” (24 CFR § 5.609(b)(24)) or as “lump sum additions to net family assets” (24 CFR § 5.609(b)(24)(vii)).

The IRS last updated the list of Indian tribes who have entered into Tribal Trust Settlements with the United States in 2013,^{G4} and for whom per-capita Tribal Trust payments are excluded from gross income. PHAs/MFH Owners should ensure they are reviewing the current list of Tribal Trust Settlements when determining whether a family’s per-capita proceeds should be excluded from annual income.

^{G3} Last published on 5/20/2014: <https://www.federalregister.gov/documents/2014/05/20/2014-11688/federally-mandated-exclusions-from-income-updated-listing>.

^{G4} See IRS Notice 2013-55, available at: <http://www.irs.gov/pub/irs-drop/n-13-55.pdf>.

Example G8: Tribal Trust Settlements

Scenario A: An Indian tribe received \$1.2 million from a Tribal Trust Settlement. The Indian tribe immediately distributed per-capita payments to its members. The Tribal Trust Settlement is treated in accordance with the guidance in IRS Notice 2013–1 and excluded from adjusted gross income under 25 USC 117b(a) and 25 USC 1407. Therefore, the per-capita payments to members are excluded from annual income.

Scenario B: An Indian tribe received \$10 million from a Tribal Trust Settlement. The Indian tribe invested the settlement funds at a private institution. After a year, the Indian tribe distributed the settlement funds plus earned interest to its members. IRS Notice 2013–1 provides guidance that per capita payments that exceed the amount of the Tribal Trust case settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are not excluded from adjusted income under 25 USC 117b(a) and 25 USC 1407, so the interest payments to members are not excludable from annual income under 24 CFR 5.609(b)(21). The PHA/MFH Owner must determine whether the per-capita interest payments to members should be included in the family’s income or excluded from income under a different regulatory provision such as 24 CFR 5.609(b)(24).

Please note that the first \$2,000 of per capita payments are also excluded from assets, except when these per capita payments are in excess of the settlement amount and are included (IRS Notice 2013–1, 25 USC 117b(a), and 25 USC 1407).

PHA/MFH Owner Discretion: None.

G.14 Exclusions from Other Federal Statutes

Regulation: 24 CFR § 5.609(b)(22)

Summary: This exclusion applies to all amounts that HUD is required by federal statute to exclude from annual income. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

PHA/MFH Owner Discretion: None.

G.15 Replacement Housing Gap Payments

Regulation: 24 CFR § 5.609(b)(23)

Summary: Replacement housing “gap” payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“URA”), as implemented by 49 CFR Part 24, are excluded from annual income. “Gap” payments offset the increased out-pocket costs of displaced persons who move from one federally subsidized housing unit to another federally subsidized housing unit.

However, replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.

Replacement housing “gap” payments should cover a minimum of 42 months of tenancy at the new unit.

Example G9: Replacement Housing Gap Payments

The Patel family was displaced from their Project-Based Voucher unit as the result of a HUD-funded acquisition and rehabilitation of the property that will last longer than one year. The family subsequently obtained a Housing Choice Voucher (HCV) and moved into a home where the owner accepts HCVs. The Patels' rent and utility expenses are \$100 higher in their new unit. The Patels receive replacement housing "gap" payments of \$100 intended to cover the difference between the Patels' former rent and utility expenses in their Project-Based Voucher unit and their current rent and expenses under their HCV assistance. The "gap" payments must be excluded from the family's annual income for the period during which gap payments are provided under the URA (42 months) or the increased cost of rent and utilities is reduced or eliminated, whichever is shorter.

PHA/MFH Owner Discretion: None.

G.16 Student Financial Assistance

Regulation: 24 CFR § 5.609(b)(9)

Summary: The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

The two types of student financial assistance applicable to MFH and PIH programs are described below.

G.16.a Amounts Received Under Section 479B of the Higher Education Act (HEA) of 1965, as amended (20 U.S.C. 1087uu)

Section 479B provides that certain types of student financial assistance are to be excluded in determining eligibility for benefits made available through federal, state, or local programs financed with federal funds. The types of financial assistance listed below are considered 479B student financial assistance programs; however, this list is not exhaustive, and 479B will be updated as of July 1, 2024.

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Student financial assistance received under the Bureau of Indian Education;
- Higher Education Tribal Grant;
- Tribally Controlled Colleges or Universities Grant Program;
- Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

G.16.b Other Student Financial Assistance

Other student financial assistance includes grants or scholarships received from the following sources:

- The Federal government;
- A state (including U.S. territories), Tribe, or local government;
- A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Other student financial assistance does not include:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA); or
- Gifts, including gifts from family or friends.

Note: Other student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. The PHA/MFH Owner must verify that the other student financial assistance is for the student's actual covered costs.

The following sections describe the treatment of the two above-described types of student financial assistance by program type.

G.16.c Non-Section 8 Programs Subject to this Notice

All assistance received under 479B of the HEA by students participating in the Public Housing or non-Section 8 programs administered by MFH is excluded from income. Other student financial assistance received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs is not excluded from income. Prior to the final rule, the full amount of student financial assistance paid directly to the student or to the educational institution was excluded.

Actual covered costs include: tuition, books, supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and fees required and charged to a student by an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1087uu)). For a student who is not the head of household, co-head, or spouse, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. This formula is illustrated in chart 2, below.

Chart G1: Steps in Calculating Amount of Other Student Financial Assistance

Step 1: Subtract the **amount received under section 479B of the HEA** from the **actual covered costs** to arrive at the **amount of actual covered costs exceeding section 479B assistance**.

If the amount of assistance received under section 479B of the HEA exceeds the actual covered costs and the student did not receive any other student financial assistance, then step 2 is not necessary; none of the student financial assistance will be included in income, because the assistance received under section 479B of the HEA is excluded from income for students participating in the Public Housing and non–Section 8 programs administered by MFH.

Step 2: Subtract the **actual covered costs exceeding section 479B assistance** from the amount of **other student financial assistance** to arrive at the amount of **student financial assistance included in income**.

Step 2 requires the amount of other student financial assistance received by the student to be subtracted from the amount of actual covered costs paid by other means. If the resulting number in Step 2 is a positive amount, then that is the amount that should be included in the family's income. If the resulting number in Step 2 is zero or a negative amount, then there will be no student financial assistance included in income (i.e., all student financial assistance is excluded from annual income).

The following examples illustrate the treatment of student financial assistance for Public Housing and non–Section 8 programs:

Example G10: Treatment of Student Financial Assistance in Non–Section 8 Programs

Juan is a full-time student, and he received the following grants and scholarships to cover his first year of college: Federal Pell Grant: \$25,000; University Scholarship: \$15,000; Rotary Club Scholarship: \$3,000.

Total assistance received under 479B of HEA:
\$25,000 (Federal Pell Grant)

Total other student financial assistance received:
\$18,000

Juan's actual covered costs: \$28,000

Step 1: Determine amount of actual covered costs exceeding section 479B assistance.

\$28,000 (actual covered costs) **minus** \$25,000 (total assistance received under 479B of HEA) **equals** \$3,000

Step 2: Determine amount of student financial assistance to include in income.

\$18,000 (other student financial assistance received) **minus** \$3,000 (actual covered costs exceeding section 479B assistance) **equals** \$15,000 (if negative, then use \$0)

Amount of student financial assistance included in Juan's income: \$15,000

**Example G11: Treatment of Student Financial Assistance in
Non-Section 8 Programs**

<p>Sarah is a part-time student, and she received the following amounts to cover her first year of college: Federal Perkins Loan: \$2,000; Scholarship from Local Car Dealership: \$500; Gift from Aunt Lois: \$1,000.</p> <p>The \$1,000 is a gift from Aunt Lois, so it is not considered student financial assistance, and it is not considered in this calculation. Note: If Aunt Lois gives Sarah the \$1,000 gift as a one-time, lump-sum payment, it would be excluded from income under 24 CFR § 5.609(b)(24)(vii).</p>	
<p>Total assistance received under 479B of HEA: \$2,000 (Federal Perkins Loan)</p> <p>Total other student financial assistance received: \$500</p> <p>Total non-student financial assistance: \$1,000</p> <p>Total student financial assistance: \$2,500</p>	<p>Sarah's actual covered costs: \$3,000</p>
<p>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.</p> <p>\$3,000 (actual covered costs) minus \$2,000 (total assistance received under 479B of HEA) equals \$1,000</p>	<p>Step 2: Determine amount of student financial assistance to include in income.</p> <p>\$500 (other student financial assistance received) minus \$1,000 (amount of actual covered costs exceeding section 479B assistance) equals – \$500 (if negative, then use \$0)</p>
<p>The amount of student financial assistance received by Sarah is less than her actual covered costs after deducting assistance received under 479B of the HEA and other student financial assistance received, therefore there is no student financial assistance to include in income.</p> <p>Amount of student financial assistance included in Sarah's income: \$0</p>	

**Example G12: Treatment of Student Financial Assistance
in Non-Section 8 Programs**

<p>Dante is a full-time student, and he received the following amounts to cover his first year of college: Federal Pell Grant: \$9,000; Federal Perkins Loan: \$13,000; Local Library Scholarship: \$1,000.</p>	
<p>Total assistance received under 479B of HEA: \$22,000 (Federal Pell Grant plus Federal Perkins Loan)</p> <p>Total other student financial assistance received: \$1,000</p>	<p>Dante's actual covered costs: \$16,000</p>
<p>Step 1: Determine amount of actual covered costs exceeding section 479B assistance.</p> <p>\$16,000 (actual covered costs) minus \$22,000 (total assistance received under 479B of HEA) equals \$–6,000</p>	<p>Step 2: Determine amount of student financial assistance to include in income.</p> <p>Not necessary because Step 1 resulted in a negative amount, so all other student financial assistance would be included in Dante's income</p>
<p>Amount of student financial assistance included in Dante's income: \$1,000</p>	

G.16.d Section 8 (Including HCV and 202/8)

There are distinct differences in the treatment of student financial assistance between the Section 8 program and the Public Housing and non-Section 8 programs administered by MFH due to language in the annual appropriations acts. Section 210(b) of the Consolidated Appropriations Act, 2023,^{G5} requires that, “for purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition and any other required fees and charges) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except for a person over the age of 23 with dependent children.” HUD interprets that “a person over the age of 23” is 24 years old.

While the Consolidated Appropriations Act, 2023, language is limited to federal fiscal year 2023, this does not rule out the possibility that similar language will be included in future years’ appropriations bills. For any funds from a year where HUD’s appropriations include this Section 8 student financial assistance limitation, if the student is the head of household, co-head, or spouse and is under the age of 23 or without dependent children, then both the assistance received under 479B of the HEA and other student financial assistance received by the student will be counted as income to the extent that it exceeds the total of tuition and any other required fees and charges.^{G6} In contrast, the student financial assistance received by a Section 8 student who is the head of household, spouse, or co-head of household and is over the age of 23 with dependent children will be treated in a manner identical to the student financial aid received by students who participate in the Public Housing and non-Section 8 programs administered by MFH.

During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described above for the Public Housing and non-Section 8 programs administered by MFH.

There are two steps required as part of the calculation for Section 8 students, the first of which is to determine the student’s relationship to the household, age, and whether they have dependent children; based on the result of the first step, the second step is to calculate whether any excess student financial assistance should be included in the family’s income. If the student is the head of household, co-

^{G5} <https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf>.

^{G6} The definition of tuition and other required fees and charges for Section 8 students is synonymous with the definition of “actual covered costs” described in the previous section for the Public Housing and non-Section 8 programs administered by MFH. For Section 8 students, HUD uses the term “tuition and other required fees” solely to reflect the language in the appropriations bill.

head, or spouse and is 23 or younger or does not have dependent children, then 479B assistance **will** be part of the total equation (see example G1, below). If the student is over 23 with dependent children, then the calculation will be identical for Public Housing and non–Section 8 MFH students, as described above.

The formula for calculating the excess amounts of financial assistance included in annual income is a one-step process of subtracting the total student financial assistance from all sources from the total tuition plus required fees and charges. The one-step calculation is illustrated in chart 3, below.

Chart G2: Formula for Calculating Excess Amounts of Financial Assistance

Subtract **total student financial assistance from all sources** from **total tuition plus required fees and charges** to arrive at **excess amount of student financial assistance**.

If the excess amount of student financial assistance is a positive number, then include that amount in annual income. If the excess amount of student financial assistance is zero or negative, then do not include that amount in annual income.

If the total tuition plus required fees and charges is zero or exceeds the amount of total financial assistance from all sources, then no excess amounts of student financial assistance will be included in annual income. Any amount of student financial assistance that exceeds the total tuition plus required fees and charges must be included in annual income.

Example G13: Treatment of Student Financial Assistance in Section 8 Programs

Roberto is a 22-year-old full-time student without dependent children. Since Roberto is a Section 8 participant head of household who is not over 23 with dependent children, the PHA/MFH Owner follows the Appropriations Act policy to determine if Roberto receives student financial assistance in excess of tuition from both HEA and other sources. Roberto received the following amounts to cover his first year of college: Federal Pell Grant: \$12,000; University Scholarship: \$22,000; City Scholarship: \$3,000.

Total assistance received under 479B of HEA:
\$12,000 (Federal Pell Grant)

Total other student financial assistance received:
\$25,000

Total student financial assistance from all
sources: \$37,000

Total tuition + required fees and charges: \$27,000

Subtract the total cost of tuition + required fees and charges from the total amount of student financial assistance: \$37,000 – \$27,000 = \$10,000

The total amount of student financial assistance from all sources received by Roberto exceeds the total amount of tuition and required fees and charges.

Excess student financial assistance: \$10,000

Amount of student financial assistance included in Roberto’s income: \$10,000

**Example G14: Treatment of Student Financial Assistance
in Section 8 Programs**

Cedric is a 28-year-old head of household and a full-time student with a 5-year-old daughter and a 9-year-old son who are his dependents. The PHA/MFH Owner will follow the rules under § 5.609(b)(9) (the same as for non-Section 8 programs) as described in the previous section. Cedric received the following amounts to cover his first year of college: Teach Grant: \$8,000; Federal Pell Grant: \$3,000; College Scholarship: \$6,000.	
Total assistance received under 479B of HEA: \$11,000 (Teach Grant plus Federal Pell Grant) Total other student financial assistance received: \$6,000	Total tuition + required fees and charges: \$26,000
Step 1: Determine amount of tuition plus required fees exceeding 479B assistance. \$26,000 (total tuition + required fees and charges) minus \$11,000 (total assistance received under 479B of HEA) equals \$15,000	Step 2: Determine amount of student financial assistance to include in income. \$6,000 (other student financial assistance received) minus \$15,000 (amount of tuition + required fees and charges exceeding 479B assistance) equals -\$9,000 (if negative, then use \$0)
The amount of other student financial assistance received by Cedric does not exceed the total amount of tuition and required fees and charges.	
Excess student financial assistance: \$0	
Amount of student financial assistance included in Cedric's income: \$0	

**Example G15: Treatment of Student Financial Assistance
in Section 8 Programs**

Angel is a 38-year-old full time student, head of household, without dependent children. Since Angel does not have dependent children, the Appropriations Act policy does not apply, and the PHA/MFH Owner must include assistance received under 479B of the HEA as part of the excess student financial aid calculation. Angel received the following amounts to cover her first year of college: Perkins Loan: \$8,000.	
Total assistance received under 479B of HEA: \$8,000 (Perkins Loan)	Total tuition + other fees and charges: \$6,200
Determine whether the amount of student financial assistance, including 479B assistance, exceeds the total of tuition + required fees and charges: \$8,000 – \$6,200 = \$1,800	
Excess student financial assistance: \$1,800	
Amount of student financial assistance included in Angel's income: \$1,800	

PHA/MFH Owner Discretion: None.

G.17 Achieving a Better Life Experience (ABLE) Accounts

Regulation: 24 CFR § 5.609(b)(22)

Summary: ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income.

HUD developed specific guidance on ABLE accounts based on language included in the ABLE Act of 2014. Certain contributions deposited into ABLE accounts are excluded in addition to the above-mentioned exclusions. See *Treatment of ABLE Accounts in HUD-Assisted Programs* (Notice H 2019–06/PIH 2019–09).

PHA/MFH Owner Discretion: None.

G.18 Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and “Baby Bond” Accounts

Regulation: 24 CFR § 5.609(b)(10)

Summary: Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government are excluded from income and net family assets.

PHA/MFH Owner Discretion: None.

G.19 Gross Income from Self-Employment or Operation of a Business

Regulation: 24 CFR §§ 5.609(b)(24) and 5.609(b)(28)

Summary: The gross income received by a family through self-employment or the operation of a business is excluded from income. Gross income is all income amounts received into the business, prior to the deduction of business expenses. To determine the amount of business or self-employment income included in a family’s annual income, the net income of the business must first be determined.

Net income is the “gross income amount minus business expenses” that allows the business to operate.

The net income from self-employment or the operation of a business is considered income. Expenditures for business expansion or amortization of capital indebtedness are not deductible when determining the income from a business. An allowance for the depreciation of assets used in a business or profession may be deducted, based on a straight-line depreciation, as provided in IRS’s regulations.^{G7} Any withdrawal of cash or assets from the operation of a business is income except to the extent that such withdrawal is to reimburse the family member for cash or assets that the family has invested in the operation of the business.

^{G7} 26 CFR § 1.167(b)-1 Straight line method: [https://www.ecfr.gov/current/title-26/chapter-I/subchapter-A/part-1/subject-group-ECFRc4930337f38ecfd/section-1.167\(b\)-1](https://www.ecfr.gov/current/title-26/chapter-I/subchapter-A/part-1/subject-group-ECFRc4930337f38ecfd/section-1.167(b)-1).

**Example G16: Exclusion of Gross Income
from Self-Employment or Operation of a Business**

Bill Conrad is the sole owner of BC Lawn Service. BC Lawn Service grossed \$75,000 annually in 2024. BC Lawn Service also incurred a total of \$35,000 in business expenses, including lawn equipment, rakes, insurance, depreciation of a tractor, and wage payments. After subtracting the \$35,000 in business expenses from the \$75,000 gross income, the net income is \$40,000, which will be included in Bill's calculation of annual income.

PHA/MFH Owner Discretion: None.

G.20 Elimination of the Earned Income Disregard (EID)

Regulation: 24 CFR § 5.611

Summary: The Earned Income Disregard (EID) will not apply to any family who is not eligible for **and already participating in** the disallowance as of December 31, 2023.

The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months.

Although HOTMA eliminates the EID from HUD regulations, families who were receiving the EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

Note: The EID policies described above are distinct from similar policies in the Jobs Plus program. Families eligible to receive the Jobs Plus program rent incentive (Jobs Plus Earned Income Disregard (JPEID)) pursuant to the FY2023 Notice of Funding Opportunity (NOFO) or earlier appropriation distributed through prior Jobs Plus NOFOs may continue to receive JPEID under the terms of the NOFO. The JPEID was established by HUD as an alternative requirement to EID for Jobs Plus grantees by waiving section 3(d) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(d)) and § 960.255(b) and (d). For more information about JPEID waivers and alternative requirements, please review the following *Federal Register* notices: [80 FR 13415](#) (March 13, 2015) and [83 FR 13506](#) (March 29, 2018).

PHA/MFH Owner Discretion: None.

G.21 Civil Rights Settlements or Judgments

Regulation: 24 CFR § 5.609(b)(25)

Summary: Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.

Historically HUD has followed a practice of excluding from income civil rights settlements and judgments as lump-sum additions to assets, which would include amounts received as a result of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under nondiscrimination laws. However, this new exclusion clarifies that even where such payments are not lump-sum payments but instead may have a payment schedule, such payments are excluded. Additionally, this

exclusion applies to back pay received by the family pursuant to a civil rights settlement or judgment.

PHA/MFH Owner Discretion: None.

ATTACHMENT H: TOPIC: INFLATIONARY ADJUSTMENTS

Regulations

See table H1, below.

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

HUD will annually publish the eight inflation-adjusted items in the table below no later than September 1, and the updated values will be shared online at the [HUDUser Web site](#). The publication will apply to both MFH and PIH programs. The revised amounts will be effective on January 1 of the following year. The first set of adjustments for inflation will be made effective January 1, 2025.

HUD plans to publish in the *Federal Register* a notice soliciting the public's comment on HUD's methodology for recalculating inflationary adjusted items.

Table H1: Inflationary Adjustment Items

Adjusted Item	Regulatory Reference	Notice Section	Amount Effective on 1/1/2024 (subject to Annual Adjustment)	Rounding Methodology	Applicable Programs
Eligibility restriction on net family assets	24 CFR § 5.618(a)(1)(i)	Attachment A	\$100,000	Nearest dollar	Section 8 PBRA, 202/8, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Threshold above which imputed returns must be calculated on net family assets	24 CFR §§ 5.609(a)(2) and (b)(1)	Attachment F	\$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing,

					Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Threshold above which the total value of non-necessary personal property is included in net family assets	24 CFR § 5.603(b) <i>Net family assets</i>	Attachment F	\$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
The amount of net assets for which the PHA/MFH Owner may accept self-certification by the family	24 CFR § 5.618(b)(1) 24 CFR § 5.659(e) 24 CFR § 92.203(e)(1) 24 CFR § 93.151(e)(1) 24 CFR § 882.515(a) 24 CFR § 882.808(i)(1) 24 CFR § 960.259(c)(2) 24 CFR § 982.516(a)(3)	Attachment F	\$50,000	Nearest dollar	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Mandatory deduction for elderly and disabled families	24 CFR § 5.611(a)(2)	Attachment C	\$525	Next lowest multiple of \$25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Mandatory deduction for a dependent	24 CFR § 5.611(a)(1)	Attachment C	\$480	Next lowest multiple of \$25	Section 8 PBRA, 202/8, 202/811 PRAC, 236

					IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Income exclusion for earned income of dependent full-time students	24 CFR § 5.609(b)(14)	Attachment G	\$480	Next lowest multiple of \$25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO
Income exclusion for adoption assistance payments	24 CFR § 5.609(b)(15)	Attachment G	\$480	Next lowest multiple of \$25	Section 8 PBRA, 202/8, 202/811 PRAC, 236 IRP, 811 PRA, SPRAC, HCV, Public Housing, Section 8 Mod Rehab, Section 8 Mod Rehab SRO

HUD will annually publish the recalculated inflationary-adjusted items to HUD's Policy Development and Research Web site, [HUDUser](#). The new amounts will become effective January 1 of the following year.

PHAs/MFH Owners must use the adjusted levels post to HUD User for income and asset calculations effective on or after January 1 of the following year. Note that it will be particularly important for PHAs/MFH Owners who begin reexaminations 90 to 120 days in advance of the effective date of the reexamination to update their documents in a timely manner, because several of these figures must be known from the outset of the reexamination. For example, when a PHA/MFH Owner issues a reexamination notice and requests documents from a family, they must be able to provide a form for the self-certification of assets that includes the updated threshold value of net family assets above which the family may not self-certify.

ATTACHMENT I: TOPIC: INTERIM REEXAMINATIONS

Regulations

24 CFR §§ 5.567(c)(1); 882.515(b)(1); 960.257(b)(1); 982.516(c)(1); 891.105; 891.410(g); and 891.610(g)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA ¹¹ , SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA/MFH Owner must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA/MFH Owner becomes aware of a change in the family's adjusted income that must be processed in accordance with the final rule. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA/MFH Owner generally should conduct the interim reexamination not longer than 30 days after the PHA/MFH Owner becomes aware of changes in income.

The following subsection focuses on HOTMA's revisions to income reexamination requirements. The final rule changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA/MFH Owner determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in annual adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed. HUD recommends as a best practice that PHAs/MFH Owners maintain documentation of all reported decreases in annual adjusted income in the family's file, including those that did not result in an interim reexamination. HUD also recommends reviewing the applicable regulations to ensure that any program-specific reexamination requirements are addressed¹².

¹¹ HUD is applying 24 CFR § 5.657 to 811 PRA families pursuant to Section 2.4(a)(1) of the Rental Assistance Contract (RAC) Part II.

¹² For example, see 24 CFR § 891.410(g) and § 891.610(g)(3)

I.1 Decreases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(2); 882.515(b)(2); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(2); and 982.516(c)(2)

Summary: A family may request an interim determination of family income for **any** change since the last determination. However, the PHA/MFH Owner may decline to conduct an interim reexamination of family income if the PHA/MFH Owner estimates that the family's adjusted income will decrease by an amount that is less than 10 percent of the family's annual adjusted income. PHAs/MFH Owners have the discretion to set a lower percentage threshold, in which case that lower percentage threshold must be included in the ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

PHAs/MFH Owners must conduct an interim reexamination of family income when the PHA/MFH Owner becomes aware that a family's annual adjusted income has changed by an amount that the PHA/MFH Owner estimates will result in a decrease of 10 percent or more in annual adjusted income or a lower threshold set by HUD or by a PHA/MFH Owner in their ACOP, Administrative Plan, or Tenant Selection Plan, as applicable. In addition to decreases in family income, increases in deductions may produce a sufficient decrease in adjusted income to support an interim reexamination effective January 1, 2024, or later.

HUD is using its discretion, as authorized by HOTMA, to establish a lower threshold through notice to process interim reexaminations under certain circumstances. Specifically, HUD is requiring PHAs/MFH Owners to apply a 0-percent threshold and to process an interim reexamination when there is a decrease in family size attributed to the death or permanent move-out from the assisted unit of a family member during the period since the family's last reexamination that results in a decrease in adjusted income of any amount. If there is no change/decrease in adjusted income as a result of the decrease in family size, then a non-interim transaction is processed instead of an interim reexamination. This 0-percent threshold for interim reexamination applies only to decreases in family size that result in a **decrease** in adjusted income. If the net effect of the changes in annual adjusted income due to a decrease in family size results in an **increase** in annual adjusted income, then PHA/MFH Owner will process the removal of the household member(s) as a non-interim reexamination transaction **without** making changes to the family's annual adjusted income.

Example I1: Interim Reexaminations / Decreases in Annual Adjusted Income

Scenario A: A family with an annual adjusted income of \$9,600 experiences a change in household composition and becomes eligible for two dependent deductions totaling \$960, resulting in a 10-percent decrease in the family's adjusted income. The \$960 decrease in the family's adjusted income would require an interim reexamination, because the income decrease meets the 10-percent threshold for an interim reexamination.

Scenario B: A family experiences an increase in deductible child-care expenses from \$0 to \$12,000 annually. Before the change, their annual adjusted income was \$40,000. Since the child-care expense deduction results in a greater than 10-percent reduction in annual adjusted income, an interim reexamination is required.

Scenario C: A family with an adjusted income of \$9,600 adds a dependent family member with no income. This would result in an adjusted income decrease of \$480 due to the dependent deduction. The decrease does not meet the 10-percent threshold of the family's adjusted income, and because this is a family member joining the assisted unit (as opposed to a decrease a family size). The PHA/MFH Owner is not required to conduct an interim reexamination. However, the PHA/MFH Owner has adopted a policy that has decreased the threshold from a 10-percent change to a 5-percent change, therefore the decrease would meet the threshold, triggering an interim reexamination.

Scenario D: A family member moved out of the assisted unit. The family's adjusted income prior to the change in household composition was \$20,000, but that number decreased to \$18,000 when the family member moved out. Since HUD requires PHAs/MFH Owners to process decreases in adjusted income greater than 0 percent due to decreases in family size, the PHA/MFH Owner must process an interim reexamination.

Scenario E: A family member moves into the assisted unit who receives \$20,000 in pension income (which is more than 10% of the household's adjusted income). At the same time, the head of household got a new job that increases the household's income by \$15,000 per year. The PHA/MFH Owner will process the increase in pension income due to the new household member but will not include the head of household increase in earned income until the next annual reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners may establish a percentage threshold lower than 10 percent of annual adjusted income for processing interim reexaminations due to decreases in a family's annual adjusted income. PHAs/MFH Owners must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, the percentage threshold they will use for conducting interim reexamination decreases of a family's annual adjusted income.

PHAs/MFH Owners **are not permitted** to establish a dollar-figure threshold amount instead of a percentage threshold. PHAs/MFH Owners may establish policies to round calculated percentage decreases up or down to the nearest unit (e.g., a calculated decrease of 9.5 percent may be rounded up to 10 percent).

I.2 Increases in Adjusted Income

Regulations: 24 CFR §§ 5.657(c)(3); 882.515(b)(3); 960.257(b)(3); and 982.516(c)(3); 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: PHAs/MFH Owners must conduct an interim reexamination of family income when the PHA/MFH Owner becomes aware that the family's adjusted income has changed by an amount that the PHA/MFH Owner estimates will result in an increase of 10 percent or more in annual adjusted income or another amount established through a HUD notice, with the following exceptions:

- PHAs/MFH Owners **may not** consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs/MFH Owners may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

Note: Families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA/MFH Owner's policies.

PHAs/MFH Owners **must not** process interim reexaminations for income increases that result in less than a 10-percent increase in annual adjusted income. When the family previously received an interim reexamination for a decrease to annual adjusted income during the same annual cycle, a PHA/MFH Owner has the discretion to consider or ignore a subsequent increase in **earned** income for the purposes of conducting an interim reexamination. PHAs/MFH Owners must identify in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable, if they perform interim reexaminations for **earned** income increases that result in a 10-percent increase in annual adjusted income. If a PHA/MFH Owner has a policy of considering increases in earned income after an interim conducted for a decrease in income, and the family's adjusted income has increased by 10 percent or more, the PHA/MFH Owner must conduct an interim reexamination in accordance with local policies. Conversely, PHAs/MFH Owners that adopt local policies to never consider increases in **earned** income must not perform an interim reexamination.

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA/MFH Owner must conduct an interim reexamination. When an increase of any size is reported by a family, it is a recommended best practice for the PHA/MFH Owner to note the reported increase in the tenant file.

Example I2: Interim Reexaminations / Increases in Annual Adjusted Income

Scenario A: The Martinez family's annual reexamination is due on 11/1/2024. The family no longer has child-care expenses for their three children. The family stopped paying for daycare as of 8/31/2024 and reported the change (and certified no other changes to annual household income or expenses) to the PHA/MFH Owner on 9/7/2024, resulting in an estimated 15-percent increase in the family's annual adjusted income. Although 15 percent is well above the 10-percent threshold, the PHA/MFH Owner does not process an interim reexamination, because they have a policy to not process changes reported within three months of the next annual reexamination.

Scenario B: The Allen family had an annual adjusted income of \$29,000 as of their last annual reexamination effective 5/1/2024. The family experienced the following changes to income and household composition since 5/1/2024:

- In July, the Allen family's eldest child, Kristina Allen (age 20), starts going to college full-time on a Pell Grant. Kristina is not employed, nor does she receive any other type of student financial assistance. The family now qualifies for a \$480 dependent deduction, because full-time students are considered dependents.
- The family reports Kristina's student status to the PHA/MFH Owner, which noted the change in the family's file. The PHA/MFH Owner is not allowed to perform an interim reexamination, because the dependent deduction represents a 1.7-percent decrease in the family's annual adjusted income, and the PHA/MFH Owner did not establish a threshold lower than 10 percent for interim decreases in income.
- In October, the family added an adult family member, Tom Smith, to the household. The new adult family member receives a pension of \$275 monthly, or \$3,300 annually.

The PHA/MFH Owner determined that the Allen family's new annual adjusted income is \$31,820, accounting for both the addition of Tom's pension income and the deduction of the full-time student dependent allowance for Kristina. The Allen family's annual adjusted income increased a total of \$2,820, or only 9.7 percent. Since this decrease is below the 10-percent threshold, the PHA/MFH Owner will not conduct an interim reexamination. Instead, they will process a non-interim transaction to add Tom to the family without changing the family's annual adjusted income effective 10/1/2024.

Scenario C: The Nguyen family's last annual reexamination was 4/1/2024. In June 2024, Patrick Nguyen lost his job, and the family's adjusted income fell from \$25,000 to \$13,000. The PHA/MFH Owner conducted an interim reexamination for the decrease in income. In November 2024, Kelly Nguyen finds a job, and the family's adjusted income rises to \$18,000. The PHA/MFH Owner has a policy of considering increases in earned income when an interim reexamination has been performed for a decrease in income. Since the family's adjusted income has increased by more than 10 percent when including earned income, and the family previously received an interim reduction during the same reexamination cycle, the PHA/MFH Owner will conduct an interim reexamination for the increase.

Scenario D: The Mosberg family had an annual adjusted income of \$35,909 based on earned income (and two dependent deductions) as of the last annual reexamination effective 6/1/2024. The family experienced the following changes to income since 6/1/2024:

- In August, Libby reported she received a raise at work, increasing her annual earned income by \$2,650. She also recently started receiving monthly child support payments of \$150, or \$1,800 annually. She reported no other changes to the PHA/MFH Owner. While the **combined** increase of earned income (wages) and unearned income (child support) is a 12.3-percent increase in annual adjusted income since the 6/1/2024 annual reexamination, the PHA/MFH Owner must look at the earned and unearned income changes independently to determine if an interim reexamination should be performed. The earned income is about 7 percent of the increase, and the unearned income is approximately 5 percent of the total 12.3-percent increase.

The PHA/MFH Owner documented in the tenant file that the family reported the change, but an interim reexamination was **not** performed, because the 5-percent increase in annual adjusted income based on **unearned** income does not meet the 10-percent threshold. Further, the PHA/MFH Owner may not perform an interim reexamination for Libby's 7-percent increase in annual adjusted income based on **earned** income, because an interim reexamination for an income decrease during the reexamination cycle was not completed **and** it does not meet the 10-percent threshold to perform an interim. Note: Even if Libby's change in earned income had exceeded 10 percent of her annual income, the PHA/MFH Owner may not perform an interim reexamination, because there was no prior interim reexamination for a decrease in income.

In November, Libby reported that her monthly child support payments increased again, from \$150 to \$325. She certified no other changes to income or deductions. Libby's annual **unearned** income from child support of \$3,900 is now a 10.8-percent increase in annual adjusted income (based on the effective 6/1/2024 annual reexamination), so the PHA/MFH Owner **must** perform an interim reexamination, but only for the **unearned** child support income. The PHA/MFH Owner will continue to disregard the increased **earned** income reported by the family until the Mosberg's next annual reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners have discretion on the following policies:

- Whether the PHA/MFH Owner will conduct interim reexaminations for income increases reported by families within the last three months of a family's reexamination period; and
- Whether the PHA/MFH Owner will count increases in earned income when estimating or calculating whether the family's adjusted income has increased and whether they will conduct interim reexaminations when families previously

underwent interim reexaminations for decreases in income (both earned and unearned income).

PHAs/MFH Owners must establish policies for the above-discretionary items in their ACOPs, Administrative Plans, and Tenant Selection Plans, as applicable.

PHA/MFH Owner Discretion: None.

I.3 Interim Reexaminations to Determine Public Housing Over-Income Status

Regulations: 24 CFR § 960.507

Summary: Regardless of changes in adjusted annual income, in some circumstances PHAs are required to conduct interim reexaminations of Public Housing families to determine whether they continue to exceed the income limit. When a PHA makes an initial determination that a Public Housing family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

Per 24 CFR 960.507(c), PHAs are required to conduct income examinations of Public Housing families who have been determined to exceed the over-income limit at specific intervals. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent. (24 CFR 960.253). The PHA must conduct an income examination 12 months after the initial over-income determination to determine and provide notification if the family remains over-income, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. The PHA must again conduct an income examination and provide notification 24 months after the initial over-income determination, unless the PHA determined the family's income fell below the over-income limit since the second over-income determination. An interim income reexamination to determine if a Public Housing family remains over-income does not reset the family's normal annual reexamination date.

See Notice PIH 2023–03 (HA) for additional guidance on the required reexaminations and notice for over-income Public Housing families.

Example I3: Interim Reexamination to Public Housing Over-Income Status

Scenario A: Uninterrupted Grace Period: The Blayney Family

In June 2024, the PHA processed an interim reexamination for the Blayney family effective 7/1/2024 due to an increase in the family's annual adjusted income of 10 percent or more. The PHA sent written notification of its initial determination that the family's income exceeds the applicable over-income limit. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 7/1/2025, to determine if the Blayney family remains over-income, even if the family is paying a flat rent. The PHA must notify the Blayney family that their income has exceeded the over-income limit for 12 consecutive months.

After completion of the 7/1/2025 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit for an additional 12 consecutive months. The PHA must

conduct a second interim reexamination, even if the family is paying flat rent, 24 months from the initial determination, or by 7/1/2026, to determine if the family remains over-income.

At the 7/1/2026 interim reexamination, the Blayney family's income continued to exceed the applicable over-income limit. The PHA must either terminate their tenancy in no more than six months from the end of the 24-consecutive-month grace period, by 1/1/2027, or charge them the alternative non-public housing rent (at the next lease renewal or in no more than 60 days after the final notice, whichever is sooner), depending on the PHA's continued occupancy policies.

Scenario B: Interrupted Grace Period: The Morrison Family

The Morrison family experienced an income increase that resulted in an interim reexamination effective 2/1/2024. The family was sent the required written notification no later than 30 days after the PHA's initial determination of the family's over-income status. The 24-month grace period starts.

The PHA must conduct an interim reexamination 12 months later, or by 2/1/2025, to determine if the family remains over-income, even if the family is paying a flat rent.

After completion of the interim reexamination effective 2/1/2025, the Morrison family remained over the applicable over-income limit. The PHA must conduct a second interim reexamination, even if the family is paying a flat rent, 24 months from the initial determination, or by 2/1/2026, to determine if the family remains over-income. However, at a regularly scheduled annual reexamination effective 5/1/2025, the family is determined to no longer be over-income. This is prior to the expiration of the 24-month grace period on 2/1/2026. Thus, the grace period no longer applies, and the family remains an income-eligible PH program participant.

If the family is determined to be over-income again in the future, they would be entitled to a new 24-consecutive-month grace period.

PHA Discretion: None.

I.4 Non-Interim Reexamination Transactions

Regulations: 24 CFR §§ 5.657(c)(2) 891.105; 891.410(g)(2); and 891.610(g)(2)

Summary: Families may experience changes within the household that do not trigger an interim reexamination under HOTMA but still need to be reported in a non-interim reexamination submission to HUD. In these cases, PHAs/MFH Owners will submit a separate, new action code on form HUD-50058/HUD-50059. Further instructions on the use of this action code will be provided along with supplemental guidance on other revisions to forms HUD-50058/HUD-50059. The code will be used for the following transaction types when an interim reexamination is not triggered under the final rule:

- Adding or removing a hardship exemption for the child-care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);

- Ending a family's EID or excluding 50 percent (decreased from 100%) of a family member's increase in employment income at the start of the second 12-month EID period.
- Adding a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Removing a family member and the **increase in adjusted income** does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

HCV Program Only:

- Processing contract rent changes that do not correspond with an interim or annual reexamination (including PBV rent increases);
- Implementing an update to the payment standard that does not correspond with an interim or annual reexamination.

Note: PHAs/MFH Owners will make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

I.5 Policies for Families to Report Changes to Annual Adjusted Income or Household Composition

Regulations: 24 CFR §§ 5.657(c)(4); 882.515(b)(1)–(4); 882.808(i)(4); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(4); and 982.516(d)

Summary: PHAs/MFH Owners must require families to report **household composition changes**; however, PHAs/MFH Owners determine the timeframe in which reporting happens. PHAs/MFH Owners must develop policies that describe when and under what conditions families must report **changes in annual adjusted income** consistent with the new requirements for processing interim reexaminations. PHAs/MFH Owners are responsible for educating families on the requirements for reporting changes. Families are responsible for reporting these changes to the PHA/MFH Owner. It is the PHA's/MFH Owner's responsibility to track all reported changes to a family's annual adjusted income to ensure that the PHA/MFH Owner is correctly processing interim reexaminations in accordance with HUD's requirements.

A PHA's/MFH Owner's policies may require families to report only changes that the family estimates meet the threshold for an interim reexamination, and the PHA/MFH Owner must determine if an interim reexamination is necessary. Alternatively, PHAs/MFH Owners may establish policies requiring that families report all changes in income and household composition, and the PHA/MFH Owner will subsequently determine if the change requires an interim reexamination.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to develop specific reporting policies that describe which changes must be reported to the PHA/MFH Owner and the timeline for reporting the change. For example, PHAs/MFH Owners may develop policies stipulating that families are not required to report **any** income increases that become effective within the last three months of the family’s certification period, or PHAs/MFH Owners may develop policies requiring families to report all changes to household composition, income, and deductions within 10 days of the change.

I.6 Processing Time Period for Interim Reexaminations

Regulations: 24 CFR §§ 5.657(c)(1); 882.515(b)(1); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(1); and 982.516(c)(1)

Summary: The updated regulations codified long-standing guidance on how long PHAs/MFH Owners should take to process an interim reexamination.

Families may request an interim determination of income or household composition because of any changes since the last determination. While the PHA/MFH Owner may decline to conduct an interim reexamination of family income if they estimate the family’s annual adjusted income will change by less than 10 percent, when the PHA/MFH Owner conducts an interim reexamination, it must be conducted within a reasonable period after the family’s request or after the PHA/MFH Owner becomes aware of an increase in the family’s adjusted income. What qualifies as a “reasonable time” may vary based on the amount of time it takes to verify information, but the PHA/MFH Owner generally should conduct the interim reexamination not longer than 30 days after the PHA/MFH Owner becomes aware of changes in income.

PHA/MFH Owner Discretion: None.

I.7 Effective Date of Interim Rent Changes

Regulations: 24 CFR §§ 5.657(c)(5); 882.515(b)(4)–(b)(5); 891.105; 891.410(g)(2); 891.610(g)(2); 960.257(b)(6); and 982.516(c)(4)

Summary: The updated regulation codified long-standing guidance on when interim reexaminations are made effective.

- **Changes Reported Timely:** If the family has reported a change in family income or composition in a timely manner according to the PHA/MFH Owner’s policies, then the PHA/MFH Owner must provide the family with a 30-day advance notice of any rent increases, and such rent increases will be effective the first day of the month beginning after the end of that 30-day period.

If the tenant has complied with the interim reporting requirement and the tenant’s rent is anticipated to decrease, rent decreases will be effective on the first day of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

- **Changes Not Reported Timely:** If the family has failed to report a change in family income or composition in a timely manner according to the PHA/MFH Owner’s policies, PHAs/MFH Owners must implement any resulting rent increases

retroactively to the first day of the month following the date of the change leading to the interim reexamination of family income.

Any resulting rent decrease must be implemented no later than the first rent period following completion of the reexamination. The PHA/MFH Owner may choose to adopt a policy that would make the effective date of an interim reexamination retroactive to the first of the month following the date of the actual decrease in income as opposed to the first of the month following completion of the reexamination. PHAs/MFH Owners may also choose to establish conditions or requirements for when such a retroactive application would apply (e.g., where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to the PHA/MFH Owner management operations).

PHAs/MFH Owners that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of the first of the month following the date of the change that led to the interim reexamination, or the first of the month following the most recent previous income examination (i.e., most recent interim or annual reexamination or the family's initial examination if that was the family's only income examination before the interim reexamination in question).

In applying a retroactive change in rent or family share as the result of an interim reexamination, the PHA/MFH Owner must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility. In the HCV and Moderate Rehabilitation/SRO programs, the PHA must also clearly communicate the effect of the retroactive adjustment to the owner as well. These policies may reduce the potential hardship on families and eliminate or significantly reduce the amount a family may owe the PHA for back rent if the family has had difficulty in making timely rent payments during the time between the loss of income and the interim reexamination.

An exception to the requirement that a PHA/MFH Owner implement resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination exist if a PHA/MFH Owner failed to process a family's interim reexamination because the family did not timely report an income decrease, as illustrated in example I4, scenario D, below.

Example I4: Effective Date of Interim Rent Changes

Scenario A: The Miller family had a decrease in family income that met the threshold due to the loss of a job on 6/2/2024. They reported the decrease to the PHA/MFH Owner in accordance with the PHA/MFH Owner's policies on 6/15/2024. The interim reexamination must be effective 7/1/2024, regardless of when the PHA/MFH Owner processes the interim reexamination.

Scenario B: The Leon family had an increase of 10 percent or more in annual adjusted income on 6/1/2024 due to receiving a new type of benefit income. The increased income meets the threshold to require an interim. They reported the increase to the PHA/MFH Owner in accordance with local policies on 6/20/2024. The PHA/MFH Owner did not process the interim reexamination until 7/11/2024, so the effective date of the interim reexamination is 9/1/2024 to give the family the required 30-day notice of the increase in total tenant portion.

Scenario C: The Nguyen family had a family member join the household, thereby increasing the annual adjusted income by 10 percent or more due to the new member's Social Security income starting on 8/1/2024. The increased income meets the threshold to require an interim. However, the change in income was not reported to the PHA/MFH Owner until 9/15/2024. The PHA/MFH Owner has a policy requiring a family to report changes in family income within 30 days. Because the family failed to alert the PHA/MFH Owner of the increase in income in accordance with the PHA/MFH Owner's policy, the increased income is effective retroactive to 9/1/2024, the first of the month following the date of the income change.

Scenario D: The Housseini family's current annual reexamination is effective on 2/1/2024. A member of the Housseini family lost their job on 1/2/2024, but the family failed to report the change until 4/5/2024. If the PHA/MFH Owner has a written policy allowing for retroactive rent decreases even when the family does not report changes timely, the retroactive rent decrease could be applied on 3/1/2024 (the first of the month following the family's most recent previous income examination).

PHA/MFH Owner Discretion: PHAs/MFH Owners must establish policies describing when and under what conditions a family is required to report changes in family income or composition in order to meet the "timely manner" requirement. PHAs/MFH Owners must update their Administrative Plans, ACOPs, or Tenant Selection Plans, as applicable, to include these policies and must communicate them clearly to participating families.

PHAs/MFH Owners may adopt a policy to apply rent decreases retroactively for circumstances in which families fail to report changes in a timely manner. A retroactive rent decrease may not be applied prior to the later of either the first of the month following the date of the actual decrease in income, or the first of the month following the most recent previous income examination. PHAs/MFH Owners may establish additional criteria to describe the conditions under which retroactive decreases will be applied (e.g., the kinds of extenuating circumstances that may inhibit timely reporting). In all cases of retroactive application, the PHA/MFH Owner must clearly communicate to the family how the retroactive adjustment will affect their responsibility for rent. In the HCV and Moderate Rehabilitation programs, the PHA must also clearly communicate the impact of the retroactive adjustment to the owner.

I.8 Streamlined Income Determination

Regulation: 24 CFR §§ 5.609(c)(2)(i); 5.657(d); 891.105; 891.410(g)(4); 891.610(g)(4); 960.257(c); and 982.516(b)

Summary: HOTMA did not update or otherwise change the streamlined income determination provision codified in the FAST Act¹³ and in HUD's regulations found in 24 CFR §§ 5.657(d), 960.257(c), and 982.516(b); however, PHAs/MFH Owners should be aware that the adjustments of non-fixed income sources at annual reexamination using third-party verification must follow the HOTMA income calculation rules outlined in [Attachment B](#) (Calculating Income) of this notice.

Under current program regulations, PHAs/MFH Owners may elect to apply a streamlined income determination for families receiving fixed income¹⁴ using the methodology below.

¹³ P.L. 114-94.

¹⁴ 24 CFR §§ 5.657(d)(2); 960.257(c)(2); and 982.516(b)(2); 891.410(g)(4); and 891.610(g)(4).

For any income determined pursuant to a streamlined income determination, a PHA/MFH Owner must obtain third-party verification of all income amounts every 3 years.

When **90 percent or more** of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA or COLAs to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income need not be adjusted and must not be adjusted by a COLA, but PHAs/MFH Owners may choose to adjust sources of non-fixed income by the amount determined on the basis of third-party verification. PHAs/MFH Owners have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years 2 and 3. Adjustments to non-fixed income must be calculated in accordance with section 14.2 (Annual Reexamination) of this notice.

When **less than 90 percent** of a family's unadjusted income consists of fixed income, owners using streamlined income determinations must apply a COLA to each of the family's sources of fixed income. Owners must determine all other income pursuant to section 14.2 (Annual Reexaminations) of this notice.

The table below explains the applicable PHA/MFH Owner action at each point in time in the streamlining cycle.

Table 11: PHA/MFH Owner Action at Point in Time in Streamlining Cycle

Point in Time in Streamlining Cycle	PHA/MFH Owner Action
Year 1	PHA/MFH Owner completes a Move in, Initial Certification (MFH Only) or Annual Reexamination consistent with the regulations on reexaminations.
Years 2 and 3	<p>PHA/MFH Owner completes an Annual Reexamination with the following streamlined income determination for each type of source:</p> <ul style="list-style-type: none"> • Fixed Income: Apply inflation adjustment factor; PHA/MFH Owner does not collect third-party verification. • Non-fixed income when fixed income is more than 90 percent of unadjusted income: PHA/MFH Owner has discretion to either adjust the income using third-party verification or use the previous year's calculation. • Non-fixed income when fixed income is less than 90 percent of unadjusted income: PHA/MFH Owner must adjust the income using third-party verification. • Assets and Deductions: PHA/MFH Owner completes verification and calculation of assets and deductions.
Year 4	Three-year cycle starts over.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to implement streamlined income determinations under current program regulations.

I.9 Impact of Interim Reexamination Requirements on Family Self-Sufficiency (FSS) Programs

Summary: PHAs/MFH Owners who operate FSS programs should note two effects that the new interim reexamination regulations will have on families participating in their FSS programs.

First, HOTMA requires that interim reexaminations must be conducted: (1) when a family's income decreases by at least 10 percent of their annual adjusted income, or such lower threshold established by a PHA/MFH Owner or by HUD through notice; or (2) when a family's income increases by at least 10 percent of their annual adjusted income or such other amount established by HUD through notice, except in certain circumstances as described earlier in paragraph I.2 (Increases in Adjusted Income) of this notice. PHAs/MFH Owners may not consider any increases in **earned income** when estimating or calculating whether the family's adjusted income has increased unless the family has previously received an interim reduction during the same reexamination cycle. Families participating in the FSS program are subject to these interim requirements, therefore their escrow accounts may not grow as their earnings increase throughout the year.

Second, the "Streamlining and Implementation of Economic Growth, Regulatory Relief, and Consumer Protection Act Changes to Family Self-Sufficiency Program" final rule states that the FSS contract of participation (COP) will generally expire 5 years **from the date of the family's first re-certification of income after** the effective date of the FSS COP. The PHA/MFH Owner may not perform an interim reexamination of annual income when enrolling a family in the FSS program unless the family experienced a change in annual adjusted income that meets the threshold for conducting an interim reexamination under the HOTMA final rule. Families for whom their first reexamination of income does not occur until their regularly scheduled annual reexamination will not have the opportunity to begin escrowing their increased earnings until that time and may have fewer escrow increases over the life of the 5-year contract.

Although families participating in FSS may experience fewer escrow increases under the HOTMA final rule, the revised interim reexamination regulations may provide these families the opportunity to use their increased earnings to realize other short- or long-term goals outside of the scope of the FSS program, such as investing in a hobby, going on a vacation with family, purchasing a car, etc.

PHA/MFH Owner Discretion: None.

ATTACHMENT J: TOPIC: VERIFICATION

Regulations

24 CFR §§ 5.216(g)(1); 5.230; 5.230(c)(5)(iii); 5.232; 24 CFR 5.232(c); 5.233; 5.240(c); 5.609(c)(3); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 960.259(c); and 982.516(a)(2)

Applicable Programs

HUD Multifamily Housing	HUD Multifamily Housing	Public and Indian Housing
Section 8 (Project Based Rental Assistance)	Section 202/8, Section 202/811 PRAC, Section 236 IRP, Section 811 PRA, SPRAC	HCV (including Project-Based vouchers), Public Housing, Section 8 Moderate Rehabilitation, Section 8 Moderate Rehabilitation SRO
Yes	Yes	Yes

Summary

The final rule updated verification of income requirements in 24 CFR §§ 5.230; 5.232; 5.233; 5.609; and 5.659.

Subtopics

J.1 Authorization for the Release of Information (Forms HUD-9886/HUD-9887)

Regulations: 24 CFR §§ 5.230; 5.232; 891.105; 891.410(b)-(c); and 891.610(b)-(c)

Summary: In accordance with the final rule, all applicants must sign the consent form at admission, and participants must sign the consent form no later than their next interim or regularly scheduled income reexamination. After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024 (regardless of the PHA/MFH Owner's compliance date), they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the PHA in administrative instructions.

These consent forms contain provisions authorizing HUD and the PHA/MFH Owner to obtain necessary information for verification of an application or to maintain a family's assistance, including income information and tax return information. The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA/MFH Owner to revoke consent. If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

HUD will publish a new form HUD-9886-A and is updating forms HUD-9887 and HUD-9887-A (Fact Sheet) to conform with the final rule. HUD will include language in

the forms allowing PHAs/MFH Owners to obtain financial records from financial institutions whenever the PHA/MFH Owner determines that such a record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits.

PHA/MFH Owner Discretion: PHAs/MFH Owners have the discretion to establish policies around when family members must sign the consent forms when they turn 18 between reexaminations. PHAs/MFH Owners must establish these policies in their ACOPs, Administrative Plans, and Tenant Selection Plans, if requiring family members to sign consent forms at intervals other than at reexamination.

J.2 Revocation of Consent

Regulations: 24 CFR §§ 5.230(c)(5)(iii); 24 CFR 5.232(c); 891.105; 891.410(g)(3)(ii); and 891.610(g)(3)(ii)

Summary: The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the PHA/MFH Owner to revoke consent. Revocation of consent or refusal to sign the consent forms prohibits the PHA/MFH Owner from requesting and accessing income information and financial records, including pulling EIV reports and using the EIV data to verify income (although the data matches between HUD and other agencies will continue to occur automatically if the family is not terminated from the program). PHAs/MFH Owners will not be able to process interim or annual reexaminations of income, including when a family's income decreases and the family requests an interim reexamination to decrease tenant rent, without the family's executed consent form(s).

Families have the right to revoke consent by providing written notice to the PHA/MFH Owner; however, revoking consent may result in termination of assistance or denial of admission, if the PHA/MFH Owner has a policy that the revocation of consent will result in termination of assistance or denial of admission. When PHAs/MFH Owners do not establish such a policy, the family is required to sign a new consent form by the next reexamination, whichever occurs first, in order to avoid termination of assistance or be reviewed for eligibility for admission. PHAs/MFH Owners must explain to families the consequences, if any, of revoking their consent.

PHAs/MFH Owners must notify their local HUD office of a family's revocation of consent.

PHA/MFH Owner Discretion: PHAs/MFH Owners may decide whether revocation of a family's consent will result in termination of assistance or denial of admission. Such a policy must be included in the PHA/MFH Owner's Administrative Plan, ACOP, or Tenant Selection Plan, as applicable.

J.3 Mandated and Discretionary use of HUD's Enterprise Income Verification (EIV) System

Regulation: 24 CFR § 5.233

Summary: The regulation clarifies that PHAs/MFH Owners must use EIV to verify tenant employment and income information at annual and streamlined reexaminations of family composition and income. However, PHAs/MFH Owners are no longer required to

use EIV to verify tenant employment and income information during an interim reexamination of family composition and income.

PHAs/MFH Owners are still required to use EIV in its entirety, including using all of the required reports, such as the Existing Tenant Search and Income Reports, to verify tenant employment and income information at all other times.

Note: HUD intends to update the discrepancy logic for the MFH and Public Housing Income Discrepancy Reports and the Income Verification Tools (IVTs) to conform to the requirements of the final rule. PHAs/MFH Owners are not required to investigate discrepancies resulting from the MFH and Public Housing Income Discrepancy Reports and the IVT Tools until HUD updates the discrepancy logic. HUD will notify PHAs/MFH Owners when the new reports are ready for use.

Table J1 provides guidance on the frequency with which individual EIV reports must be utilized by a PHA/MFH Owner.

Table J1: Mandatory and Discretionary Use of EIV by PHAs/MFH Owners

Report Title	Report Description	Frequency of Use	PHAs/MFH Owners
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	At the time of processing an applicant family for admission, and to enter debt information or terminations for families who have ended program participation.	PHAs only Report does not exist in MFH EIV.
Deceased Tenants Report	Identifies tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly	PHAs/MFH Owners
Existing Tenant Search	Identifies applicants who may be receiving assistance at another Multifamily project or PIH location.	At the time of processing an applicant family for admission	PHAs/MFH Owners
Failed EIV Prescreening Report	Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly	PHAs/MFH Owners
Failed Verification Report (Failed SSA Identity Test)	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database.	Monthly	PHAs/MFH Owners

	*PHAs/MFH Owners that admit families using a self-certification of SSN must review the Failed SSN Verification Report monthly to identify and follow up on new issues.		
Identity Verification Report	Identifies tenants that, failed SSA verification, and failed EIV pre-screening.	Monthly	PHAs/MFH Owners
Income Discrepancy Report for MFH Programs	Identifies households where there is an income discrepancy in the wage, unemployment, and SSA benefit information reported in EIV and wage, unemployment, and SSA benefit information reported in TRACS for the period of income used for discrepancy analysis. The report serves as a tool to alert MFH Owners that there may be a discrepancy in the income reported by the tenant during the period of income used for the discrepancy analysis.	Must be used at annual reexamination. MFH Owners may use the report at other intervals, in accordance with the MFH Owner's written EIV policies and procedures. MFH Owners are not required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. *See note under Summary above about updates to the MFH Income Discrepancy Report.	MFH Owners
Income Information for PIH Programs Income Report for MFH Programs	Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test. Identifies tenants who: <ul style="list-style-type: none"> • May not have reported complete and accurate income information; and/or • May be receiving multiple subsidies. 	Must be used at annual reexamination; not required at interim reexaminations. PHAs/Owners may use, if desired. PHAs/MFH Owners are not required to use at annual reexamination if they use Safe Harbor verification to determine the family's income.	PHAs/MFH Owners
Income Validation Tool Report for PIH Programs	Provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with the Department of Health and Human Services	PHAs are required to obtain an EIV Income and Income Validation Tool Report for each family any time the PHA conducts an annual reexamination of family income and composition. PHAs may	PHAs

	(HHS) using the National Directory of New Hires (NDNH) database, and the SSA.	use the report at other intervals, in accordance with the PHA's ACOP or Administrative Plan. PHAs are not required to use the report at annual reexamination if they used Safe Harbor verification to determine the family's income at the last reexamination. *See note under Summary above about updates to the MFH and Public Housing Income Discrepancy Reports.	
Multiple Subsidy Report	Identifies tenants who may be receiving rental assistance at more than one location.	At least quarterly	PHAs/MFH Owners
New Hires Report	Identifies tenants who have new employment within the last six months. Report is updated monthly.	PHAs/MFH Owners must review this information at annual reexamination except when the PHA/MFH Owner uses Safe Harbor verification to determine the family's income. PHAs/MFH Owners that do not require families to undergo interim reexaminations (IRs) for income increases after an IR decrease do not need to review this report at all between a family's annual reexamination. If the PHA/MFH Owner's policy is to require an IR for increases in income after an IR decrease, then the PHA/MFH Owner must review the report quarterly after the family's IR decrease.	PHAs/MFH Owners
No Income Reported by HHS or SSA	Identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs/MFH Owners must	As identified in a PHA's ACOP or Administrative Plan or a MFH Owner's written EIV policies and procedures.	PHAs/MFH Owners

	obtain written, third-party verification of any income reported by the tenant.		
No Income Reported on 50059	Identifies households where there is no income listed on the HUD-50059.	As identified in MFH Owner's written EIV policies and procedures.	MFH Owners
Summary Report	Summary of household information from the current, active certification in the TRACS file at the time of the income match.	Must be used at annual reexamination; not required at interim reexaminations. MFH Owners may use the report at other intervals, if desired, as described in the MFH Owner's written EIV policies and procedures.,	MFH Owners

PHA/MFH Owner Discretion: PHAs/MFH Owners may choose to use EIV to verify tenant employment and income information at interim reexaminations of family composition and income. PHAs that choose to use EIV to verify income information at interim reexaminations must include this information in the PHA's ACOP and/or Administrative Plan. MFH Owners who choose to use EIV to verify tenant employment and income information at interim reexaminations must establish this policy in their written EIV policies and procedures. Any policy adopted by a PHA/MFH Owner must be applied consistently for all households.

J.4 Determination of Income Using Other Means Tested Public Assistance (i.e., "Safe Harbor")

Regulation: 24 CFR §§ 5.609(c)(3) and 891.105; 891.410(b)-(c) and (g); and 891.610(b)-(c) and (g)

Summary: PHAs/MFH Owners may determine a family's annual income, including income from assets, prior to the application of any deductions based on income determinations made within the previous 12-month period, using income determinations from the following types of means-tested federal public assistance programs:

- The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- Medicaid (42 U.S.C. 1396 et seq.).
- The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- The Earned Income Tax Credit (26 U.S.C. 32).
- The Low Income Housing Tax Credit (26 U.S.C. 42).
- The Special Supplemental Nutrition Program for Woman, Infants, and Children (42 U.S.C. 1786).

- Supplemental Security Income (42 U.S.C. 1381 et seq.).
- Other programs administered by the Secretary.
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding.
- Other federal benefit determinations made by other means-tested federal programs that the Secretary determines to have comparable reliability and announces through a *Federal Register* notice.

If a PHA/MFH Owner elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members), and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs/MFH Owners will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR § 5.618.

The Safe Harbor verification may be in the form of an award letter from the relevant federal program and must show that the family's income determination was made in the previous 12 months. **HUD clarifies in this notice that the verification will be considered acceptable if the documentation meets the criteria that the income determination was made within the 12 months prior to the receipt of the verification by the PHA/MFH Owner. This satisfies all verification date requirements for Safe Harbor income determinations.**

The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA/MFH Owner:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHA/MFH Owners are permitted to use to determine income under this Safe Harbor is the total income determination made by the federal means-test program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information **must not** be considered by the PHA/MFH Owner for purposes of the HOTMA Safe Harbor provision. PHAs/MFH Owners are not permitted to mix and match Safe Harbor income determinations and other income verifications.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs/MFH Owners are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

It is anticipated that in many cases tenants will provide the PHA/MFH Owner with the Safe Harbor third-party verification for the purpose of reexamination, rather than the PHA/MFH Owner mailing a verification form to the third party to complete. If the PHA/MFH Owner does not accept Safe Harbor documentation, is unable to obtain Safe Harbor documentation, or if the family disputes the other program's income determination, the PHA/MFH Owner must calculate the family's annual income using the methods established in § 5.609(c)(1) and (2).

If the PHA/MFH Owner uses a Safe Harbor determination to determine the family's income for an income examination (New Admission/Move Ins, Initial Certification for MFH programs only, Interim Reexamination, or Annual Reexamination), then the family is obligated to report changes in income that meet the reporting requirement and occur after the effective date of the PHA/MFH Owner's transaction. This might mean that a certain source of income was not considered in the family's income, because the other program does not consider the source to be income. For example, if the family begins receiving a new source of income on 2/1/2024 and the PHA/MFH Owner completed an annual reexamination effective 3/1/2024 using a Safe Harbor income determination, then the family does not need to report that change in income. If the family has a change in adjusted income in accordance with HUD's rules that occurs after 3/1/2024, when the Annual Reexamination was effective, then the family must report the change to the PHA/MFH Owner.

Example J1: Acceptable Verification of Safe Harbor

Background: A PHA/MFH Owner decides to implement the Safe Harbor provision, and their policy states that they will accept income determinations from the Supplemental Nutrition Assistance Program (SNAP). At the Smith family's annual reexamination interview, the Smiths provide the reexamination specialist an original print-out from the agency that administers SNAP benefits. The printout reflects the Smith's correct family size of 4, and current household composition, and it states the total amount of the family's earned income. The annual income is \$19,500 (\$812.50 x 24 semi-monthly pay periods). The print-out was dated 30 days prior to the PHA/MFH Owner's request, and the income was determined six months ago.

SNAP Budget Calculation (from State Department of Social Services)

Report Date: 05/17/2024

Head of Household: Smith, Hunter

Home Address: 123 Main Street, USA

Household members:

<u>Last Name</u>	<u>First Name</u>	<u>Date of Birth</u>	<u>Relationship</u>
Smith	Hunter	01/01/1974	Head of Household

Smith	Annabelle	06/18/1976	Spouse
Smith	Lola	05/17/2019	Daughter
Smith	Eric	05/17/2019	Son
<u>Budget Calculation</u>			
Monthly Earned Income: \$1,625			
Total Unearned Income: \$0			
Standard Deduction: \$112.50			
Monthly child care/dependent care: \$50			
Allowable medical deductions: \$0			
<p>Result: The PHA/MFH Owner may use this printout to determine the Smith's annual income for their annual reexamination. The PHA/MFH Owner lists \$19,500 as the annual income for the family's reexamination (\$1,625 monthly earned income + \$0 unearned income x 12 months). The PHA/MFH Owner does not need to take any additional steps to verify or calculate gross annual income, including comparing the income determination to EIV data. The PHA would then verify and apply applicable deductions to calculate the family's annual adjusted income.</p>			

PHA/MFH Owner Discretion: PHAs/MFH Owners are not required to accept or use determinations of income from other federal means-tested forms of assistance.

PHAs/MFH Owners must establish in policy whether and when they will accept Safe Harbor income determinations (e.g., at reexamination only or at admission and reexamination), including which programs from which they will accept income determinations. PHAs/MFH Owners must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs (e.g., to accept the most recent income determination). These policies must be included in the PHA's/MFH Owner's ACOP, Administrative Plan, or Tenant Selection Plan, as applicable.

J.5 Verification Hierarchy

Regulation: 24 CFR §§ 5.240(c); 5.659(d); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); 960.259(c); 982.201(e); and 982.516(a)(2)

Summary: PHAs/MFH Owners are responsible for obtaining third-party verification of reported family annual income, the value of assets, expenses related to deductions from annual income, and other factors that affect the determination of adjusted income. Third-party verification is a process by which PHAs/MFH Owners gather information (e.g., about the family's annual income, value of assets, etc.) independently from the source of the income, assets, expenses, or other factors that affect the determination of adjusted income. Third-party verification may be obtained directly from the third party or through the family. PHAs/MFH Owners must document in the tenant file the reason why third-party verification was not available unless HUD's regulations specifically permit families to self-certify a particular component of adjusted income.

HUD developed a hierarchy (see table J2, below) that describes verification documentation from most acceptable to least acceptable. The PHA/MFH Owner must demonstrate efforts to obtain third party verification prior to accepting self-certification

except instances when self-certification is explicitly allowed (e.g., net family assets that do not exceed \$50,000).

A description of each verification technique and additional guidance follows Table J2.

Table J2: Verification Hierarchy

Level	Verification Technique	Ranking/Order of Acceptability
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	<p>Highest</p> <p>PHAs/MFH Owners must pull the EIV Income Report for each family at every Annual Reexamination.</p> <p>EIV may be used as the sole verification of Social Security income.</p> <p>EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.</p>
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	<p>Written, third-party verification from the source, also known as "tenant-provided verification"</p> <p>OR</p> <p>EIV + Self-Certification</p> <p>PHAs/MFH Owners can choose either option when both are available to verify income. PHAs/MFH Owners must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)</p>	<p>High</p> <ul style="list-style-type: none"> • Written, third-party verification is used when tenant disputes EIV-reported employment and income information. • The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	<p>Medium</p> <ul style="list-style-type: none"> • Use if Level 5 or Level 4 verification is not available or is rejected by the PHA/MFH Owner and when the applicant or tenant is unable to provide acceptable documentation. • May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	Medium

1	Self-Certification (not third-party verification)	<p>Low</p> <p>Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed \$50,000.</p>
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J.5.a Third-Party Verification Descriptions and Guidance

- **Upfront Income Verification (UIV) (Level 6/5):** The verification of income before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. It should be noted that the EIV system is available to all PHAs/MFH Owners as a UIV technique and that all PHAs/MFH Owners are required to use EIV in its entirety (see paragraph J.3 on Mandated and Discretionary Use of EIV). PHAs/MFH Owners are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to verify tenant-reported income.
- **Written, Third-Party Verification (Level 4):** An original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA/MFH Owner. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents. PHAs/MFH Owners may obtain any tenant-provided documents and follow up directly with the third-party source to obtain necessary verification of information, when necessary.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include but are not limited to the following: pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

PHAs/MFH Owners are required to obtain a minimum of two current and consecutive pay stubs for determining annual income from wages when they do not elect to use EIV + Self-Certification or the income type is not reported in EIV. MFH Owners were previously required to collect the most recent four to six weeks of pay stubs to verify employment income. For new income sources or when two pay stubs are not available, the PHA/MFH Owner should determine income based on the information from a traditional written, third-party verification form or the best available information.

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal

from online source, etc.) are an acceptable form of written, third-party verification.

When verification of assets is required, PHAs/MFH Owners are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts. MFH Owners were previously required to average the balance of six checking account statements to determine the cash value of a checking account.

EIV may be used as Level 4 verification and may be used to calculate income as long as the family agrees with the information in EIV; this practice is known as “EIV + Self-Certification.” The PHA/MFH Owner may use their discretion to determine which method of calculation is reasonable: the last 4 quarters combined or an average of any number of quarters. The EIV Income report must be pulled within 120 days prior to the reexamination effective date.

- **Written, Third-Party Verification Form (Level 3):** This practice is also known as “traditional third-party verification.” This type of verification is a form developed by the PHA/MFH Owner and used uniformly for all families when needed to collect information from a third-party source. The form is completed by the third party by hand (in writing or typeset). PHAs/MFH Owners send the form directly to the third-party source by mail, fax, or email.

The PHA/MFH Owner may skip this level of verification before attempting Level 2, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

- **Oral Third-Party Verification (Level 2):** Independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit. PHA/MFH Owner staff must document in the tenant file the date and time of the telephone call (or visit to the third party) and the name of the person contacted and their telephone number, along with the confirmed information.

This verification method is commonly used when the independent source does not respond to the PHA/MFH Owner’s faxed, mailed, or e-mailed request for information in a reasonable time frame (e.g., 10 business days).

The PHA/MFH Owner may skip this level of verification if they attempted Level 3, which means they will have only completed Level 3 or Level 2 verification before moving to Self-Certification.

- **Non-Third-Party Verification Technique: Self-Certification (Level 1):** The tenant submits a signed statement of reported income and/or expenses to the PHA/MFH Owner. This verification method should be used as a last resort when the PHA/MFH Owner has not been successful in obtaining information via all other required verification techniques. When the PHA/MFH Owner relies on self-certification to verify income or expenses, the PHA/MFH Owner

must document in the tenant file why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

Sample language: “I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802)”

J.6 Verification of Social Security Number (SSN)

Regulation: 24 CFR § 5.216(g)(1) 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g)

Summary: It has become increasingly difficult for applicants to meet HUD’s SSN disclosure requirements, particularly for those individuals experiencing homelessness. To help protect individuals’ privacy, many federal, state, and local agencies no longer print an individual’s SSN on official documentation. Individuals may be required to visit their local Social Security office and provide original identity documentation in order to obtain a replacement Social Security card.

HUD is adjusting what the Department considers acceptable documentation of SSN under 24 CFR § 5.216(g)(1) to make it easier for applicants to access programs even if they do not have access to their Social Security card or other documentation acceptable to HUD. PHAs/MFH Owners must still attempt to gather third-party verification of SSN prior to admission; however, they will also have the option of accepting a self-certification and a third-party document with the applicant’s name printed on it to satisfy the SSN disclosure requirement if the PHA/MFH has exhausted all other attempts to obtain the required documentation. HUD has provided similar flexibility to PHAs through the CARES Act waivers and for Emergency Housing Vouchers.

HUD prescribes, through this notice and in accordance with 24 CFR 5.216(g)(1)(iii), that the following evidence of SSN is acceptable only after the PHA/MFH Owner has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual:

Self-certification of SSN *and* at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual.

If verifying an individual’s SSN using this method, the PHA/MFH Owner must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA/MFH Owner must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

J.7 Verification of Excluded Income

To reduce administrative burdens on PHAs/MFH Owners, HUD is providing guidance and clarification on the requirements for verifying excluded income.

For income sources where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR § 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD, the PHA/MFH Owner **is not** required to:

- Verify the income using third-party verification;
- Document in the tenant file as to why the third-party verification was not available as required by 24 CFR §§ 5.659(d), 960.259(c)(i), and 24 CFR 982.516(a)(2); 891.105; 891.410(b)-(c) and (g); 891.610(b)-(c) and (g); or
- Report the income on forms HUD-50058/HUD-50059.

PHAs/MFH Owners may accept an applicant or participant's self-certification as verification of excluded income. The PHA/MFH Owner's application and reexamination questionnaire documentation may serve as the self-certification of excluded income. PHAs/MFH Owners have the option of verifying the income using third-party verification, if necessary, to determine if a source of income qualifies for exclusion.

Examples of excluded income categories that are verifiable through applicant or participant self-certification include:

- Supplemental Nutrition Assistance Program (SNAP) benefits, formerly known as food stamps.
- Income of a live-in aide. For a complete list of income exclusions, see 24 CFR § 5.609(b).

An income source that is partially excluded, for example, earnings in excess of \$480 for full-time students 18 years of age or older (24 CFR § 5.609(b)(14)), must be third-party verified and reported on forms HUD-50058/HUD-50059.

J.8 Zero Income Reviews

A "zero income review" is an assessment, sometimes periodic, performed by the PHA/MFH Owner of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs/MFH Owners to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs/MFH Owners to conduct periodic zero income reviews.

In calculating annual income, PHAs/MFH Owners must not assign monetary value to non-monetary in-kind donations from a food bank or similar organization received by the

family (24 CFR § 5.609(b)(24)(vi)). PHAs/MFH Owners perform an interim reexamination only due to an increase in the family's adjusted income (24 CFR §§ 5.657(c)(3); 882.515(b)(3); 891.410(g)(2); 891.610(g)(2); 960.257(b)(3); and 982.516(c)(3)).

PHAs/MFH Owners that will continue to perform zero income reviews must update local discretionary policies, procedures, and forms to comply with the final rule requirements. For example, families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the form HUD-50058/HUD-50059.

Section 11

HUD 4350.3 REV-1 Chapter 5: Determining Income and Calculating Rent

CHAPTER 5. DETERMINING INCOME AND CALCULATING RENT

5-1 Introduction

- A. Owners must determine the amount of a family's income before the family is allowed to move into assisted housing and at least annually thereafter. The amount of assistance paid on behalf of the family is calculated using the family's annual income less allowable deductions. HUD program regulations specify the types and amounts of income and deductions to be included in the calculation of annual and adjusted income.
- B. Although the definitions of annual and adjusted income used for the programs covered in this handbook have some similarities with rules used by the U.S. Internal Revenue Service (IRS), the tax rules are different from the HUD program rules.
- C. The most frequent errors encountered in reviews of annual and adjusted income determinations in tenant files fall in three categories:
 1. Applicants and tenants failing to fully disclose income information;
 2. Errors in identifying required income exclusions; and
 3. Incorrect calculations of deductions often resulting from failure to obtain third-party verification.

Careful interviewing and thorough verification can minimize the occurrence of these errors.

- D. Chapter 5 is organized as follows:
 - **Section 1: Determining Annual Income** discusses the requirements regarding annual income and the procedure for calculating a family's annual income when determining eligibility. This section also includes guidance on determining income from assets.
 - **Section 2: Determining Adjusted Income** describes the procedures and requirements for determining adjusted income based on allowable deductions.
 - **Section 3: Verification** presents the requirements for verifying information provided by applicants and tenants related to their eligibility.
 - **Section 4: Calculating Tenant Rent** discusses the methods for calculating the tenant's portion of rent under the different programs covered by this handbook.

5-2 Key Terms

- A. There are a number of technical terms used in this chapter that have very specific definitions established by federal statute or regulations, or by HUD. These terms are listed in Figure 5-1 and their definitions can be found in the Glossary to this handbook. It is important to be familiar with these definitions when reading this chapter.
- B. The terms “disability” and “persons with disabilities” are used in two contexts – for civil rights protections, and for program eligibility purposes. Each use has specific definitions.
1. When used in context of protection from discrimination or improving the accessibility of housing, the civil rights-related definitions apply.
 2. When used in the context of eligibility under multifamily subsidized housing programs, the program eligibility definitions apply.

NOTE: See the Glossary for specific definitions and paragraph 2-23 for an explanation of this difference.

Figure 5-1: Key Terms

<ul style="list-style-type: none"> • Adjusted income • Annual income • Assets • Assistance payment • Assisted rent • Assisted tenant • Basic rent • Co-head of household • Contract rent • Dependent • Extremely low-income family • Foster adult • Foster children • Full-time student • Gross rent • Hardship exemption • Head of household • Housing assistance payment (HAP) • Income limit 	<ul style="list-style-type: none"> • Live-in aide • Low-income family • Market rent • Minimum rent • Operating rent • Project Assistance Contract (PAC) • PRAC Operating Rent • Project Rental Assistance Contract (PRAC) • Project assistance payment • Project rental assistance payment • Tenant rent • Total tenant payment • Unearned income • Utility allowance • Utility reimbursement • Very low-income family • Welfare assistance • Welfare rent
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Section 1: Determining Annual Income

5-3 Key Regulations

This paragraph identifies the key regulatory citation pertaining to Section 1: Determining Annual Income. The citation and its title are listed below.

- 24 CFR 5.609 Annual Income

5-4 Key Requirements

- A. Annual income is the amount of income that is used to determine a family's eligibility for assistance. Annual income is defined as follows:
 1. All amounts, monetary or not, that go to or are received on behalf of the family head, spouse or co-head (even if the family member is temporarily absent), or any other family member; or
 2. All amounts anticipated to be received from a source outside the family during the 12-month period following admission or annual recertification effective date.
- B. Annual income includes all amounts that are not specifically excluded by regulation. Exhibit 5-1, Income Inclusions and Exclusions, provides the complete list of income inclusions and exclusions published in the regulations and *Federal Register* notices.
- C. Annual income includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

5-5 Methods for Projecting and Calculating Annual Income

- A. The requirements for determining whether a family is eligible for assistance, and the amount of rent the family will pay, require the owner to project or estimate the annual income that the family expects to receive. There are several ways to make this projection. The following are two acceptable methods for calculating the annual income anticipated for the coming year:
 1. Generally the owner must use current circumstances to anticipate income. The owner calculates projected annual income by annualizing *current* income. Income that may not last for a full 12 months (e.g., unemployment compensation) should be calculated assuming current circumstances will last a full 12 months. If changes occur later in the year, an interim recertification can be conducted to change the family's rent.
 2. If information is available on changes expected to occur during the year, use that information to determine the total *anticipated* income from all known sources during the year**. For example, if a verification source reports that a union contract calls for a 2% pay increase midway through

the year, the owner may add the total income for the months before, and the total for the months after the increase**.

Example – Calculating Anticipated Annual Income

A teacher's assistant works nine months annually and receives \$1,300 per month. During the summer recess, the teacher's assistant works for the Parks and Recreation Department for \$600 per month. The owner may calculate the family's income using either of the following two methods:

1. Calculate annual income based on current income: \$15,600 (\$1,300 x 12 months).

The owner would then conduct an interim recertification at the end of the school year to recalculate the family's income during the summer months at reduced annualized amount of \$7,200 (\$600 x 12 months). The owner would conduct another interim recertification when the tenant returns to the nine-month job.

2. Calculate annual income based on anticipated changes through the year:

\$11,700 (\$1,300 x 9 months)

+ 1,800 (\$ 600 x 3 months)

\$13,500

Using the second method, the owner would not conduct an interim re-examination at the end of the school year. In order to use this method effectively, history of income from all sources in prior years should be available.

- B. Once all sources of income are known and verified, owners must convert reported income to an annual figure. Convert periodic wages to annual income by multiplying:

1. Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);
2. Weekly wages by 52;
3. Bi-weekly wages (paid every other week) by 26;
4. Semi-monthly wages (paid twice each month) by 24; and
5. Monthly wages by 12.

To annualize other than full-time income, multiply the wages by the actual number of hours or weeks the person is expected to work.

Example – Anticipated Increase in Hourly Rate

February 1 Certification effective date
 \$7.50/hour Current hourly rate
 \$8.00/hour New rate to be effective March 15

(40 hours per week x 52 weeks = 2,080 hours per year)

February 1 through March 15 =	6 weeks
6 weeks x 40 hours =	240 hours
2,080 hours minus 240 hours =	1,840 hours

(check: 240 hours + 1,840 hours = 2,080 hours)

Annual Income is calculated as follows:

240 hours x \$7.50 =	\$1,800
\$1,840 hours x \$8.00 =	\$14,720
Annual Income	\$16,520

(See **Appendix 8** for an explanation of the correct approach to rounding numbers.)

- C. Some circumstances present more than the usual challenges to estimating anticipated income. Examples of challenging situations include a family that has sporadic work or seasonal income or a tenant who is self-employed. In all instances, owners are expected to make a reasonable judgment as to the most reliable approach to estimating what the tenant will receive during the year. In many of these challenging situations, midyear or interim recertifications may be required to reflect changing circumstances. Some examples of approaches to more complex situations are provided below.

Examples – Irregular Employment Income

Seasonal work. Clyde Kunkel is a roofer. He works from April through September. He does not work in rain or windstorms. His employer is able to provide information showing the total number of regular and overtime hours Clyde worked during the past three years. To calculate Clyde's anticipated income, use the average number of regular hours over the past three years times his current regular pay rate, and the average overtime hours times his current overtime rate.

Sporadic work. Justine Cowan is not always well enough to work full-time. When she is well, she works as a typist with a temporary agency. Last year was a good year and she worked a total of nearly six months. This year, however, she has more medical problems and does not know when or how much she will be able to work. Because she is not working at the time of her recertification, it will be best to exclude her employment income and remind her that she must return for an interim recertification when she resumes work.

Examples – Irregular Employment Income

Sporadic work. Sam Daniels receives social security disability. He reports that he works as a handyman periodically. He cannot remember when or how often he worked last year: he says it was a couple of times. Sam's earnings appear to fit into the category of nonrecurring, sporadic income that is not included in annual income. Tell Sam that his earnings are not being included in annual income this year, but he must report to the owner any regular work or steady jobs he takes.

Self-employment income. Mary James sells beauty products door-to-door on consignment. She makes most of her money in the months prior to Christmas but has some income throughout the year. She has no formal records of her income other than a copy of the IRS Form 1040 she files each year. With no other information available, the owner will use the income reflected on Mary's copy of her form 1040 as her annual income.

5-6 Calculating Income—Elements of Annual Income

A. Income of Adults and Dependents

1. Figure 5-2 summarizes whose income is counted.
2. Adults. Count the annual income of the head, spouse or co-head, and other adult members of the family. In addition, persons under the age of 18 who have entered into a lease under state law are treated as adults, and their annual income must also be counted. These persons will be either the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

NOTE: If an emancipated minor is residing with a family as a member other than the head, spouse, or co-head, the individual would be considered a dependent and his or her income handled in accordance with subparagraph 3 below.

3. Dependents. A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student

The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents is counted and some is not.

- a. *Earned* income of minors (family members under 18) is not counted.
- b. Benefits or other *unearned* income of minors is counted.

Figure 5-2: Whose Income is Counted?

Members	Employment Income	Other Income (including income from assets)
Head	Yes	Yes
Spouse	Yes	Yes
Co-head	Yes	Yes
Other adult *(including foster adult)*	Yes	Yes
Dependents		
-Child under 18	No	Yes
Full-time student over 18	See Note	Yes
Foster child under 18	No	Yes
Nonmembers		
Live-in aide	No	No

NOTE: The earned income of a full-time student 18 years old or older who is a dependent is excluded to the extent that it exceeds \$480.

- c. When more than one family shares custody of a child and both families live in assisted housing, only one family at a time can claim the dependent deduction. The family that counts the dependent deduction also counts the unearned income of the child. The other family claims neither the dependent deduction nor the unearned income of the child.
- d. When full-time students who are 18 years of age or older are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family or spouse or co-head. If the income is less than \$480 annually, count all the income. If the annual income exceeds \$480, count \$480 and exclude the amount that exceeds \$480.
- e. The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors.
- f. All income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
- g. Payments received by the family for the care of foster children or foster adults are *not* counted. This rule applies only to payments

made through the official foster care relationships with local welfare agencies.

- h. Adoption assistance payments in excess of \$480 are not counted.

B. Income of Temporarily Absent Family Members

1. Owners must count all income of family members approved to reside in the unit, even if some members are temporarily absent.
2. If the owner determines that an absent person is no longer a family member, the individual must be removed from the lease and the HUD-50059.
3. A temporarily absent individual on active military duty must be removed from the family, and his or her income must not be counted unless that person is the head of the family, spouse, or co-head.
 - a. However, if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head, or spouse of the head of the family.
 - b. The income of the head, spouse, or co-head will be counted even if that person is temporarily absent for active military duty.

Examples – Income of Temporarily Absent Family Members

- John Chouse works as an accountant. However, he suffers from a disability that periodically requires lengthy stays at a rehabilitation center. When he is confined to the rehabilitation center, he receives disability payments equaling 80% of his usual income.

During the time he is not in the unit, he will continue to be considered a family member. The owner will conduct an interim recertification. Even though he is not currently in the unit, his total disability income will be counted as part of the family's annual income.
- Mirna Martinez accepts temporary employment in another location and needs a portion of her income to cover living expenses in the new location. The full amount of the income must be included in annual income.
- Charlotte Paul is on active military duty. Her permanent residence is her parents' assisted unit where her husband and children live. Charlotte is not currently exposed to hostile fire. Therefore, because her spouse and children are in the assisted unit, her military pay must be included in annual income. (If her dependents or spouse were not in the unit, she would not be considered a family member and her income would not be included in annual income.)

C. *Deployment of Military Personnel to Active Duty

Owners are encouraged to be as lenient as responsibly possible to support affected households in situation where persons are called to active duty in the Armed Forces. Specific actions that owners should undertake to support military households include, but are not limited to:*

1. *Allow a guardian to move into the assisted unit on a temporary basis to provide care for any dependents the military person leaves in the unit. Income of the guardian temporarily living in the unit for this purpose is not counted as income.
2. Allow a tenant living in an assisted unit to provide care for any dependents of persons called to active duty in the Armed Forces on a temporary basis, as long as the head and/or co-head of household continues to serve in active duty. Income of the child (e.g., SSI benefits, military benefits) is not counted as income of the person providing the care.
3. Exclude from annual income special pay received by a household member serving in the Armed Services who is exposed to hostile fire (see Exhibit 5-1).
4. Give consideration for any case involving delayed payment of tenant rent. Determine whether it is appropriate to accept a late payment.
5. Allow the assistance payment and the lease to remain in effect for a reasonable period of time (depending on the length of deployment) beyond that required by the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. §§ 501-591, even though the adult members of the military family are temporarily absent from the assisted unit.*

D. Income of Permanently Confined Family Members

1. An individual permanently confined to a nursing home or hospital may not be named as family head, spouse, or co-head but may continue as a family member at the family's discretion. The family's decision on whether or not to include the permanently confined family member as a family member determines if that person's income will be counted.
 - a. *Include* the individual as a family member and the income and allowable deductions related to the medical care of the permanently confined individual are counted; or
 - b. *Exclude* the individual as a family member and the income and allowances based on the medical care of the permanently confined individual are not counted.
2. If the family elects to include the permanently confined member, the individual is listed on the HUD-50059 as an adult who is not the head, spouse, or co-head, even when the permanently confined family member is married to the person who is or will become the head of the family. The owner should consider extenuating circumstances that may prevent the confined member from being able to sign the HUD-50059. If the owner determines the confined member is unable to sign the HUD-50059,

the owner must document the file why the signature was not obtained. If the family elects not to include the permanently confined member, the individual would not be listed on the HUD-50059.**

E. Educational Scholarships or Grants

All forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial aid packages) are excluded from annual income **except for students receiving Section 8 assistance.** This is true whether the assistance is paid to the student or directly to the educational institution

For students receiving Section 8 assistance, all financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income except if the student is over the age of 23 with dependent children or the student is living with his or her parents who are receiving Section 8 assistance. See Paragraph 3-13 for further information on eligibility of students to receive Section 8 assistance and the Glossary for the definition of Student Financial Assistance.

F. Alimony or Child Support

Owners must count alimony or child support amounts awarded by the court unless the applicant certifies that payments are not being made *and* that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment.

1. The owner may accept printouts from the court or agency responsible for enforcing support payments, or other evidence indicating the frequency and amount of support payments actually received.
2. Child support paid to the custodial parent through a state child support enforcement or welfare agency may be included in the family's monthly welfare check and may be designated in different ways. In some states these payments are not identified as separate from the welfare grant. In these states, it is important to determine which portion is child support and not to count it twice. In other states, the payment may be listed as child support or as "pass-through" payments. These amounts must be counted as annual income.
3. When no documentation of child support, divorce, or separation is available, either because there was no marriage or for another reason, the owner may require the family to sign a certification stating the amount of child support received.

G. Regular Cash Contributions and Gifts

1. Owners must count as income any regular contributions and gifts from persons not living in the unit. These sources may include rent and utility

payments paid on behalf of the family, and other cash or noncash contributions provided on a regular basis.

Examples – Regular Cash Contributions

- The father of a young single parent pays her monthly utility bills. On average he provides \$100 each month. The \$100 per month must be included in the family's annual income.
- The daughter of an elderly tenant pays her mother's \$175 share of rent each month. The \$175 value must be included in the tenant's annual income.

2. Groceries and/or contributions paid directly to the childcare provider by persons not living in the unit are excluded from annual income.
3. Temporary, nonrecurring, or sporadic income (including gifts) is not counted.

H. Income from a Business

When calculating annual income, owners must include the net income from operation of a business or profession including self-employment income. Net income is gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis.

1. In addition to net income, owners must count any salaries or other amounts distributed to family members from the business, and cash or assets withdrawn by family members, except when the withdrawal is a reimbursement of cash or assets invested in the business.
2. When calculating net income, owners must not deduct principal payments on loans, interest on loans for business expansion or capital improvements, other expenses for business expansion, or outlays for capital improvements.
3. If the net income from a business is negative, it must be counted as zero income. A negative amount must not be used to offset other family income.

I. **Periodic Social Security Payments

Count the gross amount, before deductions for Medicare, etc., of periodic Social Security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support.**

J. Adjustments for Prior Overpayment of Benefits

If an agency is reducing a family's benefits to adjust for a prior overpayment (e.g., social security, SSI, TANF, or unemployment benefits), count the amount that is actually provided after the adjustment.

Example – Adjustment for Prior Overpayment of Benefits

Lee Park's social security payment of \$250 per month is being reduced by \$25 per month for a period of six months to make up for a prior overpayment. Count his social security income as \$225 per month for the next six months and as \$250 per month for the remaining six months.

K. Public Assistance Income in As-Paid Localities

1. Special calculations of public assistance income are required for “as-paid” state, county, or local public assistance programs. An “as-paid” system is one:
 - a. In which the family receives an amount from a public agency specifically for shelter and utilities; and
 - b. In which the amount is adjusted based upon the actual amount the family pays for shelter and utilities.
2. The public assistance amount specifically designated for rent and utilities is called the “welfare rent.”
3. To determine annual income for public assistance recipients in “as-paid” localities, include the following:
 - a. The amount of the family's grant for other than shelter and utilities; and
 - b. The maximum amount the welfare department can pay for shelter and utilities for a family of that size (i.e., the welfare rent). This may be different from the amount the family is actually receiving.
4. Each as-paid locality works somewhat differently, and many are subject to court-ordered modifications to the basic policy. Owners should discuss how the rules are applied with the HUD Field Office.

Example – Welfare Income in “As Paid” Localities

At application, a family's welfare grant is \$300, which includes \$125 for basic needs and \$175 for shelter and utilities (based upon where the family is now living). However, the maximum the welfare agency could allow for shelter and utilities for this size family is \$190.

Count the following as income:

\$125 Amount family receives for basic needs

\$190 Maximum for shelter and utilities

\$315 Monthly public assistance income

L. Periodic Payments from Long-Term Care Insurance, Pensions, Annuities, and Disability or Death Benefits

1. The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. (See subparagraph O below for information on the withdrawal of cash or assets from an investment.) Payments such as Black Lung Sick Benefits, Veterans Disability, and Dependent Indemnity Compensation for the Widow of a Killed in Action Serviceman are examples of such periodic payments.
2. Withdrawals from retirement savings accounts such as Individual Retirement Accounts and 401K accounts that are not periodic payments do not fall in this category and are not counted in annual income (see paragraph 5.7 G.4).

Example – Withdrawals from IRAs or 401K Accounts

Isaac Freeman retired recently. He has an IRA account but is not receiving periodic payments from it because his pension is adequate for his routine expenses. However, he has withdrawn \$2,000 for a trip with his children. The withdrawal is not a periodic payment and is not counted as income.

3. If the tenant is receiving long-term care insurance payments, any payments in excess of \$180 per day must be counted toward the gross annual income. (**NOTE:** Payment of long-term care insurance premiums are an eligible medical expense – see paragraph 5-10 D.8.k.)
4. *Federal Government/Uniformed Services pension funds paid to a former spouse.*

Federal Government/Uniformed Services pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are not counted as annual income. The state court has, in the settlement of the parties' marital assets, determined the extent to which each party shares in the ownership of the pension. That portion of the pension that is ordered by the court (and authorized by the Office of Personnel Management (OPM), to be paid to the applicant's/tenant's former spouse is no longer an asset of the applicant/tenant and therefore is not counted as income. However, any pension funds authorized by OPM, pursuant to a court order, to be paid to the former spouse of a Federal government employee is counted as income for a tenant/applicant receiving such funds.

Example: Joan Carson is a retired Federal government employee receiving a retirement pension. She is also the recipient of Section 8 housing assistance and involved in a divorce proceeding. In settling the assets of the marriage between Mrs. Carson and her former husband, the court ordered that one half of her pension be paid directly to her former husband in the amount of \$20,000. The court provided OPM with clear, specific and express instructions acceptable for OPM to process the payment to Mrs. Carson's former husband. OPM authorized the payment of pension benefits to Mrs. Carson's former husband in the amount of \$20,000. The \$20,000 represents an asset disposed of as a result of a court decree. At the interim reexamination of her income, Mrs. Carson indicated a change in her income due to the court ordered payment of pension benefits to her former husband. The PHA requested that Mrs. Carson provide a copy of her statement from OPM evidencing the payment of pension benefits to her (her statement reflected the line item payment to her former husband due to the court order). That portion of the pension paid to her former husband no longer belongs to Mrs. Carson and is not counted as income.

The OPM is responsible for handling court orders (any judgments or property settlements issued by or approved by any court of any state, the

District of Columbia, the Commonwealth of Puerto Rico, Guam, The Northern Mariana Islands, or the Virgin Islands in connection with the divorce, annulment of marriage, or legal separation of a Federal government employee or retiree) affecting current and retired Federal government employees. See 5 C.F.R. § 838.103. OPM must comply with court orders, decrees, or court-approved property settlement agreements in connection with divorces, annulments of marriage, or legal separations of employees that award a portion of the former Federal government employee's retirement benefits. Id. at § 838.101(a)(1). State courts ordering a judgment or property settlement in connection with divorce, annulment of marriage, or legal separation have the responsibility of issuing clear, specific, and express instructions to OPM with regards to providing benefits to former spouses. Id. at § 838.122. In response to instructions from state courts, OPM will authorize payments to the former spouses. Id. at § 838.121. Once the payments have been

authorized by OPM, the reduced pension amount paid to the retired Federal employee (the tenant/applicant) will be reflected in the tenant's/applicant's statement from OPM. Former spouses of Federal government employees receiving court ordered pension benefits are provided a Form-1099 reflecting pension benefits received from the retired Federal government employee. In verifying the income of tenants/applicants, owners should require that tenants/applicants provide any copies of statements from OPM verifying pension benefits (including any reductions pursuant to a court order, decree or court-approved property settlement agreement), and any evidence of survivor benefits, pensions or annuities received from retired Federal government employees including, but not limited to, a Form-1099. (See Paragraph 5-7.G.5 for more information on the treatment of income from Federal government pensions.)

5. *Other State, local government, social security or private pensions paid to a former spouse.

Other state, local government, social security or private pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are also not counted as annual income and should be handled in the same manner as 4, above. The decree and copies of statements should be obtained in order to verify the net amount of the pension that should be applied in order to determine eligibility and calculate rent.*

M. Income from Training Programs

1. Amounts received under HUD-funded training programs are excluded from annual income.
2. Incremental earnings and benefits received by any family member due to participation in qualifying state or local employment training programs are excluded. Income from training programs not affiliated with a local government, and income from the training of a family member resident to serve on the management staff, is also excluded.
 - a. Excluded income must be received under employment training programs with clearly defined goals and objectives and for a specific, limited time period. The initial enrollment must not exceed one year, although income earned during extensions for additional specific time periods may also be eligible for exclusion
 - b. Training income may be excluded only for the period during which the family member participates in the employment training program.
 - c. Exclusions include stipends, wages, transportation or child care payments, or reimbursements.

- d. Income received as compensation for employment is excluded only if the employment is a component of a job training program. Once training is completed, the employment income becomes income that is counted.
 - e. Amounts received during the training period from sources that are unrelated to the job training program, such as welfare benefits, social security payments, or other employment, are not excluded.
2. Owners may ask to use project funds or funds from the Residual Receipts account to underwrite all or a portion of the cost of developing, maintaining, and managing a job training program for project residents if funds are available.
 - a. The Field Office will make the determination if the job training program may be approved, and if project funds are sufficient to fund the job training program and maintain the physical and financial integrity of the project. Job training programs may be either on-site at the project or off-site. For example, job training programs that have partnerships with local colleges, community based organizations, or local business, may have in-house job training programs designed for project residents.
 - b. Funds that an owner may choose to use to underwrite a job training program may include Section 8 funds, Community Development Block Grant funds, or housing authority funds. These funds may be used to cover the costs of various components of a job training program, including course materials, computer software, computer hardware, or personnel costs. Also, contractors and subcontractors, in connection with work performed under a Flexible Subsidy contract, may elect to hire project residents to perform certain skills required under the contract. If the employment of the project residents was pursuant to an apprenticeship program, this could constitute a training program using HUD funds, and income received by the tenants in the apprenticeship program will qualify as an exclusion from income.

N. Resident Services Stipends

Resident services stipends are generally modest amounts of money received by residents for performing services such as hall monitoring, fire patrol, lawn maintenance, and resident management.

1. If the resident stipend exceeds \$200 per month, owners must include the entire amount in annual income.
2. If the resident stipend is \$200 or less per month, owners must exclude the resident services stipend from annual income.

O. Income Received by a Resident of an Intermediate Care Facility for the Mentally Retarded or for the Developmentally Disabled (ICF/MR or ICF/DD) and Assisted Living Units in Elderly Projects

1. An intermediate care facility is a group home for mentally retarded or developmentally disabled individuals (ICF/MR or ICF/DD). The term "intermediate care facility" is one used by state mental health departments for group homes serving these residents.
2. Assisted living units are units in projects developed for elderly residents with project-based assistance that have been converted to assisted living units.
3. The local agency responsible for Medicaid provides funds directly to group home operators and assisted living providers for services.
4. Annual income at an ICF/MR, ICF/DD, or assisted living unit must include:
 - a. The SSI payment a tenant receives or the facility receives on behalf of the tenant; plus
 - b. All other income the tenant receives from sources other than SSI that are not excluded from income by HUD regulations (see Exhibit 5-1). Examples of other sources of income include wages, pensions, income from sheltered workshops, income from a trust, or other interest income.
 - c. The personal allowance of an individual residing in an ICF/MR or ICF/DD is not included in annual income. If the owner is unable to determine the actual amount of the personal allowance, use \$30.
5. Annual income does not include the enhanced benefit portion of the SSI that is provided to pay for services. In some instances, a resident's SSI income may be reduced between annual recertifications if the resident's earnings exceed a specified amount. If this happens, the resident may request an interim recertification.

P. Withdrawal of Cash or Assets from an Investment

The withdrawal of cash or assets from an investment received as periodic payments should be counted as income. **Lump sum receipts from pension and retirement funds are counted as assets. If benefits are received through periodic payments, do not count any remaining amounts in the account as an asset. See Paragraph 5-7 G.2 for guidance on calculating income from an asset. **

Q. Lump Sum Payments Counted as Income

1. Generally, lump sum amounts received by a family, such as inheritances, insurance settlements, or proceeds from sale of property are considered assets, not income.

2. When social security or SSI benefit income is paid in a lump sum as a result of deferred periodic payments, that amount is *excluded* from annual income.
3. Settlement payments from claim disputes over welfare, unemployment, or similar benefits may be counted as assets, but lump sum payments caused by *delays in processing* periodic payments for unemployment or welfare assistance are included as income.

How lump sum payments for delayed start of benefits are counted depends upon the following:

- a. When the family reports the change;
- b. When an interim re-examination is conducted; and
- c. Whether the family's income increases or decreases as a result.

A lump sum payment resulting from delayed benefit income may be treated in either of the two ways illustrated in the example shown in Figure 5-3.

4. Lottery winnings paid in one payment are treated as assets. Lottery winnings *paid in periodic payments* must be counted as income.

Figure 5-3: Treatment of Delayed Benefit Payments Received in a Lump Sum

Family member loses his/her job on October 19 and applies for unemployment benefits. The family receives a lump sum payment of \$700 in December to cover the period from 10/20 to 12/5 and begins to receive \$100 a week effective 12/6.

Option A: The owner processes one interim re-examination immediately effective 11/1 and a second interim after unemployment benefits are known.

	<u>10/1</u>	<u>11/1</u>	<u>12/1</u>	<u>1/1</u>	<u>2/1</u>
Monthly gross income	800	*0	*0	492**	492**
Monthly allowances (three minors x 480 / 12 months)	120	-	-	120	120
Monthly adjusted income	680	0	0	372	372
Total tenant payment (TTP)	204	25	25	25***	112***

* The family's income is calculated at \$0/month beginning November 1, continuing until benefits actually begin and new income is calculated. TTP is set at the minimum rent.

** Family's actual income for 1/1 is \$100/week x 52 weeks = \$5,200 / 12 = \$433.

However, because the family's TTP was calculated at zero income for the months of November and December (the period eventually covered by the \$700 lump sum payment), the annual income to be used in calculating monthly gross income should be as follows:

\$100/week benefit x 52 weeks = \$5,200 + \$700 lump sum payment = \$5,900 annual gross income / 12 = \$492.

*** Increased rent does not start until 2/1 in order to give the family notice of rent increase.

Option B: The owner processes one interim re-examination after unemployment benefits are known.

	<u>10/1</u>	<u>11/1</u>	<u>12/1</u>	<u>1/1</u>	<u>2/1</u>
Monthly gross income	800	0/800*	0/800*	433*	433*
Monthly allowances (three minors x 480 / 12 Months)	120	120	120	120	120
Monthly adjusted income	680	0/680	0/680	313	313
Total tenant payment	204	204*	204*	94	94
Recalculated TTP	-	94***	94*	94	94
Rent credit (204 – 94=)	-	110	110	-	-

* Family's actual income for 11/1 and 12/1 is zero, but because the owner does not process an interim re-examination, the family's TTP continues to be calculated using \$800 as monthly gross income. Beginning 1/1, monthly gross income is known to be \$100/week, or \$433/month.

** The lump sum payment is taken into account by making the recertification retroactive to 11/1. Annual income is calculated as \$5,200 / 12 = \$433 monthly gross income.

*** TTP for November and December recalculated as \$433 monthly gross income and \$313 monthly adjusted income x .30 = 94 with credit or refund to family of \$110/month for each of these two months for difference between TTP paid of \$204 and recalculated TTP of \$94.

R. Exclusions from Income

1. Regulations for the multifamily subsidized housing programs covered by this handbook specifically exclude certain types of income from annual income. However, many of the items listed as exclusions from annual income under HUD requirements are items that the IRS includes as taxable income. Therefore, it is important for owners to focus specifically on the HUD program requirements regarding annual income.
2. Among the items that are excluded from annual income are the value of food provided through:
 - a. The Meals on Wheels program, food stamps, or other programs that provide food for the needy;
 - b. Groceries provided by persons not living in the household; and
 - c. Amounts received under the School Lunch Act and the Child Nutrition Act of 1966, including reduced lunches and food under the Special Supplemental Food Program for Women, Infants and Children (WIC).

Examples – Income Exclusions

- The Value of Food Provided through the Meals on Wheels Program or Other Programs Providing Food for the Needy. Jack Love receives a hot lunch each day during the week in the community room and an evening meal in his apartment. One meal is provided through the Meals on Wheels program. A local church provides the other. The value of the meals he receives is not counted as income.
- Groceries provided by persons not living in the household. Carrie Sue Colby's mother purchases and delivers groceries each week for Carrie Sue and her two year old. The value of these groceries is not counted as income despite the fact that these are a regular contribution or gift.
- Amounts Received Under WIC or the School Lunch Act. Lydia Jeffries' two children receive a free breakfast and reduced priced lunches at school every day through the Special Supplemental Food Program for Women, Infants and Children (WIC). The value of this food is not counted as income.

**

3. Some additional examples of income that is excluded from the calculation of annual income follow.

Examples – Income Exclusions

- Resident service stipends. Rich Fuller receives \$50 a month for distributing flyers for management. This amount is excluded from annual income.
- Deferred periodic payments of social security benefits. Germain Johnson received \$32,000 in deferred social security benefits following a lengthy eligibility dispute. This delayed payment of social security benefits is treated as an asset, not as income.
- Income from training programs. Jennifer Jones is participating in a qualified state-supported employment training program every afternoon to learn improved computer skills. Each morning, she continues her regular job as a typist. The \$250 a week she receives as a part-time typist is included in annual income. The \$150 a week she receives for participation in the training program is excluded in annual income.
- Earned Income Tax Credit refund payments. Mary Frances Jackson is eligible for an earned income tax credit. She receives payments from her employer each quarter because of the tax credit. These payments are excluded in annual income.

**

5-7 Calculating Income from Assets

Annual income includes amounts derived from assets to which family members have access.

A. What is Considered to Be an Asset?

1. Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the *income* from that asset.
2. Some tenants have assets that are not earning interest. A quantity of money under a mattress is an asset: it is a thing of value that could be used to the benefit of the tenant, but under the mattress it is not producing income.
3. Some belongings of value are not considered assets. Necessary personal property is not counted as an asset. Exhibit 5-2 summarizes the items that are considered assets and those that are not.

B. Determining Income from Assets

Note: For families receiving only BMIR assistance, it is not necessary to determine whether family assets exceed \$5,000. The rule for imputing income from assets does not apply to the BMIR program.

1. The calculation to determine the amount of income from assets to include in annual income considers both of the following:
 - a. The total cash value of the family's assets; and
 - b. The amount of income those assets are earning or could earn.
2. The rule for calculating income from assets differs depending on whether the total cash value of family assets is \$5,000 or less, or is more than \$5,000.

C. Determining the Total Cash Value of Family Assets

1. To comply with the rule for determining the amount of income from assets, it is necessary to first determine whether the total "cash value" of family assets exceeds \$5,000.
 - a. The "cash value" of an asset is the market value less reasonable expenses that would be incurred in selling or converting the asset to cash, such as the following:
 - (1) Penalties for premature withdrawal;
 - (2) Broker and legal fees; and
 - (3) Settlement costs for real estate transactions.

The cash value is the amount the family could actually receive in cash, if the family converted an asset to cash.

Example – Calculating the Cash Value of an Asset

A family has a certificate of deposit (CD) in the amount of \$5,000 paying interest at 4%. The penalty for early withdrawal is three months of interest.

$$\$5,000 \times 0.04 = \$200 \text{ in annual income}$$

$$\$200 / 12 \text{ months} = \$16.67 \text{ interest per month}$$

$$\$16.67 \times 3 \text{ months} = \$50.01$$

$$\$5,000 - \$50 = \$4,950 \text{ cash value of CD}$$

- b. It is essential to note that a family is not required to convert an asset to cash. Determining the cash value of the asset is done simply as a calculation by the owner because it is a required step when determining income from assets under program requirements.

D. Assets Owned Jointly

1. If assets are owned by more than one person, prorate the assets according to the percentage of ownership. If no percentage is specified or provided by a state or local law, prorate the assets evenly among all owners.
2. If an asset is not effectively owned by an individual, do not count it as an asset. An asset is not effectively owned when the asset is held in an individual's name, but (a) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.
3. Determining which individuals have ownership of an asset requires collecting as much information as is available and making the best judgment possible based on that information.

Example – Determining the Cash Value of an Asset

The “cash value” of an asset is the amount a family would receive if the family turned a noncash asset into cash.

The cash value is the market value—or the amount another person would pay to acquire the asset—less the cost to turn the asset into cash.

If a family owns real estate, it may be necessary to consider the family’s equity in the property as well as the expense to sell the property.

To determine the family’s equity, subtract amounts owed on the property from its market value:

$$\begin{array}{r} \text{Market value} \\ - \text{Mortgage amount owed} \\ \hline \text{Equity in the property} \end{array}$$

Calculate the cash value by subtracting the expense of selling the property:

$$\begin{array}{r} \text{Equity} \\ - \text{Expense of selling} \\ \hline \text{Cash Value} \end{array}$$

Juanita Player owns a rental house. The market value is \$100,000. She owes \$60,000. The cost to dispose of this house would be \$8,000. The owner would determine the cash value as follows:

Market Value	\$100,000
Mortgage amount	- <u>\$60,000</u>
	40,000
Cost of disposing of the asset (real estate commission, and other costs of sale)	- <u>\$8,000</u>
Cash Value	\$32,000

- a. In some instances, but not all, knowing whose social security number is connected with the asset may help in identifying ownership. Owners should be aware that there are many situations in which a social security number connected with an asset does not indicate ownership and other situations where there is ownership without connection to a social security number.
- b. Determining who has contributed to an asset or who is paying taxes on the asset may assist in identifying ownership.

Examples – Jointly Owned Assets

- Helen Wright is an assisted-housing tenant. She and her daughter, Elsie Duncan, have a joint savings account. Mother and daughter both contribute to the account. They have used the account for trips together and to cover emergency needs for either of them. Assume in this example that state law does not specify ownership. Even though either Helen Wright or Elsie Duncan could withdraw the entire asset for her own use, count Helen's ownership as 50% of the account.
- Jean Boucher's name is on her mother's savings account to ensure that she can access the funds for her mother's care. The account is not effectively owned by Jean and should not be counted as her asset.

E. Calculating Income from Assets When Assets Total \$5,000 or Less

If the total cash value of all the family's assets is \$5,000 or less, the actual income the family receives from assets is the amount that is included in annual income as income from assets.

F. Calculating Income from Assets When Assets Exceed \$5,000

1. When net family assets are more than \$5,000, annual income includes the greater of the following:
 - a. Actual income from assets; or
 - b. A percentage of the value of family assets based upon the current passbook savings rate as established by HUD. This is called *imputed* income from assets. The passbook rate is currently set at 2%.
2. To begin this calculation, first add the cash value of all assets. Multiply the total cash value of all assets by .02. The product is the "imputed income" from assets. Then, add the actual income from all assets. The greater of the imputed income from assets or the actual income from assets is included in the calculation of annual income.

**Example – Use Actual Income from Assets When
Total Net Family Assets are \$5,000 or Less**

Type of Asset	Cash Value	Actual Yearly Income
<i>Certificate of Deposit</i> \$1,000 withdrawal fee \$50 interest @ 4%	\$950	\$40
<i>Savings Account</i> \$500 interest @ 2.5%	\$500	\$13
<i>Stock</i> \$300 Not paying dividends	\$300	\$0
	<hr/>	<hr/>
Total	\$1,750	\$53

The total cash value of the family's assets is \$1,750. Therefore, the amount that is added to annual income as income from assets is the actual income earned or \$53.

Example – Imputed Income from Assets

"Imputed" means "attributed" or "assigned." Imputing income from assets is "assigning" an amount of income solely for the sake of the annual income calculation. The imputed income is not real income.

For example, money under a mattress is not earning income. If the money were put in a savings account it would earn interest. Imputed income from such an asset is the interest the money would earn if it were put in a savings account.

A family with cash under a mattress is not required to put the cash in a savings account; but when the owner is calculating income for a family with more than \$5,000 in assets, the owner must assign an amount that cash would earn if it were in a savings account.

**Example – Determining Income from Assets
When Net Family Assets Exceed \$5,000**

Type of Asset	Cash Value	Actual Yearly Income
<i>Checking Account</i> (non-interest bearing)	\$455	\$0
<i>Savings Account</i> (interest at 2.5%)	\$6,000	\$150
<i>Stocks</i> (not paying dividends this year)	\$3,000	\$0
Total	\$9,455	\$150

Total cash value of assets is greater than \$5,000. Therefore, it is necessary to compare the actual income from assets to the imputed income from assets.

The total cash value of assets (\$9,455) is multiplied by 2% to determine the imputed income from assets.

$$.02 \times \$9,455 = \$189$$

\$189 is greater than the actual income from assets (\$150).

In this case, therefore, the owner will add \$189 to the annual income calculation as income from assets.

G. Calculating Income from Assets - Specific Types of Assets

1. Trusts.

a. Explanation of trusts.

- (1) A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries). A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Generally, the assets are invested for the benefit of the beneficiaries.
- (2) Trusts may be revocable or nonrevocable. A revocable trust is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account. When the creator sets up a nonrevocable trust, the creator has no access to the funds in the account.
- (3) The beneficiary frequently will be unable to touch any of the trust funds until a specified date or event (e.g., the

beneficiary's 21st birthday or the grantor's death). In some instances, the beneficiary may receive the regular investment income from the trust but not be able to withdraw any of the principal.

- (4) The beneficiary and the grantor may be members of the same family. A parent or grandparent may have placed funds in trust to a child. If the trust is revocable, the funds may be accessible to the parent or grandparent but not to the child.

b. How to treat trusts.

- (1) The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account.
- (2) Revocable trusts. If any member of the tenant family has the right to withdraw the funds in the account, the trust is considered to be an asset and is treated as any other asset. The cash value of the trust (the amount the family member would receive if he or she withdrew all that could be withdrawn) is added to total net assets. The actual income received is added to actual income from assets.

Example – A Trust Accessible to Family Members

Assez Charaf lives alone. He has placed \$20,000 in trust to his grandson to be available to the grandson upon the death of Assez. The trust is revocable, that is, Assez has control of the principal and interest in the account and can amend the trust or remove the funds at any time. In calculating Assez's income, the owner will add the \$20,000 to Assez's net family assets and the actual income received on the trust to actual income from assets.

- (3) Nonrevocable trusts. If no family member has access to either the principal or income of the trust at the current time, the trust is not included in the calculation of income from assets or in annual income.

If only the income (and none of the principal) from the trust is currently available to a family member, the income is counted in annual income, but the trust is not included in the calculation of income from assets.

- (4) Nonrevocable trust as an asset disposed of for less than fair market value. If a tenant sets up a nonrevocable trust for the benefit of another person while residing in assisted

housing, the trust is considered an asset disposed of for less than fair market value (see subparagraph G.6 below).

- If the trust has been set up so income from the trust is regularly reinvested in the trust and is not paid back to the creator, the trust is calculated as any other asset disposed of for less than fair market value for two years and not taken into consideration thereafter.

Example – Nonrevocable Trust As an Asset Disposed of for Less Than Fair Market Value

Sarah Gordy placed \$100,000 in a nonrevocable trust for her grandson. Last year, the trust produced \$8,000, which was reinvested into the trust.

The trust is treated as an asset disposed of for less than fair market value for two years. (See paragraph 5.7 G.6.) No actual income from the trust is included in Sarah's annual income, but the value of the asset when it was given away, \$100,000, is included in net family assets for two years from the date the trust was established.

- Nonrevocable trust distributing income. When a tenant places an asset in a nonrevocable trust but continues to receive income from the trust, the income is added to annual income *and* the trust is counted as an asset disposed of for less than market value for two years. Following the two-year period, the owner will count only the actual income distributed from the trust to the tenant.

Example – Nonrevocable Trust Distributing Income to the Creator/Tenant

Reggie Bouchard has established a nonrevocable trust in the amount of \$35,000 that no one in the tenant family controls. Income from the trust is paid to Reggie. Last year, he received \$3,500.

The owner will count Reggie's actual anticipated income from the trust in next year's annual income.

Because the asset was disposed of for less than fair market value (see paragraph 5.7 G.6), the value of the asset given away, \$35,000, is counted as an asset disposed of for less than fair market value for two years.

- (5) Payment of principal from a trust. The beneficiary of a trust may receive funds from the trust in different ways. A beneficiary may receive the full value of a trust at one time. In that instance the funds would be considered a lump sum receipt and would be treated as an asset. A trust set up to provide support for a person with disabilities may pay only income from the trust on a periodic basis. Occasionally, however, a beneficiary may be given a portion of the trust principal on a periodic basis. When the principal is paid out on a periodic basis, those payments are considered regular income or gifts and are counted in annual income.

Example – Payment of Principal Amounts from a Trust

Jared Leland receives funds from a nonrevocable trust established by his parents for his support. Last year he received \$18,000 from the trust. The attorney managing the trust reported that \$3,500 of the funds distributed was interest income and \$14,500 was from principal. Jared receives a payment of \$1,500 each month (an amount that includes both principal and interest from the trust).

The owner will count the entire \$18,000 Jared received as annual income.

c. Special needs trusts.

A special needs trust is a trust that may be created under some state laws, often by family members for disabled persons who are not able to make financial decisions for themselves. Generally, the assets within the trust are not accessible to the beneficiary.

- (1) If the beneficiary does not have access to income from the trust, then it is not counted as part of income.
- (2) If income from the trust is paid to the beneficiary regularly, those payments are counted as income.

Example – Special Needs Trust

Daryl Rockland is a 55-year-old person with disabilities, living with his elderly parents. The parents have established a special-needs trust to provide income for their son after they are gone. The trust is not revocable; neither the parents nor the son currently have access to the principal or interest. In calculating the income of the Rocklands, the owner will disregard the trust.

2. Annuities.

a. Annuity facts and terms.

- (1) An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals. Fixed annuities guarantee a certain payment amount, while variable annuities do not, but have the potential for greater returns.
 - A hybrid annuity (also called a combination annuity) combines the features of a fixed annuity and a variable annuity.
 - A deferred annuity is an annuity that delays income payments until the holder chooses to receive them. An immediate annuity is one that begins payments immediately upon purchase.
 - A life annuity continues to pay out as long as the owner is alive. A single-life annuity provides income benefits for only one person. A joint life annuity is issued on two individuals, and payments continue in whole or in part as long as either individual is alive.
- (2) Generally, a person who holds an annuity from which he or she is not yet receiving payments will also be earning income. In most instances, a fixed annuity will be earning interest at a specified fixed rate similar to interest earned by a CD. A variable annuity will earn (or lose) based on market fluctuations, as in a mutual fund.
- (3) Most annuities charge surrender or withdrawal fees. In addition, early withdrawal usually results in tax penalties.
- (4) Depending on the type of annuity and the current status of the annuity, the owner will need to ask different questions of the verification source, which will normally be the applicant or tenant's insurance broker.

b. Income after the holder begins receiving payments.

- (1) When verifying an annuity, owners should ask the verification source whether the holder of the annuity has the right to withdraw the balance of the annuity. For annuities without this right, the annuity is not treated as an asset.

- (2) Generally, when the holder has begun receiving annuity payments, the holder can no longer convert it to a lump sum of cash. In this situation, the holder will receive regular payments from the annuity that will be treated as regular income, and no calculations of income from assets will be made. **

c. Calculations when an annuity is considered an asset.

- (1) When an applicant or tenant has the option of withdrawing the balance in an annuity, the annuity will be treated like any other asset. **It will be necessary to determine the cash value of the annuity in addition to determining the actual income earned.
- (2) In most instances, an annuity from which payments have not yet been made is earning income on the balance in the annuity. A fixed annuity will earn income at a fixed rate in the same manner that a CD earns income. A variable annuity will earn (or lose) based on current market conditions, as with a mutual fund.
- (3) The owner will need to verify with the insurance agent or other appropriate source:
- The right of the holder to withdraw the balance (even if penalties are involved).
 - The basis on which the annuity may be expected to grow during the coming year.
 - The surrender or early withdrawal penalty fee.
 - The tax rate and the tax penalty that would apply if the family withdrew the annuity.
- (4) The cash value will be the full value of the annuity, less the surrender (or withdrawal) penalty, and less any taxes and tax penalties that would be due.
- (5) The actual income is the balance in the annuity times the percentage (either fixed or variable) at which the annuity is expected to grow over the coming year. (This money will be reinvested into the annuity, but it is still considered actual income.)
- (6) The imputed income from the asset is calculated only after the cash value of all family assets has been determined.

imputed income from assets is calculated on the total cash value of all family assets.

3. Lump sum receipts counted as assets.

- a. Commonly, when a family receives a large amount of money, a lump sum payment, the family will put the money in a checking or savings account, or will purchase stocks or bonds or a CD. Owners must count lump sum payments received by a tenant as assets. Examples of lump sum payments include the following:
- (1) Inheritances;
 - (2) Capital gains;
 - (3) Lottery winnings paid in one payment;
 - (4) Cash from the sale of assets;
 - (5) Insurance settlements (including health and accident insurance, workers compensation, and personal and property losses); and
 - (6) Any other amounts that are received in one-time lump sum payments.

Example – Calculating the Cash Value of an Annuity

Rodrigo Ramirez, site manager at Fernwood Forrest, has interviewed Barbara Barstow, an applicant who reports holding an annuity from which she will not receive payments for another 15 years when she turns 65. The applicant could not provide any more detail on the annuity but did report the name, address, and phone number of her insurance agent.

Rodrigo called the insurance agent and faxed a copy of the applicant's approval for release of information. As a result, Rodrigo learned that the annuity is a fixed annuity, with a current value of \$20,400 earning interest at an annual rate of 4.5%. The applicant could withdraw the current balance in the account but would pay a surrender penalty of \$3,000. If the annuity is withdrawn, then the applicant will owe \$1,200 in tax penalties.

In this example, the important information for calculating cash value is the current value, \$20,400; the surrender fee, \$3,000; and the tax penalties, \$1,200. If the applicant withdrew the cash from the annuity, after paying the surrender fee and tax penalty, then the amount of cash received would be \$16,200.

The cash value, \$16,200, is recorded as an asset.

Rodrigo will also calculate the actual anticipated income on this asset: $\$20,400 \times .045 = \918 .

- b. A lump sum payment is counted as an asset only as long as the family continues to possess it. If the family uses the money for something that is not an asset—a car or a vacation or education—the lump sum must not be counted.
- c. It is possible that a lump sum or an asset purchased with a lump sum payment may result in enough income to require the family to report the increased income before the next regularly scheduled annual recertification. But this requirement to report an increase in income before the next annual recertification would not apply if the income from the asset was not measurable by the tenant (e.g., gems, stamp collection).

Examples – Lump Sum Additions to Family Assets (One-Time Payment)

- JoAnne Wettig won \$500 in the lottery and received it in one payment. Do not count the \$500 as income. At JoAnne's next annual recertification, she will report all of her assets.
- Mia LaRue, a tenant in a Section 8 property, won \$75,000 in one payment in the lottery. She buys a car with some of the money, and puts the remaining amount of \$24,000 in the bank. Mia receives her first bank statement and notices that the income on this asset is \$205 per month. She must report this increase in income because the family has experienced a cumulative increase in income of more than \$200 per month. (See paragraph 7-10 A.4 on rules for reporting interim increases in income.) The owner must perform an interim recertification and count the greater of the actual or imputed income on this asset (since the net family assets are greater than \$5,000).

4. Balances held in retirement accounts.

- a. Balances held in retirement accounts are counted as assets if the money is accessible to the family member. For individuals still employed, accessible amounts are counted even if withdrawal would result in a penalty. However, amounts that would be accessible only if the person retired are not counted.
- b. IRA, Keogh, and similar retirement savings accounts are counted as assets, even though withdrawal would result in a penalty.
- c. Include contributions to company retirement/pension funds:
 - (1) While an individual is employed, count only amounts the family can withdraw without retiring or terminating employment.

- (2) After retiring or terminating employment, count as an asset any amount the employee elects to receive as a lump sum.
- d. Include in *annual income* any retirement benefits received through periodic payments.

Examples – Balances Held in an IRA or 401K Retirement Account

- Jed Dozier's 401K account balance is \$35,000. He is able to terminate his participation in the retirement plan without quitting his job, but if he did so he would lose a part of his employer's contribution and would pay a penalty fee. The total cash he could withdraw, \$18,000, is the amount that is counted as an asset.

5. *Federal Government/Uniformed Services Pensions

In instances where the applicant/tenant is a retired Federal Government/Uniformed Services employee receiving a pension that is* determined by a state court in a divorce, annulment of marriage, or legal separation proceeding to be a marital asset and the court provides OPM with the appropriate instructions to authorize OPM to provide payment of a portion of the retiree's pension to a former spouse, that portion to be paid directly to the former spouse is not counted as income for the applicant/tenant. However, where the tenant/applicant is the former spouse of a retired Federal Government/Uniformed Services employee, any amounts received pursuant to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation are reflected on a Form-1099 and is counted as income for the applicant/tenant. (See Paragraph 5-6.K.4 for more information on Federal Government/Uniformed Services pension funds paid to a former spouse.)

6. *Other state, local government, social security or private pensions.

Other state, local government, social security or private pensions where pensions are reduced due to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation and paid directly to the former spouse are not counted as income for the applicant/tenant and should be handled in the same manner as 5, above.*

7. Mortgage or deed of trust.

- a. Occasionally, when an individual sells a piece of real estate, the seller may loan money to the purchaser through a mortgage or deed of trust. This may be referred to as a "contract sale."

- b. A mortgage or deed of trust held by a family member is included as an asset. Payments on this type of asset are often received as one combined payment that includes interest and principal. The value of the asset is the unpaid principal as of the effective date of the certification. Each year this balance will decline as more principal is paid off. The interest portion of the payment is counted as actual income from an asset.
8. Assets disposed of for less than fair market value. Applicants and tenants must declare whether an asset has been disposed of for less than fair market value at each certification and recertification. Owners must count assets disposed of for less than fair market value during the two years preceding certification or recertification. The amount counted as an asset is the difference between the cash value and the amount actually received. (This provision does not apply to families receiving only BMIR assistance.)
- a. Any asset that is disposed of for less than its full value is counted, including cash gifts as well as property. To determine the amount that has been given away, owners must compare the cash value of the asset to any amount received in compensation.
- b. However, the rule applies only when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than \$1,000.

Examples – Assets of More or Less Than \$1,000 Disposed of for Less Than Fair Market Value

- During the past two years, Alexis Turner donated \$300 to the local food bank, \$150 to a camp program, and \$200 to her church. The total amount she disposed of for less than fair market value is \$650. Since the total is less than \$1,000, the donations are not treated as assets disposed of for less than fair market value.
- Jackson Jones gave each of his three children \$500. Because the total exceeds \$1,000, the gifts are treated as assets disposed of for less than fair market value.

- c. When the two-year period expires, the income assigned to the disposed asset also expires. If the two-year period ends in the middle of a recertification year, the tenant may request an interim recertification to remove the disposed asset(s). * However, if the owner elects to only include the income for a partial remaining year as shown in the example below, an interim recertification should not be conducted.*

**Example – Asset Disposed of
for Less Than Fair Market Value**

Margot Lundberg's recertification will be effective January 1. On that date, it will be 18 months since she sold her house to her daughter for \$60,000 less than its value. The owner will count income on the \$60,000 for only six months. (After six months, the two-year limit on assets disposed of for less than fair market value will have expired.)

- d. Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce, or separation are *not* counted.
- e. Assets placed in nonrevocable trusts are considered as assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgements.
- f. Applicants and tenants must sign a self-verification form at their initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or certifying that no assets have been disposed of for less than fair market value.
- g. Owners need to verify the tenant self certification only if the information does not appear to agree with other information reported by the tenant/applicant.

Examples – Asset Disposed of for Less Than Market Value

- (1) An applicant “sold” her home to her daughter for \$10,000. The home was valued at \$89,000 and had no loans secured against it. Broker fees and settlement costs are estimated at \$1,800.

\$89,000	Market value
<u>- 1,800</u>	Fees
\$87,200	Cash value
<u>- 10,000</u>	Sales price to daughter
\$77,200	Asset disposed of for less than fair market value

In this example, the asset disposed of for less than fair market value is \$77,200. That amount is counted as the resident’s asset for two years from the date the sale took place.

(The \$10,000 received from the daughter may currently be in a savings account or other asset or may have been spent. The \$10,000 will be counted as an asset if the applicant has not spent the money.)

- (2) A resident contributed \$10,000 to her grandson’s college tuition and gave her two granddaughters \$4,000 each to save for college.

\$10,000	College tuition gift
<u>+ 8,000</u>	Gift to granddaughters
\$18,000	Asset disposed of for less than fair market value

The \$18,000 disposed of for less than fair market value is counted as the tenant’s asset for two years from the date each asset was given away.

Section 2: Determining Adjusted Income

Section 2 does not apply to families applying for or occupying 221(d)(3) BMIR units without additional subsidy.

5-8 Key Regulations

This paragraph identifies the key regulatory citation pertaining to Section 2: Determining Adjusted Income. The citation and its topic are listed below.

- 24 CFR 5.611 Adjusted Income

5-9 Key Requirements for Determining Adjusted Income

- A. There are five possible deductions that may be subtracted from annual income based on allowable family expenses and family characteristics. The remainder, after these deductions are subtracted, is called adjusted income. Adjusted income is generally the amount upon which rent is based. See Section 4 of this chapter for information about specific rent calculation methods. This section focuses on the calculation of annual adjusted income. Before rent is calculated, annual adjusted income is converted to monthly adjusted income.
- B. Of the five possible deductions, three are available to any assisted family, and two are permitted only for elderly or disabled families.
 - 1. The three types of deductions available to any assisted family are:
 - a. A deduction for dependents;
 - b. A child care deduction; and
 - c. A disability assistance deduction.
 - 2. The two types of deductions permitted only for families in which the head, spouse, or co-head is elderly or disabled are:
 - a. An elderly/disabled family deduction; and
 - b. A deduction for unreimbursed medical expenses.

NOTE: A family may not designate a family member as head or co-head solely to become eligible for these additional benefits. The remaining member of a family listed in paragraph 5-9 B.2 who is not 62 or older or a person with disabilities is not eligible for these allowances.

5-10 Calculating Adjusted Income

- A. **Dependent Deduction**
 - 1. A family receives a deduction of \$480 for each family member who is:
 - a. Under 18 years of age;
 - b. A person with disabilities; or
 - c. A full-time student of any age.
 - 2. Some family members may never qualify as dependents regardless of age, disability, or student status.
 - a. The head of the family, the spouse, and the co-head may never qualify as dependents.
 - b. A foster child, an unborn child, a child who has not yet joined the family, or a live-in aide may never be counted as a dependent.

3. A full-time student is one who is carrying a full-time subject load at an institution with a degree or certificate program. A full-time load is defined by the institution where the student is enrolled.
4. When more than one family shares custody of a child and both live in assisted housing, only one family at a time can claim the dependent deduction for that child. The family with primary custody or with custody at the time of the initial certification or annual recertification receives the deduction. If there is a dispute about which family should claim the dependent deduction, the ****owner**** should refer to available documents such as copies of court orders or an IRS return showing which family has claimed the child for income tax purposes.

B. Child Care Deduction

1. Anticipated expenses for the care of children under age 13 (including foster children) may be deducted from annual income if all of the following are true:
 - a. The care is necessary to enable a family member to work, seek employment, or further his/her education (academic or vocational).
 - b. The family has determined there is no adult family member capable of providing care during the hours care is needed.
 - c. The expenses are not paid to a family member living in the unit.
 - d. The amount deducted reflects reasonable charges for child care.
 - e. The expense is not reimbursed by an agency or individual outside the family.
 - f. Child care expenses incurred to permit a family member to work must not exceed the amount earned by the family member made available to work during the hours for which child care is paid.
2. When child care enables a family member to work or go to school, the rule limiting the deduction to the amount earned by the family member made available to work applies only to child care expenses incurred while the individual is at work. The expense for child care while that family member is at school or looking for work is not limited.

Example – Child Care Deduction
Separate Expenses for Time at Work and Time at School

Bernice and Ernest have two children. Both parents work, but Bernice works only part-time and goes to school half time. She pays \$4.00 an hour for eight hours of child care a day. For four of those hours, she is at work; for four of them she attends school. She receives no reimbursement for her child care expense.

Her annual expense for child care during the hours she works is \$4,000. Her annual expense for the hours she is at school is also \$4,000. She earns \$6,000 a year. Ernest earns \$18,000.

The rule requires that Bernice's child care expense while she is working not exceed the amount she is earning while at work. In this case, that is not a problem. Bernice earns \$6,000 during the time she is paying \$4,000. Therefore, her deduction for the hours while she is working is \$4,000.

Bernice's expense while she is at school is not compared to her earnings. Her expense during those hours is \$4,000, and her deduction for those hours will also be \$4,000.

Bernice's total child care deduction is \$8,000 (\$4,000 + \$4,000). The total deduction exceeds the amount of Bernice's total earnings, but the amount she pays during the hours she works does not exceed her earnings.

If Bernice's child care costs for the hours while she works were greater than her earnings, she would not be able to deduct all of her child care costs.

Bernice is paying a total of \$8,000 in child care expenses. Of that expense, payments of \$4,000 cover the hours while she is in school; payments of \$4,000 cover the hours she works. If Bernice were earning \$3,500, her total child care deduction for the hours she works would be capped at the amount of money she earns. In this case, the total deduction would be \$7,500 (\$4,000 for expenses while she is in school plus \$3,500 of the amount she pays while she is working.)

3. Child care attributable to the work of a full-time student (except for head, spouse, co-head) is limited to not more than \$480, since the employment income of full-time students in excess of \$480 is not counted in the annual income calculation. Child care payments on behalf of a minor who is not living in the applicant's household cannot be deducted.
4. Child care expenses incurred by two assisted households with split custody can be split between the two households when the custody and expense is documented for each household and the documentation demonstrates that the total expense claimed by the two households does not exceed the cost for the actual time the child spends in care.

C. Deduction for Disability Assistance Expense

1. Families are entitled to a deduction for unreimbursed, anticipated costs for attendant care and “auxiliary apparatus” for each family member who is a person with disabilities, to the extent these expenses are reasonable and necessary to enable any family member 18 years of age or older who may or may not be the member who is a person with disabilities to be employed.

Examples – Eligible Disability Assistance Expenses

The payments made on a motorized wheelchair for the 42-year-old son of the head of the family enable the son to leave the house and go to work each day on his own. Prior to the purchase of the motorized wheelchair, the son was unable to make the commute to work. These payments are an eligible disability assistance expense.

Payments to a care attendant to stay with a disabled 16-year-old child allow the child's mother to go to work every day. These payments are an eligible disability assistance expense.

2. This deduction is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds 3% of the family's annual income. However, the deduction may not exceed the earned income received by the family member or members who are enabled to work by the attendant care or auxiliary apparatus.
3. If the disability assistance enables more than one person to be employed, the owner must consider the combined incomes of those persons. For example, if an auxiliary apparatus enables a person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

Example – Calculating a Deduction for Disability Assistance Expenses

Head's earned income	\$14,500
Spouse's earned income	<u>+\$12,700</u>
Total income	\$27,200

Care expenses for disabled 15-year-old \$3,850

Calculation: \$3,850

(3% of annual income) - \$816

Allowable disability assistance expenses \$3,034

(NOTE: \$3,034 is not greater than amount earned by spouse, who is enabled to work.)

4. Auxiliary apparatus includes items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a sight-impaired person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work.
 - a. Include payments on a specially-equipped van to the extent they exceed the payments that would be required on a car purchased for transportation of a person who does not have a disability.
 - b. The cost of maintenance and upkeep of an auxiliary apparatus is considered a disability assistance expense (e.g., the veterinarian costs and food costs of a service animal; the cost of maintaining the equipment that is added to a car, but not the cost of maintaining the car).
 - c. If the apparatus is not used exclusively by the person with a disability, the owner must prorate the total cost and allow a specific amount for disability assistance.
5. In addition to anticipated, ongoing expenses, one-time nonrecurring expenses of a current resident for auxiliary apparatus may be included in the calculation of the disability assistance expense deduction after the expense is incurred. These expenses may be added to the family's total disability assistance expense either at the time the expense occurs through an interim recertification or in the rent calculation during the following annual recertification.
6. Attendant care includes but is not limited to reasonable expenses for home medical care, nursing services, housekeeping and errand services, interpreters for hearing-impaired, and readers for persons with visual disabilities.

Example – Calculating a Deduction When Disability Assistance Expenses Exceed Related Earnings

Kenisha Prior, an individual with disabilities, lives with her mother Grace Prior. Her mother works full time. Kenisha works part time at the library. She requires a motorized wheelchair and special transportation to get to her job.

Grace Prior's Income	\$24,000
Kenisha Prior's Income	<u>+ 5,000</u>
Total income	\$29,000

Disability Assistance Expense	\$8,000
(3% of annual income)	<u>- \$870</u>
	\$7,130

The \$7,130 exceeds the amount Kenisha earns. The disability assistance deduction, therefore, is limited to the amount earned by the person made available to work or, in this case, \$5,000.

7. When the same provider takes care of children and a disabled person over age 12, the owner must prorate the total cost and allocate a specific cost to attendant care. The sum of both child care and disability assistance expenses cannot exceed the employment income of the family member enabled to work.

Example – Calculating Child Care and Disability Assistance Deductions

Head's earned income	\$8,300
Spouse's earned income	<u>+ \$6,700</u>
Total income	\$15,000

The family has two children: a 10-year-old son and a 15-year-old son who is disabled. One care provider, who charges \$120 per week, cares for both sons. The care provider reports that the cost for caring for the 10-year-old is \$50 a week and the cost of care for the child with disabilities is \$70 a week.

Child care expense $50 \times 52 = \$2,600$

Total disability assistance expense $70 \times 52 = \$3,640$

Total disability assistance expense (\$3,640) less 3% of annual income (\$450) = \$3,190

Child care deduction	\$2,600
Disability assistance deduction	<u>+ \$3,190</u>
Total deductions	\$5,790

Total deductions when compared to earnings must not exceed employment earnings of \$6,700.

D. Medical Expense Deduction

1. The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 years old or is a person with disabilities (elderly or disabled families).
2. If the family is eligible for a medical expense deduction, owners must include the unreimbursed medical expenses of all family members, including the expenses of nonelderly adults or children living in the family.
3. Medical expenses include all expenses the family anticipates to incur during the 12 months following certification/recertification that are not reimbursed by an outside source, such as insurance.
4. The owner may use the ongoing expenses the family paid in the 12 months preceding the certification/recertification to estimate anticipated medical expenses.
5. The medical expense deduction is that portion of total medical expenses that exceeds 3% of annual income.

Example – Calculating the Medical Expense Deduction

Age of head	64	Annual income	\$12,000
Age of spouse	58	Total medical expenses	\$1,500
<u>Sample Calculation</u>			
		Annual income	\$12,000
			x .03
		3% of annual income	\$ 360
		Total medical expenses	\$1,500
			- \$360
		Allowable medical expenses	\$ 1,140

6. In addition to anticipated expenses, past one-time nonrecurring medical expenses that have been paid in full may be included in the calculation of the medical expense deduction **for current tenants at an initial, interim or annual recertification. Past one-time nonrecurring medical expenses that have been paid in full are not applicable when calculating anticipated medical expenses at move-in.** If the tenant is under a payment plan, the expense would be counted as anticipated
 - a. There are two options for addressing one-time medical expenses. These expenses may be added to the family's total medical expenses either: (1) at the time the expense occurs, through an interim recertification, or (2) at the upcoming annual recertification

NOTE: If the one-time expense is added at an interim recertification, it cannot be added to expenses at the annual recertification.

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- b. The following example illustrates the two options. Tenants may use either option.

The following example illustrates the two options. Tenants may use either option. Example – One-Time, Nonrecurring Medical Expenses

Maria and Gustav Crumpler had a total of \$2,932 in medical expenses last year (Year 1). Of this amount, \$932 covered Gustav's gall bladder surgery; \$2,000 was for routine costs that are expected to re-occur in the coming year. The entire amount may be included in the Crumpler's medical costs for the coming year (Year 2) despite the fact that the gall bladder surgery is a past event that is not likely to re-occur.

If, during the coming year (Year 2), the Crumplers experience additional one-time medical costs not anticipated at the annual recertification, they may request an interim recertification or wait for their next annual recertification (during Year 3) and ask for the unanticipated expenses to be included in the medical expense calculation for the following year.

The owner may wish to explain to residents that including past one-time medical expenses in an annual recertification rather than in an interim recertification will result in a rent reduction for a larger number of months.

For example, let us assume Maria has unanticipated dental surgery during Year 2 at a cost of \$3,550 six months after the annual recertification. The Crumpler's current TTP is \$560; their annual income is \$25,000.

Annual income	\$25,000
Less elderly household deduction	- \$400
Less allowable medical deduction (\$2,932 less 3% of \$25,000)	- <u>\$2,182</u>
Adjusted annual income	\$22,418
Adjusted monthly income	\$1,868
TTP	\$560

If the Crumplers request an interim recertification, the \$3,550 additional cost will lower their rent for 6 months; if they wait for their annual recertification, the cost of the dental surgery will affect their rent for 12 months.

Annual income	\$25,000
Less elderly household deduction	- \$400
Less allowable medical deduction* (\$6,482 less 3% of \$25,000)	- <u>\$5,732</u>
Adjusted annual income	\$18,868
Adjusted monthly income	\$1,572
TTP	\$472

At the Crumplers' current annual income, the large dental bill reduces rent by \$88.

OPTION #1: If the Year 2 rent is adjusted through an interim recertification, the Crumplers will save 6 months times \$88 or \$528.

OPTION #2: If the Crumplers wait until their annual recertification, the large bill will affect their rent for the 12 months of Year 3, and they will save twice as much, or \$1,056.

7. When a family is making regular payments over time on a bill for a past one-time medical expense, those payments are included in anticipated medical expenses. However, if a family has received a deduction for the full amount of a medical bill it is paying over time, the family cannot continue to count that bill even if the bill has not yet been paid.

Example – Medical Expense Paid over a Period of Time

Ursula and Sebastian Grant did not have insurance to cover Sebastian's operation four years ago. They have been paying \$105 a month toward the \$5,040 debt. Each year that amount (\$105 x 12 months or \$1,260) has been included in their total medical expenses. A review of their file indicates that a total of \$5,040 has been added to total medical expenses over the four-year period. However, the Grants bring a current invoice to their annual recertification interview. Over the four-year period they have missed five payments and still owe \$525. Although they still owe this amount, the bill cannot be included in their current medical expenses because the expense has already been deducted.

8. Not all elderly or disabled applicants or participants are aware that their unreimbursed expenses for medical care are included in the calculation of adjusted income for elderly or disabled families. For that reason, it is important for owners to ask enough questions to obtain complete information about allowable medical expenses. The following list highlights some of the most common expenses that may be deducted. A list of examples of eligible medical expenses may be found in Exhibit 5-3.
- a. Services of doctors and health care professionals;
 - b. Services of health care facilities;
 - c. Medical insurance premiums or costs of an HMO;
 - d. Prescription/nonprescription medicines that have been prescribed by a physician;
 - e. Transportation to treatment;
 - f. Dental expenses;
 - g. Eyeglasses, hearing aids, batteries;
 - h. Live-in or periodic medical assistance such as nursing services, or costs for an assistance animal and its upkeep;
 - i. Monthly payments on accumulated medical bills;
 - j. Medical care of a permanently institutionalized family member *if* his or her income is included in annual income; and

- k. Long-term care insurance premiums. The family member paying a long-term care insurance premium must sign a certification (**see Sample Certification for Qualified Long-Term Care Insurance Expenses in Exhibit 5-4**) that states the insurance is guaranteed renewable, does not provide a cash surrender value, will not cover expenses covered under Medicare, and restricts the use of refunds. The certification must be maintained in the family's occupancy file. (Paragraph 5-6 J.3 describes situations in which long-term care insurance payments must be included in annual income.)
- 9. Special calculation for families eligible for disability assistance and medical expense deductions. If an elderly family has both unreimbursed medical expenses and disability assistance expenses, a special calculation is required to ensure that the family's 3% of income expenditure is applied only one time. Because the deduction for disability assistance expenses is limited by the amount earned by the person enabled to work, the disability deduction must be calculated before the medical deduction is calculated.
 - a. When a family has unreimbursed disability assistance expenses that are less than 3% of annual income, the family will receive no deduction for disability assistance expense. However, the deduction for medical expenses will be equal to the amount by which the sum of both disability and medical expenses exceeds 3% of annual income.
 - b. If the disability assistance expense exceeds the amount earned by the person who was enabled to work, the deduction for disability assistance will be capped at the amount earned by that individual. When the family is also eligible for a medical expense deduction, however, the 3% may have been exhausted in the first calculation, and it then will not be applied to medical expenses.
 - c. When a family has both disability assistance expenses and medical expenses, it is important to review the collected expenses to be sure no expense has been inadvertently included in both categories.

E. Elderly Family Deduction

An elderly or disabled family is any family in which the head, spouse, or co-head (or the sole member) is at least 62 years of age or a person with disabilities. Each elderly or disabled family receives a \$400 family deduction. Because this is a "family deduction" each family receives only one deduction, even if both the head and spouse are elderly or disabled.

Example – Special Calculation for Families Who Are Eligible for Disability Assistance and Medical Expense Deductions

The following is basic information on the family:

Head (retired/disabled)—SS/pension income	\$16,000
Spouse (employed)—employment income	+ \$4,000
Total Annual Income	\$20,000
Total disability assistance expenses	\$500
Total medical expenses	\$1,000

Step 1: Determine if the disability assistance expenses exceed 3% of the family's total annual income.

Total disability assistance expenses	\$500
Minus 3% of total annual income	- \$600
	(\$100)

No portion of the disability expenses exceeds 3% of the annual income; therefore, the disability assistance deduction is \$0.

Step 2: Calculate if the medical expenses exceed the balance of 3% of the family's total annual income.

Total medical expenses	\$1,000
Minus the balance of 3% of total annual income	- \$100
Allowable medical expenses deduction	\$900

F. No Deduction for Alimony or Child Support Paid to a Person outside the Assisted Family

There is no deduction for an amount paid to a person outside the assisted family for alimony or child support. Even if the amount is garnished from the wages of a family member, it must be included in annual income.

Example – Child Support Garnished from Wages

George Graevette pays \$150 per month in child support. It is garnished from his monthly wages of \$950. After the child support is deducted from his salary, he receives \$800. The owner must count \$950 as George's monthly income.

Section 3: Verification

5-11 Key Regulations

This paragraph identifies key regulatory citations pertaining to Section 3: Verification. The citations and their titles (or topics) are listed below.

- A. 24 CFR part 5, subpart B – Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information
- B. 24 CFR 5.659 Family Information and Verification
- C. 24 CFR 8.24, 8.32, 100.204 (Reasonable accommodation)

5-12 Verification Requirements

A. Key Requirements

- 1. Owners must verify all income, assets, expenses, deductions, family characteristics, and circumstances that affect family eligibility or level of assistance.
- 2. Applicants and adult family members must sign consent forms to authorize the owner to collect information to verify eligibility, income, assets, expenses, and deductions. Applicants and tenants who do not sign required consent forms will not receive assistance.
- 3. Family members 6 years of age and older must provide the owner with a complete and accurate social security number. For any members of the family who do not have a social security number, the applicant or family member must certify that the individual has never received a social security number. This requirement is described in paragraphs 3-9 and 3-****31**** of this handbook.
- 4. The owner must handle any information obtained to verify eligibility or income in accordance with the Privacy Act.

Figure 5-4: Privacy Act Notice

The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937 (42 U.S.C. 1437 et. seq.), by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), and by the Fair Housing Act (42 U.S.C. 3601-19). The Housing and Community Development Act of 1987 (42 U.S.C. 3543) requires applicants and participants to submit the social security number of each household member who is 6 years old or older.

Purpose: Your income and other information are being collected by HUD to determine your eligibility, the appropriate bedroom size, and the amount your family will pay toward rent and utilities.

Other Uses: HUD uses your family income and other information to assist in managing and monitoring HUD-assisted housing programs, to protect the Government's financial interest, and to verify the accuracy of the information you provide. This information may be released to appropriate federal, state, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law.

Penalty: You must provide all of the information requested by the owner, including all social security numbers you, and all other household members age 6 years and older, have and use. Giving the social security numbers of all household members 6 years of age and older is mandatory, and not providing the social security numbers will affect your eligibility. Failure to provide any of the requested information may result in a delay or rejection of your eligibility approval.

B. Timeframe for Conducting Verifications

Owners conduct verifications at the following three times.

1. Owners must verify income, assets, expenses, and deductions and all eligibility requirements prior to move-in.
2. Owners must verify each family's income, assets, expenses, and deductions as part of the annual recertification process. Refer to Chapter 7, Section 1 for information on annual recertifications.
3. Owners must verify changes in income, allowances, or family characteristics reported between annual recertifications. Refer to Chapter 7, Section 2 for information on interim recertifications.

5-13 Acceptable Verification Methods

A. Methods of Verification

Owners must use verification methods that are acceptable to HUD. The owner is responsible for determining if the verification documentation is adequate and credible. HUD accepts three methods of verification. These are, in order of acceptability, third-party verification, review of documents, and family certification. If third-party verification is not available, owners must document the tenant file to explain why third-party verification was not available. **Appendix 3** provides a detailed list of acceptable forms of verification by type of information.

B. Third-Party Verification

The following describes ways in which third-party verification may be obtained.

1. Written. Written documentation sent directly by a third-party source is the preferred method of verification. It is assumed that third-party sources will send written verification to the owner through the mail. (For information about electronic documentation, see subparagraph B3 below.)

The applicant or tenant should not hand-carry the verification to or from the third-party source. If the verification does not contain an original signature or is delivered by the applicant or tenant, the owner should examine the document for evidence of tampering. In these situations, the owner may, but does not have to, accept the document as acceptable verification.

2. Oral. Oral verification, by telephone, from a reliable third-party source is an acceptable verification method. Owners frequently use this method when the third party does not respond to the written verification request. When verifying information over the telephone, it is important to be certain that the person on the telephone is the party he or she claims to be. Generally, it is best to telephone the verification source rather than to accept verification from a source calling the property management office. Oral verification must be documented in the file, as described in paragraph 5-19 C.

NOTE: Appendix 3 includes selected phone numbers of verification sources for employment and income records. However, they do not take the place of third party verification. The phone numbers contained in **Appendix 3** are not toll free but such calls are valid project expenses.

3. Electronic. The owner may obtain accurate third-party written verification by facsimile, e-mail, or Internet, if adequate effort is made to ensure that the sender is a valid third-party source.

- a. Facsimile. Information sent by fax is most reliable if the owner and the verification source agree to use this method in advance during a telephone conversation. The fax should include the company name and fax number of the verification source.
- b. E-mail. Similar to faxed information, information verified by e-mail is more reliable when preceded by a telephone conversation and/or when the e-mail address includes the name of an appropriate individual and firm.
- c. Internet. Information verified on the Internet is considered third party verification if the owner is able to view web-based information from a reputable source on the computer screen. Use of a printout from the Internet may also be adequate verification in many instances. Refer to subparagraph C. Review of Documents below.

Example – Verification by Internet Printout

Jose Perez maintains a portfolio of stocks and bonds through an Internet-based stockbroker. The broker only provides electronic account statements and will not respond to a written verification request. The owner may accept a printout of Jose's most recent statement if it includes the relevant information required for a third-party verification and an Internet address and header or footer that identifies the company issuing the statement. If the owner has reason to question the authenticity of a document, the owner may require Jose to access the electronic file via the Internet in the owner's office, without providing the owner with username or password information.

C. Review of Documents

1. An owner may review documents submitted by the applicant or tenant in one of the following situations:
 - a. Third-party verification is not possible or is not required. For example, verifying that a family member is over 62 years old is more appropriately accomplished by examining a birth certificate than through third-party verification. **When third party verification is not possible, refer to paragraph 5-19 E for documenting the file.**
 - b. Third-party verification is delayed. If information from a third party is not received within two weeks of its request, owners may consider original documents submitted by the tenant.**

Examples – Appropriate Occasions to Verify Information through a Review of Documents

- The owner sent a verification request to the tenant's employer but did not receive a response. The owner then made several calls to the employer but has not received a return call. The owner may use a review of documents (pay stubs) for verification. The owner should insist on a series of consecutive, recent pay stubs and should have a standard policy indicating the number of consecutive pay stubs required.
- The tenant's bank charges the bank account a fee for completing verification requests. The owner allows the resident to provide a current savings account statement or checking account statements for the past six months.
- The tenant's employer uses a 900 phone number, which results in a charge to the owner's phone to provide income verification. (In this case, the owner will accept the most recent consecutive eight pay stubs to verify earned income.)
- In cases where there is no third party available, a review of documents will always be appropriate. To verify a person's age, a birth certificate may be used. A social security card is the best verification of a social security number.

2. An owner must place copies of the reviewed documents in the applicant's or tenant's file. If copies cannot be made, the person reviewing the original documents must list the reviewed documents and the information provided on the documents, and must initial and date the notation.
3. Obtaining accurate verification through a review of documents requires the owner to consider the following:
 - a. Is the document current? Documentation of public assistance may be inaccurate if it is not recent and does not show any changes in the family's benefits or work and training activities.
 - b. Is the documentation complete? Owners may not accept pay stubs to document employment income unless the applicant or tenant provides the most recent ****four to six**** pay stubs to illustrate variations in hours worked. Actual paychecks or copies of paychecks should never be used to document income because deductions are not shown on the paycheck.

- c. Is the document an unaltered original? The greatest shortcoming of documents as a verification source is their susceptibility to undetectable change through the use of high-quality copying equipment. Documents with original signatures are the most reliable. Photocopied documents generally cannot be assumed to be reliable.

D. Family Certification

An owner may accept a tenant's notarized statement or signed affidavit regarding the veracity of information submitted if the information cannot be verified by another acceptable verification method.

5-14 Identifying Appropriate Verification Sources

An owner must only collect information that is necessary to determine the applicant's or tenant's eligibility for assistance or level of assistance. **Appendix 3** provides a list of acceptable forms of third-party verification.

5-15 Required Verification and Consent Forms

A. Consent and Verification Forms

Adult members of assisted families must authorize owners to request independent verification of data required for program participation. To provide owners with this authorization, adult family members must sign two HUD-required consent forms plus the owner's specialized verification forms. Owners must create their own verification forms to request information from employers, child care providers, medical professionals, and others. Families sign these and the two HUD consent forms at the time of move-in certification and annual recertification. All adults in each assisted family must sign the required consent forms or the family must be denied assistance. Owners must give the family a copy of each form the family signed, a HUD Fact Sheet, and the Resident Rights and Responsibilities brochure.

B. HUD-Required Consent and Release Forms

Applicants and tenants must sign two HUD-required consent forms.

1. Form HUD-9887, Notice and Consent to the Release of Information to HUD and to a PHA. Each adult member must sign the form regardless of whether he or she has income. *Each family member who is at least 18 years of age and the head, spouse or co-head, regardless of age, must sign this form at move-in, initial and at each annual recertification. The form must also be signed when a new adult member joins the household.* The form is valid for 15 months from the date of signature. The consent allows HUD or a public housing agency to verify information with the Internal Revenue Service, the Social Security Administration, and with state agencies that maintain wage and unemployment claim information. Owners must keep the original signed form in the tenant's

file and provide a copy to the family. Exhibit 5-5 contains a copy of form HUD-9887.

2. Form HUD 9887-A, Applicant's/Tenant's Consent to the Release of Information – Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance. Owners and the head of household, spouse, co-head and each family member who is at least 18 years of age must sign **a HUD-9887-A** form **at move-in and at each annual recertification**. Each adult member must sign a form regardless of whether he or she has income. The consent allows owners to request and receive information from third-party sources about the applicant or tenant. Owners keep the original form in the tenant's file and provide a copy to the family. Exhibit 5-6 contains a copy of form HUD 9887-A.

C. Information to Tenants

Owners must provide applicants and tenants with the HUD Fact Sheet and a copy of the Resident Rights and Responsibilities brochure.

1. HUD-9887 Fact Sheet. When applicants and tenants sign form HUD-9887 and form HUD 9887-A, owners must provide each family with a copy of the HUD Fact Sheet. This Fact Sheet describes the verification requirements for applicants and tenants and the tenant protections that are part of the verification process. Exhibit 5-7 contains a copy of the HUD Fact Sheet.
2. Resident Rights and Responsibilities Brochure. In addition, owners must provide applicants and tenants with a copy of the Resident Rights and Responsibilities brochure at move-in and annually at recertification. Copies of the brochure may be obtained by calling the HUD National Multifamily Clearinghouse at 800-685-8470.

D. Owner-Created Verification Forms

1. Owners must create verification forms for specific verification needs and must include the language required by HUD as shown in Figure 5-5. **Appendix **6**** contains instructions, a sample verification consent, and guidance about the types of information to request when verifying income and eligibility.
2. It is important that the applicant or tenant know whom owners will ask to provide information and to whom the completed form will be returned. Therefore, verification forms must clearly state in a prominent location that the applicant or tenant may not sign the consent if the form does not clearly indicate who will provide the requested information and who will receive the information. When sending a request for verification to a third party, owners send the verification form with the applicant's or tenant's original signature to the third-party source. Owners must retain a copy of the verification form and provide a copy to the applicant or tenant upon request.

Figure 5-5: Language Required in all Consent Forms

The following statement must appear on all consent forms developed by owners:

"Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. HUD and any owner (or any employee of HUD or the owner) may be subject to penalties for unauthorized disclosures or improper use of information collected based on the consent form. Use of the information collected based on this verification form is restricted to the purposes cited above. Any person who knowingly or willingly requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use. Penalty provisions for misusing the social security number are contained in the **Social Security Act at 208 (a) (6), (7) and (8). Violation of these provisions are cited as violations of 42 U.S.C. 408 (a) (6), (7) and (8).**

5-16 Social Security and Supplemental Security Income Data Match

- A. Owners verify social security income and supplemental security income electronically through TRACS. If there is a discrepancy between income reported by the tenant or applicant and income provided by the Social Security Administration (SSA), TRACS will automatically generate a message that is sent to the owner. The owner must attempt to contact the applicant or tenant to disclose the discrepancy. **
- B. Additional information is available on HUD's website page describing the tenant assessment system (for tenant income verification) (TASS):

www.hud.gov/offices/reac/products/prodtass.cfm

TASS is a computer-based tool to assist owners in verifying tenant incomes by comparing tenant-reported information to information in other HUD systems from the Social Security Administration and the Internal Revenue Service.

5-17 Effective Term of Verifications

Signed verification and consent forms must be used within a reasonable time after the applicant or tenant has signed if the tenant's signature is to represent a valid and current authorization by the family. Therefore, HUD has set specific limits on the duration of verification consents. In addition, verified information must be used in a timely manner since family circumstances are subject to change. HUD places several other limits on the information that may be requested and when and how it may be used.

A. Duration of Verification Authorization

Owner-created verification forms and the forms HUD 9887 and 9887-A expire 15 months after they are signed. Owners must ensure that the forms HUD 9887 and 9887-A have not expired when processing verifications. However, there are differences between the duration of form HUD-9887 and that of the individual verification forms.

1. The form HUD 9887-A and individual verification forms can be used during the 120 days before the certification period. During the certification period, however, these forms may be used only in cases where the owner receives information indicating that the information the tenant has provided may be incorrect. Other uses are prohibited.
2. Owners may verify anticipated income using individual verification forms to gather prospective information when necessary (e.g., verifying seasonal employment). Historical information that owners may request using individual verification forms is restricted as follows:
 - a. Information requested by individual verification forms is restricted to data that is no more than 12 months old.
 - b. However, if the owner receives inconsistent information and has reason to believe that the information the applicant or tenant has supplied is incorrect, the owner may obtain information from any time in the last five years when the individual was receiving assistance, as provided by the form HUD 9887-A.
3. The form HUD-9887 may be used at any time during the entire 15 month period. The information covered by the form HUD-9887 is restricted as follows:
 - a. State Wage Information Collection Agency (SWICA). Information received from SWICA is limited to wages and unemployment compensation the applicant or tenant received during the last five years she/he received housing assistance.
 - b. Internal Revenue Service and Social Security Administration. form HUD-9887 authorizes release by IRS and SSA of data from only the current income tax return and IRS W-2 form.

If the IRS or SSA matches reveal that the tenant may have supplied inconsistent information, HUD may request that the tenant consent to the owner acquiring information on the last five years during the periods in which the tenant was receiving assistance.

B. Effective Term of Verifications

1. Verifications are valid for ****120**** days from the date of receipt by the owner.

**

2. If verifications are more than 120 days old, the owner must obtain new verifications.
3. Time limits do not apply to information that does not need to be reverified, such as:
 - a. Age;
 - b. Disability status;
 - c. Family membership; or
 - d. Citizenship status.
4. Time limits also do not apply to the verification of social security numbers; however, at each recertification any family member who has previously reported having never received a social security number, must be asked:
 - a. To supply verification of a social security number if one has been received; or
 - b. To certify, again, that he/she has never received a social security number.

5-18 Inconsistent Information Obtained Through Verifications

An owner may not take any action to reduce, suspend, deny, or terminate assistance based on inconsistent information received during the verification process until the owner has independently investigated the information. The owner should follow procedures for addressing errors and fraud and for terminating assistance in accordance with Chapter 8.

5-19 Documenting Verifications

A. Key Requirement

Owners must include verification documentation in the tenant file.

B. Documenting Third-Party Verification

Third-party verification received through the mail or by facsimile transmission must be put in the tenant file.

C. Documenting Telephone Verification

When verifying information by phone, the owner must record and include in the tenant's file the following information:

1. Third-party's name, position, and contact information;

2. Information reported by the third party;
3. Name of the person who conducted the telephone interview; and
4. Date and time of the telephone call.

D. Recording Inspection of Original Documents

Original documents should be photocopied, and the photocopy should be placed in the tenant file. If the original document cannot be copied, a clear note to the file must describe the type of document, the information contained in the document, the name of the person who reviewed the document, and the date of that review.

NOTE: It is not mandatory that social security cards be copied. See **Appendix 3** for alternate methods.

E. Documenting Why Third-Party Verification Is Not Available

When third-party verification is not available, owners must document in the file efforts made to obtain the required verification and the reason the verification was not obtained. The owner must include the following documents in the applicant's or tenant's file:

1. A written note to the file explaining why third-party verification is not possible; or
2. A copy of the date-stamped original request that was sent to the third party;
3. Written notes or documentation indicating follow-up efforts to reach the third party to obtain verification; and
4. A written note to the file indicating that the request has been outstanding without a response from the third party.

F. Reasonable Accommodation

If an applicant or tenant cannot read or sign a consent form because of a disability, the owner must provide a reasonable accommodation. See Chapter 2, Section 3, Subsection 4 for a description of the requirements regarding reasonable accommodations.

Examples – Reasonable Accommodation

- Provide forms in large print.
- Provide readers for persons with visual disabilities.
- Allow the use of a designated signatory.

- Visit the person's home if the applicant or tenant cannot travel to the office to complete the forms.

5-20 Confidentiality of Applicant and Tenant Information

- A. Federal law limits the information owners can collect about an applicant or tenant to only information that is necessary to determine eligibility and level of assistance.
- B. Federal privacy requirements also establish the responsibility of owners and their employees to use information provided by applicants and tenants only for specified program purposes and to prevent the use or disclosure of this information for other purposes.
 1. To help ensure the privacy of applicant and tenant information, owners and their employees are subject to penalties for unauthorized disclosure of applicant/tenant information. In addition, applicants and tenants may initiate civil action against an owner for unauthorized disclosure or improper use of the information they provided. Language on the HUD-required consent forms, the verification forms developed by owners, and the **HUD-50059** clearly describes owners' responsibility regarding the privacy of this information and the possible penalties.
 2. HUD encourages owners to develop their own procedures and internal controls to prevent the improper use or unauthorized disclosure of information about applicants and tenants. Adequate procedures and controls protect not only applicants and tenants, but also owners.
- C. Owners must also comply with state privacy laws concerning the information they receive from third-party sources about applicants and tenants. These laws generally require confidentiality and restrict the uses of this information.

5-21 Refusal to Sign Consent Forms

- A. If an applicant refuses to sign forms HUD 9887 or 9887-A or the owner's verification forms, the owner must deny assistance.
- B. If a tenant refuses to sign the required verification and consent forms, the owner must terminate assistance. If the owner intends to terminate assistance for this reason, the owner must follow procedures established in the lease that require the tenant to pay the HUD-approved market rent for the unit. In a Section 202 PRAC or Section 811 PRAC project, the tenant may be evicted if the tenant refuses to sign the required verification and consent forms.
- C. If a tenant is unable to sign the forms on time due to extenuating circumstances, the owner must document the reasons for the delay in the tenant file and indicate how and when the tenant will provide the proper signature.

**Examples – Tenant Failure to Sign Consent Forms
Due to Extenuating Circumstances**

- Jonas and Joycelyn Hardwick were to have forms HUD 9887 and 9887-A signed by their adult son. However, he was in an automobile accident and has been in a coma.
- Lydia Bailey's husband has been temporarily assigned to overseas duty as part of a missionary hunger-relief program. She has signed consent forms, and the forms have been mailed to him but have not been returned. She reports that mail has recently been taking five or six weeks.

5-22 Interim Recertifications

When processing an interim recertification, the owner must ask the tenant to identify all changes in income, expenses, or family composition since the last recertification. Owners only need verify those items that have changed. For example, if the head of household was laid off from his or her job and asks the owner to prepare an interim recertification, the owner does not need to reverify the spouse's employment income unless that has also changed. When the tenant signs the certification she or he certifies that the information on the report is accurate and current. Additional information about the procedures for conducting interim recertifications is discussed in Chapter 7, Section 2.

5-23 Record-Keeping Procedures

- A. Owners must keep the following documents in the tenant's file at the project site:
 1. All original, signed forms HUD 9887 and HUD 9887-A;
 2. A copy of signed individual consent forms; and
 3. Third-party verifications.
- B. Owners must maintain documentation of all verification efforts throughout the term of each tenancy and for at least three years after the tenant moves out
- C. **The tenant's file should be available for review by the tenant upon request or by a third party who provides signed authorization for access from the tenant.**
- D. Owners must maintain applicant and tenant information in a way to ensure confidentiality. Any applicant or tenant affected by negligent disclosure or improper use of information may bring civil action for damages and seek other relief, as appropriate, against the employee. Forms HUD 9887 and 9887-A describe the penalties for the improper use of consent forms.

- E. **Owners must dispose of tenant files and records in a manner that will prevent any unauthorized access to personal information, e.g., burn, pulverize, shred, etc.**

Section 4: Calculating Tenant Rent

5-24 Key Regulations

This paragraph identifies key regulatory citations pertaining to Section 4: Calculating Tenant Rent. The citations and their titles or (topics) are listed below.

- A. 24 CFR 5.628 Total Tenant Payment
- B. 24 CFR 5.630 Minimum Rent
- C. 24 CFR 236.735 Rental Assistance Payments and Rental Charges
- D. 24 CFR 891.105, 891.410, 891.520, 891.640, 891.655, 891.705 (Project rental assistance payment, project assistance payment, tenant rent, total tenant payment, and rent for unassisted units)
- E. **24 CFR 5.661 Section 8 project-based assistance programs: Approval for police or other security personnel to live in project**

5-25 Calculating the Tenant Contribution for Section 8, PAC, PRAC, RAP, and Rent Supplement Properties

A. Total Tenant Payment (TTP)

The Total Tenant Payment (TTP) is the amount a tenant is expected to contribute for rent and utilities. TTP for Section 8, PAC, PRAC, RAP, and Rent Supplement properties is based on the family's income. The formulas for calculating TTP are shown in Figure 5-6. **Exhibit 5-8** also shows the formulas for calculating tenant contributions for all assisted-housing programs.

B. Unit Rent

1. The contract rent (basic rent in the Section 236 program) represents the amount of rent an owner is entitled to collect to operate and maintain the property. It is HUD-approved. For Section 202 and 811 PRACS, the contract rent is the operating rent minus the utility allowance.
2. Projects in which the tenant pays all or some utilities have HUD-approved utility allowances that reflect an estimated average amount tenants will pay for utilities assuming normal consumption.

C. Timeframe for Calculating Rent

Owners calculate rent at three points in time.

1. Owners must calculate rent prior to occupancy by an applicant.
2. Owners must calculate rent as part of an annual recertification. Refer to Chapter 7, Section 1 for information on annual recertification of income.
3. When assistance is provided through Section 8, PAC, PRAC, RAP, or Rent Supplement, owners must recalculate rent if a tenant reports a change in income, allowances, or family composition. Refer to Chapter 7, Section 2 for information on interim recertifications of income.

Figure 5-6: Total Tenant Payment Formulas

Section 8, PAC, PRAC, and RAP

- TTP is the greater of the following:
 - ◆ 30% of monthly adjusted income;
 - ◆ 10% of monthly gross income;
 - ◆ Welfare rent (welfare recipients in as-paid localities only); or
 - ◆ The \$25 minimum rent (Section 8 only).
- Section 8, RAP, and PAC programs may admit an applicant only if the TTP is less than the gross rent.
- In PRAC properties, the TTP may exceed the PRAC operating rent.

Rent Supplement

- TTP is the greater of the following:
 - ◆ 30% of monthly adjusted income; or
 - ◆ 30% of gross rent.
- At move-in or initial certification, the amount of Rent Supplement assistance may be no less than 10% of the gross rent or the tenant is not eligible.

5-26 Procedures for Determining Tenant Contribution for Section 8, PAC, PRAC, RAP, and Rent Supplement Properties

A. Tenant Rent

Tenant rent is the portion of the TTP the tenant pays each month to the owner for rent. Tenant rent is calculated by subtracting the utility allowance from the TTP.

It is possible for tenant rent to be \$0 if the utility allowance is greater than the TTP. (See paragraph 9-13 for more information on utility reimbursements when the utility allowance is greater than the TTP.)

Example – Calculating Tenant Rent

TTP:	\$225
Utility allowance:	<u>-\$ 75</u>
Tenant rent:	\$150

B. Assistance Payments

The assistance payment is the amount the owner bills HUD every month on behalf of the tenant. The assistance payment covers the difference between the TTP and the gross rent. It is the subsidy that HUD pays to the owner.

1. Housing Assistance Payment (HAP) is the assistance payment made by HUD to owners with units receiving assistance from the Section 8 program.

Example – Calculating HAP

Gross rent	\$564
TTP	<u>-\$175</u>
HAP	\$389

2. Rental Assistance Payment (RAP) is the assistance payment made by HUD to owners for units receiving assistance through the RAP program.
3. Rent Supplement payment is the assistance payment made by HUD to owners for units receiving assistance through the Rent Supplement program.
4. Project Assistance Payment (PAC) is the assistance payment made by HUD for assisted units in a Section 202 project for nonelderly disabled families and individuals (also referred to as Project Assistance Contract [PAC] projects).
5. Project Rental Assistance Payment (PRAC) is the assistance payment made by HUD for assisted units in Section 202 or Section 811 properties with a Project Rental Assistance Contract (PRAC).

C. **Utility Reimbursement**

When the TTP is less than the utility allowance, the tenant receives a utility reimbursement to assist in meeting utility costs. The tenant will pay no tenant rent. The utility reimbursement is calculated by subtracting the TTP from the utility allowance. Refer to paragraph 9-13 for more information on utility reimbursements.

D. **Section 8 Minimum Rent**

Tenants in properties subsidized through the Section 8 program must pay a minimum TTP of \$25.

***NOTE:** Minimum rent does not apply to Section 202 PAC, Section 202 PRAC, Section 811 PRAC, RAP, Rent Supplement, Section 221(d)(3) BMIR or Section 236 programs.*

1. The minimum rent is used when 30% of adjusted monthly income and 10% of gross monthly income, and the welfare rent where applicable, are all below \$25.
2. The minimum rent includes the tenant's contribution for rent and utilities. In any property in which the utility allowance is greater than \$25, the full TTP is applied toward the utility allowance. The tenant will receive a utility reimbursement in the amount by which the utility allowance exceeds \$25.

Example – Utility Reimbursement for a Tenant Paying Minimum Rent

The Nguyen family qualifies for the minimum total tenant payment of \$25. The family pays its own utility bills. The utility allowance for the unit is \$75 a month. The owner sends the Nguyen family a check each month for \$50 (\$75-\$25) as a utility reimbursement. The Nguyen family does not pay any tenant rent to the owner.

3. Financial hardship exemptions.
 - a. Owners must waive the minimum rent for any family unable to pay due to a long-term financial hardship, including the following:
 - The family has lost federal, state, or local government assistance or is waiting for an eligibility determination.
 - The family would be evicted if the minimum rent requirement was imposed.

- The family income has decreased due to a change in circumstances, including but not limited to loss of employment.
 - A death in the family has occurred.
 - Other applicable situations, as determined by HUD, have occurred.
- b. Implementing an exemption request. When a tenant requests a financial hardship exemption, the owner must waive the minimum \$25 rent charge beginning the month immediately following the tenant's request and implement the TTP calculated at the higher of 30% of adjusted monthly income or 10% of gross monthly income (or the welfare rent). The TTP will not drop to zero unless those calculations all result in zero.
- (1) The owner may request reasonable documentation of the hardship in order to determine whether there is a hardship and whether it is temporary or long term in nature. The owner should make a determination within one week of receiving the documentation.
 - (2) If the owner determines there is no hardship as covered by the statute, the owner must immediately reinstate the minimum rent requirements. The tenant is responsible for paying any minimum rent that was not paid from the date rent was suspended. The owner may not evict the tenant for nonpayment of rent during the time in which the owner was making the determination. The owner and tenant should reach a reasonable repayment agreement for any back payment of rent.
 - (3) If the owner determines that the hardship is temporary, the owner may not impose the minimum rent requirement until 90 days after the date of the suspension. At the end of the 90-day period, the tenant is responsible for paying the minimum rent, retroactive to the initial date of the suspension. The owner may not evict the tenant for nonpayment of rent during the time in which the owner was making the determination or during the 90-day suspension period. The owner and tenant should reach a reasonable repayment agreement for any back payment of rent.

Example – Temporary Hardship Schedule

Due to the death of his wife, Yung Kim took a six-week leave of absence from his part-time job. He requests a financial hardship exception. The owner, Oak Knoll Management, reviews his request and determines that the hardship is not long term. Yung Kim and Oak Knoll Management implement the following schedule:

- Current TTP \$25
- Hardship request received July 15
- Owner grants temporary hardship July 20
- August TTP \$0
- September TTP \$0
- October TTP \$0
- 90-day period ends October 15
- Total balance due 3 x \$25 \$75
- Tenant agrees to pay \$10 extra per month for seven months and \$5 extra on the eighth month.
- Monthly payment for seven months
November – May TTP \$25 + \$10 \$35
- June TTP \$25 + \$5 \$30
- July TTP \$25

- (4) If the hardship is determined to be long term, the owner must exempt the tenant from the minimum rent requirement from the date the owner granted the suspension. The suspension may be effective until such time that the hardship no longer exists. However, the owner must recertify the tenant every 90 days while the suspension lasts to verify that circumstances have not changed. The length of the hardship exemption may vary from one family to another depending on the circumstances of each family. The owner must process an interim recertification to implement a long-term exemption. Owners must maintain documentation on all requests and determinations regarding hardship exemptions.

E. Welfare Rent

1. The term “welfare rent” applies only in states that have “as-paid” public benefit programs. A welfare program is considered “as-paid” if the welfare agency does the following:
 - a. Designates a specific amount for shelter and utilities; and

- b. Adjusts that amount based upon the actual amount the family pays for shelter and utilities.
2. The maximum amount that may be specifically designated for rent and utilities is called the “welfare rent.” See below for an example.

Example – Calculating Welfare Rent

Published maximum for shelter and utilities:	\$200
Amount of welfare assistance for other needs:	\$220
Other income:	\$100
Monthly income =	\$520
“Welfare rent”=	\$200

5-27 Calculating Assistance Payments for Authorized Police/Security Personnel

- A. The amount of the monthly assistance payment to the owner is equal to the contract rent minus the monthly amount paid by the police officer or security personnel. HUD will not increase the assistance payment due to nonpayment of rent by the police officer or security personnel.

NOTE: The owner is not entitled to vacancy payments for the period following occupancy by a police officer or security personnel.

- B. For police/security personnel whose income exceeds the income limit for the property, the rent is set by the owner.
 1. The determination of the rent amount in such circumstances should take into consideration the income of the officer, the location of the property, and rents for comparable unassisted units in the area.
 2. Owners should establish a rent that is attractive to the officer, but not less than what the officer would pay as an eligible Section 8 tenant.
 3. Owners are expected to use a consistent methodology for each property when establishing the rents for officers in these circumstances.

5-28 Calculating Tenant Contribution for “Double Occupancy” in Group Homes

A. Double Occupancy

Some group homes for disabled residents provide units that may be shared by unrelated single tenants. The calculations for tenant contribution and for the assistance payment vary depending on whether the project is a Section 202/8 or a Section 811.

B. Total Tenant Payment

In both Section 202/8 and Section 811 group homes, each tenant in a double occupancy room is treated as a separate family in the calculation of TTP. Each resident is entitled to any deductions he or she would receive if occupying a single room, including the \$400 elderly/disabled family deduction.

Example – TTP Calculation for Double Occupancy

Resident A:

Annual income	\$5,200
Elderly family deduction	- \$400
Medical expense deduction	- \$900
Annual adjusted income	\$3,900
Monthly adjusted income	\$325 ($\$3,900/12$ months)
30% of monthly adjusted income	\$98
10% of monthly gross income	\$43
Minimum rent	\$25
<i>TTP for Resident A =</i>	\$98

Resident B:

Annual income	\$3,600
Elderly family deduction	- \$400
Medical expense deduction	- \$2,480
Annual adjusted income	\$720
Monthly adjusted income	\$60 ($\$720/12$ months)
30% of monthly adjusted income	\$18
10% of monthly gross income	\$30
Minimum rent	\$25
<i>TTP for Resident B =</i>	\$30

C. Contract Rent and Assistance Payment in Section 202/8 Group Homes

1. In Section 202/8 group homes, the contract rent for a room shared by two occupants is split between the two tenants.
2. The assistance payment for the Section 202/8 double occupancy room is calculated separately for each tenant based on half of the contract rent for the unit.

Example – Assistance Payment, Section 202/8 Double Occupancy

Contract rent for the unit	\$800
Half of the contract rent for the unit	\$400
TTP for Tenant A =	**\$98**
Assistance payment for Tenant A is \$400 less **\$98 =	\$302**
TTP for Tenant B =	\$30
Assistance payment for Tenant B is \$400 less \$30 =	\$370

3. If the tenant rent for either tenant exceeds half of the contract rent, that tenant's rent will be capped at half of the contract rent. In the Section 202/8 double occupancy room, half of the contract rent is the maximum rent one occupant can pay.

Example – Section 202/8 Double Occupancy

Tenant A has an increase in income changing the monthly adjusted income to \$1,500. 30% of \$1,500 equals \$450. Tenant A is no longer eligible for assistance. Tenant A's rent is capped at \$400, which represents the maximum Tenant A will pay.

Gross rent for unit	\$800
Half the contract rent for the unit	\$400
**TTP for Tenant A	\$450
Assistance Payment for Tenant A	-0-
Rent Tenant A will pay	\$400**

4. Owner's rent-calculation software must reflect the split-unit rent and contain unit numbers that provide a distinction between tenants (e.g., unit 101A, 101B).

D. **Operating Cost and Assistance Payment in Section 811 Group Homes**

1. **In a Section 811 group home, the operating cost for a room shared by two occupants is split between the two tenants.

2. The assistance payment for the Section 811 double occupancy room is calculated separately for each tenant based on half of the operating cost for the unit.**
3. In a Section 811 property, each tenant is certified separately and pays the greater of 30% of monthly adjusted income, 10% of monthly annual income, or the welfare rent.
4. In the Section 811 double occupancy unit, both occupants will pay the calculated TTP amount **even if it exceeds their portion of** the operating **cost** for the unit.

Example – Calculating the Assistance Payment for a Double Occupancy Unit in a Section 811 Group Home

Operating **cost** for unit	\$310
Half of the operating cost for the unit	\$155
TTP Tenant A =	\$160
Assistance Payment for Tenant A	\$(5)
TTP Tenant B =	\$75
**Assistance Payment for Tenant B	\$80

Although the Assistance Payment for Tenant A is zero, the voucher must indicate that \$5 over the operating cost was collected for rent. This is indicated by bracketing the \$(5.)**

5. **Owner's rent-calculation software must reflect the split-unit operating cost and contain unit numbers that provide a distinction between tenants (e.g., unit 101A, 101B).**

Example – Section 811 Total Tenant Payments

Operating **cost** for the unit	\$310
One half of operating cost	\$155 **
TTP Tenant A =	\$330
**Assistance Payment for Tenant A	(\$175) **
TTP Tenant B =	\$240
Assistance payment **for Tenant B	(\$85)

E. Calculating Rent at Change in Occupancy

1. If there is a change in the number of individuals occupying the double occupancy unit, the assistance payment for the whole unit may change.
2. In a Section 202/8 ****or a Section 811 PRAC**** double-occupancy room, the rent and assistance payments are calculated as if each tenant occupied a separate unit each with a rent equaling half of the contract rent ****or operating cost**** for the unit. If one resident moves out, the TTP and assistance payment calculations for the remaining resident remain the same. The other half of the unit is treated like a vacant unit: there is no ****assistance**** payment but the owner may be eligible for vacancy loss claims for the vacated half of the unit.

Example – Section 202/8 Calculation at a Change in Occupancy

Contract Rent	\$800
Half of the contract rent	\$400
Tenant A Tenant Rent	**\$98**
Tenant B Tenant Rent	\$30

Tenant A moves out.

Assistance Payment for Tenant B is calculated using half of the contract rent = \$400 less the Tenant Rent for Tenant B \$30 = \$370 housing assistance payment.

There is no HAP payment for the half of the unit vacated by Tenant A. It is vacant. But, the owner may request a vacancy loss payment if appropriate.

Example – Section 811 Calculation at a Change in Occupancy

Operating Cost	\$310
Half of the operating cost	\$155
Tenant A Tenant Rent	\$160
Tenant B Tenant Rent	\$75

Tenant A moves out.

Assistance Payment for Tenant B is calculated using half of the operating cost = \$155 less the Tenant Rent for Tenant B \$75 = \$80 housing assistance payment.

There is no Assistance Payment for the half of the unit vacated by Tenant A. It is vacant. Even though Tenant A was paying more than half of the operating cost for the unit at move-out, the owner may request a vacancy loss payment if all other vacancy claim requirements have been met.

5-29 Calculating Tenant Contribution for Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR)

A. Tenant's Rent Contribution

The tenant's contribution to rent in the Section 236 and Section 221(d)(3) BMIR programs is based on the cost to operate the property and the income of the family. Figure 5-7 presents the rules for determining the tenant rent in these two programs.

1. Section 236 property. Every Section 236 property has a HUD-approved basic rent and market rent. Basic rent is the minimum rent all Section 236 tenants must pay. It represents the cost to operate the property after HUD has provided mortgage assistance to reduce the mortgage interest expense. The market rent represents the amount of rent the owner would have to charge, if the mortgage were not subsidized. Tenants pay a

percentage of their income towards rent, but never pay less than the basic rent or more than the market rent for the property.

When a tenant pays more than basic rent, the difference between the tenant's rent and basic rent is called "excess income." Excess income is an amount that exceeds what the owner needs to operate the property and is subject to specific requirements. Refer to HUD Handbook 4350.1, *Multifamily Asset Management and Project Servicing*, and other current HUD notices for guidance on handling excess income. Although a tenant may pay more than basic rent, no tenant in a Section 236 property will pay more than the market rent for the property.

Example – Calculating Excess Income

Rent for Tenant A (30% of Tenant A's income):	\$350
Basic rent	<u>-\$300</u>
Excess Income	\$50

2. Section 221(d)(3) BMIR property. There is no rent calculation for tenants in a Section 221(d)(3) BMIR property. HUD approves a BMIR rent that all of the tenants must pay. The federal assistance in the BMIR property is provided through a below market interest rate for the mortgage loan. Applicants must meet income eligibility standards to be admitted to a BMIR property. After move-in, if a tenant's annual income goes above 110% of the BMIR income limit, the tenant must pay 110% the BMIR rent.
3. BMIR cooperative. If a BMIR cooperative member's annual income exceeds 110% of the BMIR income limit at the time of recertification, the cooperative must levy a surcharge to the member. See the definition of market rent in the Glossary for an explanation of the market carrying charge for over-income cooperative members.

B. Timeframe for Calculating Rent

Owners calculate rent at three points in time.

1. Owners must calculate rent prior to occupancy by an applicant.
2. Owners must calculate rent as part of an annual recertification. Refer to Chapter 7, Section 1 for information on annual recertification of income.
3. Owners of Section 236 properties must calculate rent if a tenant reports a change in income, allowances, or family composition. Refer to Chapter 7, Section 2 for information on interim recertifications of income.

Figure 5-7: Tenant Contributions for the Section 236 and Section 221(d)(3) BMIR

Section 236	
Section 236 without Utility Allowance	Section 236 with Utility Allowance
<ul style="list-style-type: none"> • Tenant rent is the greater of: <ul style="list-style-type: none"> ♦ 30% of monthly adjusted income; or ♦ Section 236 basic rent. • Tenant rent may not be more than the Section 236 market rent. 	<ul style="list-style-type: none"> • Tenant rent is the greater of: <ul style="list-style-type: none"> ♦ 30% of monthly adjusted income less the utility allowance; or ♦ 25% of monthly adjusted income; or ♦ Basic rent. • Tenant rent may not be more than the Section 236 market rent.
Section 221(d)(3) BMIR	
<ul style="list-style-type: none"> • At initial certification, the tenant pays the BMIR rent. • At recertification, the tenant's annual income is compared to the BMIR income limits. If the tenant's annual income is: <ul style="list-style-type: none"> ♦ Less than or equal to 110% of the BMIR income limit, the tenant pays the BMIR rent; ♦ Greater than 110% of the BMIR income limit, the tenant pays 110% of the BMIR rent. 	

5-30 Determining Tenant Contribution at Properties with Multiple Forms of Subsidy

- A. At many multifamily properties different kinds of subsidies have been combined. For many years, tenant-based Section 8 subsidies have been added to properties built with Section 202 loans or financed with Section 236 and Section 221(d)(3) mortgage subsidies. Recently, the Low Income Housing Tax Credit program has been combined with a wide range of programs, from Section 202 projects with Section 8 already in place (Section 202/8) to housing choice voucher assistance.

- B. Although each of the programs combined within one property may have a different formula for determining tenant payments, it is generally possible to determine the correct rent for a family by identifying the available program for which that family is eligible that will provide the best option—or the lowest rent—for the tenant. The one exception to this can be at the recertification of a Section 8 or Rent Supplement family in a property with Low Income Housing Tax Credits. If the family's income has increased since move-in to a point that the assisted rent exceeds the Low Income Housing Tax Credit rent, that family will have to make a choice between the lower tax credit rent and the security of continuing on the rental assistance program.
- C. The tenant rent at properties assisted under more than one program is generally the lowest rent available for which the tenant is eligible.
1. Section 202/Section 8. In a Section 202 property with Section 8 tenant-based assistance, a tenant eligible for Section 8 will pay the tenant rent based on the Section 8 rent formula. If that tenant's income increases to the point that its TTP equals or exceeds the Section 8 contract rent, the family would no longer be eligible for the tenant based assistance.
 2. Section 236/Section 8. A family with a Section 8 subsidy in a Section 236 property will pay the Section 8 tenant rent unless, at recertification, the family's TTP equals or exceeds the Section 8 contract rent. Thereafter, the family will pay the tenant rent based on the Section 236 rent formula. A family living in a Section 236 property receiving Rent Supplement assistance would also stop receiving Rent Supplement assistance at the point the family's TTP increased to the level of the rent supplement contract rent. Thereafter the family will pay the tenant rent based on the Section 236 rent formula.
 3. Section 221(d)(3) BMIR with Section 8. A family receiving Section 8 assistance at a BMIR project would continue to pay the tenant rent based on the Section 8 rent formula until the TTP equaled or exceeded the BMIR rent. Thereafter, the family would pay rent based on the BMIR rent formula.
- D. In some instances, a tenant will not be eligible for the program offering the lowest rent, or a subsidy under that program will not be available for every unit or every tenant.

Sometimes, Section 8 subsidies are not available for the unit size the family needs, and the family must wait for a subsidy for the appropriate unit size. The owner's contract with HUD for the Section 8 assistance allocates Section 8 funding by unit size, and the owner is required to subsidize families based on the unit sizes allocated. If the owner was allocated 10 two-bedroom subsidies and has assigned those subsidies to 10 two-bedroom families, the owner cannot use an available three-bedroom subsidy to assist an 11th two-bedroom family. If the owner has determined that the bedroom distribution in its contract does not match the need in the project, the owner can ask HUD for a contract amendment to revise the unit size designations of the subsidy awarded.

- E. In some instances, a family will not be eligible for a lower rent program available at the property.

For example, a family in a BMIR project with Section 8 may be financially stretched when paying the BMIR rent but may not be income-eligible for the lower-rent Section 8 program.

5-31 Procedures for Calculating Rent

- A. Owners must calculate tenant rent payments electronically using on-site software or a service provider. Data used to determine the rent are based on information certified as accurate by the family and independently verified.
- B. The owner's computer software calculates rent based on the appropriate formulas for the tenant's unit and produces a printed copy of the ****HUD-50059**** to be signed by the tenant and the owner. The owner must produce a printed report in an easily read and understood format that contains all of the information used to calculate the tenant's rent.
- C. The tenant and the owner sign a copy of the report containing a statement certifying the accuracy of the information. The certification statements are provided on the ****form HUD-50059 in Appendix 7-B.**** Additional information on the ****HUD-50059**** and the certifications can be found in Chapter 9.
- D. The owner must give a copy of the printed ****HUD-50059**** with the required signatures to the tenant and place another copy in the tenant file.
- E. The ****HUD-50059 is**** then transmitted electronically to TRACS either directly or through the Contract Administrator. Refer to Chapter 9 for information on ****the HUD-50059**** requirements.
- F. ****In all cases, the computer generated HUD-50059 must include the required tenant signatures and owner signatures prior to submitting the data to the Contract Administrator or HUD. The owner may consider extenuating circumstances when an adult family member is not available to sign the HUD-50059, for example, an adult serving in the military, students away at college, adults who are hospitalized for an extended period of time, or a family member who is permanently confined to a nursing home or hospital. The owner must document the file why the signature(s) was not obtained and, if applicable, when the signature(s) will be obtained.****

Chapter 5 Exhibits

5-1. Income Inclusions and Exclusions

<http://hudstage.hud.gov/offices/adm/hudclips/handbooks/hsgh/4350.3/43503e5-1HSGH.pdf>

5-2. Assets

<http://hudstage.hud.gov/offices/adm/hudclips/handbooks/hsgh/4350.3/43503e5-2HSGH.pdf>

5-3. **Examples** of Medical Expenses That Are Deductible and Nondeductible

<http://hudstage.hud.gov/offices/adm/hudclips/handbooks/hsgh/4350.3/43503e5-3HSGH.pdf>

5-4. **Sample** Certification for Qualified Long-Term Care Insurance Expenses

<http://www.hud.gov/offices/adm/hudclips/forms/files/90101.pdf>

5-5. Form HUD-9887, *Notice and Consent for the Release of Information to HUD and to a PHA*

<http://www.hud.gov/offices/adm/hudclips/handbooks/hsgh/4350.3/43503e5HSGH.pdf>

5-6. Form HUD-9887-A, *Applicant's/Tenant's Consent to the Release of Information – Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance*

See 5-5 above.

5-7. HUD Fact Sheet – Verification of Information Provided by Applicants and Tenants of Assisted Housing

See 5-5 above.

5-8. Tenant Rent Formulas

<http://hudstage.hud.gov/offices/adm/hudclips/handbooks/hsgh/4350.3/43503e5-8HSGH.pdf>

Exhibit 5-1: Income Inclusions and Exclusions

24 CFR 5.609(b) and (c)

Examples included in parentheses have been added to the regulatory language for clarification.

INCOME INCLUSIONS

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a **periodic amount (e.g., Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action). See paragraph (13) under Income Exclusions for an exception to this paragraph;**
- (5) Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, except as provided in paragraph (3) under Income Exclusions;
- (6) Welfare Assistance.
 - (a) Welfare assistance received by the family.
 - (b) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as

income shall consist of:

- (c) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
- (d) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling; and
- (8) All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided in paragraph (7) under Income Exclusions.
- (9) For Section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph "financial assistance" does not include loan proceeds for the purpose of determining income.
(Note: This paragraph also does not apply to a student who is living with his/her parents who are applying for or receiving Section 8 assistance.)

INCOME EXCLUSIONS:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, except as provided in paragraph (5) under Income Inclusions;
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in 24 CFR 5.403;
- (6) The full amount of student financial assistance paid directly to the student or to the educational institution (see Income Inclusions (9), above, for students receiving Section 8 assistance);
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm);
- (8) (a) Amounts received under training programs funded by HUD (e.g., training received under Section 3);

- (b) Amounts received by a person with a disability that are disregarded for a limited time for purposes of supplemental security income eligibility and benefits because they are set-aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - (c) Amounts received by a participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
 - (d) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the project. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident-initiative coordination. No resident may receive more than one such stipend during the same period of time; or
 - (e) Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as a resident management staff person. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
- (9) Temporary, nonrecurring, or sporadic income (including gifts);
 - (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. (Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era);
 - (11) Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse);
 - (12) Adoption assistance payments in excess of \$480 per adopted child;
 - (13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump-sum amount or in prospective monthly amounts;
 - (14) Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
 - (15) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or
 - (16) Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the *Federal Register* and distributed to housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

The following is a list of income sources that qualify for that exclusion:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 [b]);
- (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058) (employment through AmeriCorps, Volunteers in Service to America [VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);
- (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626[c]);
- (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624[f]);
- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552[b]); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 [29 U.S.C. 2931], e.g., employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs, career intern programs, Americorps);
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408);
- (i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056[f]), e.g., Green Thumb, Senior Aides, Older American Community Service Employment Program;
- (k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- (m) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- (n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, including advanced earned income credit payments (26 U.S.C. 32[j]);
- (o) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- (p) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637[d]);

- (q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
- (r) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602); and
- (s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

Exhibit 5-2: Assets

NOTE: There is no asset limitation for participation in HUD assisted-housing programs. However, the definition of annual income includes net income from family assets.

A. Net Family Assets include the following:

1. Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in foreign countries are considered assets.
2. Revocable trusts. Include the cash value of any revocable trust available to the family. See discussion of trusts in paragraph 5-7 G.1.
3. Equity in rental property or other capital investments. Include the current fair market value less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.).

NOTE: If the person's main business is real estate, then count any income as business income under paragraph 5-6 G of the chapter. Do not count it both as an asset and business income.

4. Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts. Interest or dividends earned are counted as income from assets even when the earnings are reinvested. The value of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after rent is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received. The tenant may request an interim recertification at any time thereafter that a decrease in stock value may result in a decrease in rent.
5. Individual retirement, 401K, and Keogh accounts. These are included when the holder has access to the funds, even though a penalty may be assessed. If the individual is making occasional withdrawals from the account, determine the amount of the asset by using the average balance for the previous six months. (Do not count withdrawals as income.)

Example – Withdrawals from a Keogh Account

Ly Pham has a Keogh account valued at \$30,000. When she turns 70 years old, she begins drawing \$2,000 a year. Continue to count the account as an asset. Use the guidance in paragraph 5-7 to determine the cash value and imputed income from the asset. Do not count the \$2,000 she withdraws as income.

6. Retirement and pension funds.

- a. While the person is employed. Include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs. Follow paragraph 5-7 G.4 of the chapter on determining the value of assets.
- b. At retirement, termination of employment, or withdrawal. Periodic receipts from pension and retirement funds are counted as income. Lump-sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income, as provided below.
 - (1) If benefits will be received in a lump sum, include the lump-sum receipt in net family assets.
 - (2) If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.
 - (3) If the individual initially receives a lump-sum benefit followed by periodic payments, count the lump-sum benefit as an asset as provided in the example below and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.

NOTE: This paragraph and the example below assume that the lump-sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump-sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.

Example – Retirement Benefits as Lump-Sum and Periodic Payments

Upon retirement, Eleanor Reilly received a lump-sum payment of \$15,000. She will also receive periodic pension payments of \$350 a month.

The lump-sum amount of \$15,000 is generally treated as an asset. In this instance, however, Eleanor spent \$5,000 of the lump sum on a trip following her retirement. The remaining \$10,000 she placed in her mutual fund with other savings. The entire mutual fund will be counted as an asset.

The owner has verified that Eleanor is now not able to withdraw the balance from her pension. Therefore, the owner will count the \$350 monthly pension payment as annual income and will not list the pension account as an asset.

7. Cash value of life insurance policies available to the individual before death (e.g., the surrender value of a whole life policy or a universal life policy). It would not include a value for term insurance, which has no cash value to the individual before death.
8. Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. Personal jewelry is NOT considered an asset.
9. Lump-sum receipts or one-time receipts. (See paragraph 5-6 **P** for additional information on what is counted as a lump-sum receipt and how to treat lump-sum receipts.) These include inheritances, capital gains, one-time lottery winnings, victim's restitution, settlements on insurance claims (including health and accident insurance, worker's compensation, and personal or property losses), and any other amounts that are not intended as periodic payments.
10. A mortgage or deed of trust held by an applicant.
 - a. Payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset.
 - b. This combined figure needs to be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)
 - c. To count the actual income for this asset, use the interest portion due, based on the amortization schedule, for the 12-month period following the certification.
 - d. To count the imputed income for this asset, determine the asset value ****as of the effective date of the certification****. Since this amount will continually be reduced by the principal portion paid during the previous year, the owner will have to determine this amount at each annual recertification. See the following example:

Example – Deed of Trust and Imputed Income

Computation of imputed income:

An elderly tenant sells her home and holds the mortgage for the buyer. The cash value of the mortgage is \$60,000. The combined payment of principal and interest expected to be received for the upcoming year is \$5,000. The amortization schedule breaks that payment into \$2,000 in principal and \$3,000 in interest. In completing the asset income calculation, the cash value of the asset is \$60,000, and the projected annual income from that asset is \$3,000. ****The imputed income would be calculated by multiplying the cash value of \$60,000 by the 2% imputed passbook rate.**** Each subsequent year, the cash value of the asset should be reduced by the principal portion paid. In this example, it would be reduced to \$58,000 in the following year (\$60,000 – \$2,000 principal payment = \$58,000). ****When calculating the imputed income for the following year, the owner would multiply the cash value of \$58,000 by the 2% passbook savings rate.****

Regulatory References

(These references are current as of the date of publication. Readers should refer to the latest edition of the Code of Federal Regulations.)

24 CFR part 5.603 defines net family assets as follows:

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and the equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. . . . In determining net family assets, owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

B. Net family assets **DO NOT** include the following:

IMPORTANT: The owner does not compute income from any assets in this paragraph.

1. Personal property (clothing, furniture, cars, wedding ring, other jewelry that is not held as an investment, vehicles specially equipped for persons with disabilities).
2. Interests in Indian trust land.
3. Term life insurance policies (i.e., where there is no cash value).
4. Equity in the cooperative unit in which the family lives.
5. Assets that are part of an active business. "Business" does NOT include rental of properties that are held as investments unless such properties are the applicant's or tenant's main occupation.

Example – Assets that are Part of an Active Business

- Laura and Lester Hines own a copier and courier service. None of the equipment that they use in their business is counted as an asset (e.g., the copiers, the FAX machines, the bicycles).
- Alice Washington rents out the home that she and her husband lived in for 42 years. This home is not an active business asset. Therefore, it is considered an asset and the owner must determine the annual income that Alice receives from it.

6. Assets that are NOT effectively owned by the applicant. Assets are not effectively owned when they are held in an individual's name, but (a) the assets and any income they earn accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.

NOTE: Nonrevocable trusts (i.e., irrevocable trusts) are not covered by this paragraph. See information on nonrevocable trusts in paragraph 5-7 G.1.

**Example – Assets not Effectively
Owned by the Applicant**

Net family assets do not include assets held pursuant to a power of attorney because one party is not competent to manage the assets, or assets held in a joint account solely to facilitate access to assets in the event of an emergency.

Example: Alexander Cumbow and his daughter, Emily Bornscheuer, have a bank account with both names on the account. Emily's name is on that account for the convenience of her father in case an emergency arises that would result in Emily handling payments for her father. Emily has not contributed to this asset, does not receive interest income from it, nor does she pay taxes on the interest earned. Therefore, Emily does not own this account. If Emily applies for assisted housing, the owner should not count this account as her asset. This asset belongs to Alexander and would be counted entirely as the father's asset should he apply for assisted housing.

7. Assets that are not accessible to the applicant and provide no income to the applicant. Nonrevocable trusts are not covered under this paragraph. See information on nonrevocable trusts in paragraph 5-7 G.1.

Example

A battered spouse owns a house with her husband. Because of the domestic situation, she receives no income from the asset and cannot convert the asset to cash.

Exhibit 5-3: Examples of Medical Expenses That Are Deductible and Nondeductible

The following are examples of eligible items for medical expense deductions. Please note that this list is not exhaustive.

Type of Medical Expenses	May Include*
Services of recognized health care professionals	Services of physicians, nurses, dentists, opticians, mental health practitioners, osteopaths, chiropractors, Christian Science practitioners, and acupuncture practitioners
Services of health care facilities; laboratory fees, X-rays and diagnostic tests, blood, oxygen	Hospitals, health maintenance organizations (HMOs), laser eye surgery, out-patient medical facilities, and clinics
Alcoholism and drug addiction treatment	
Medical insurance premiums	Expenses paid to an HMO; Medicaid insurance payments that have not been reimbursed; long-term care premiums (not prorated)
Prescription and nonprescription medicines	Aspirin, antihistamine only if prescribed by a physician for a particular medical condition
Transportation to/from treatment and lodging	Actual cost (e.g., bus fare) or, if driving in a car, a mileage rate based on IRS rules. *If the individual is receiving reimbursement for the cost of transportation to/from treatment or the lodging from another source, the cost or mileage is not eligible for the medical expense deduction*.
Medical care of permanently institutionalized family member IF his/her income is included in Annual Income	
Dental treatment	Fees paid to the dentist; x-rays; fillings, braces, extractions, dentures
Eyeglasses, contact lenses	
Hearing aid and batteries, wheelchair, walker, artificial limbs, Braille books and magazines, oxygen and oxygen equipment	Purchase and upkeep (e.g., additional utility costs to tenant because of oxygen machine [in properties with tenant paid utilities only])
Attendant care or periodic medical care	Nursing services, assistance animal and its upkeep
Payments on accumulated medical bills	Scheduled payments

* Or any other medically necessary service, apparatus, or medication, as documented by third-party verification.

Some items that **may not** be included in medical expense deductions are listed below.

Medical Expenses	May Not Include
Cosmetic surgery	<p>Do not include in medical expenses amounts paid for unnecessary cosmetic surgery. This applies to any procedure that is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease. Procedures such as face-lifts, hair transplants, hair removal (electrolysis), and liposuction generally are not deductible. However, if medical complications, e.g., infections, etc., occur as a result of the procedure that requires medical treatment, the medical treatment expenses would be treated as a medical expense deduction.</p> <p>Amounts paid for cosmetic surgery may be deducted if necessary to improve a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or a disfiguring disease.</p>
Health club dues	Do not include in medical expenses the cost of membership in any club organized for business, pleasure, recreation, or other social purpose, such as health club dues, YMCA dues, or amounts paid for steam baths for general health or to relieve physical or mental discomfort not related to a particular medical condition.
Household help	Do not include in medical expenses the cost of household help, even if such help is recommended by a doctor. However, certain expenses paid to a person providing nursing-type services may be deductible as medical costs.
Medical savings account (MSA)	Do not deduct as a qualified medical expense amounts contributed to an Archer MSA.
Nutritional supplements, vitamins, herbal supplements, "natural medicines"	Do not include in medical expenses the cost of nutritional supplements, vitamins, herbal supplements, "natural medicines," etc., unless they are recommended in writing by a medical practitioner licensed in the locality where practicing. These items must be recommended as treatment for a specific medical condition diagnosed by a physician or other health care provider licensed to make a diagnosis in the locality where practicing. Otherwise, these items are taken to maintain ordinary good health, and are not for medical care.

Medical Expenses	May Not Include
Personal use items	Do not include in medical expenses an item ordinarily used for personal, living, or family purposes unless it is used primarily to prevent or alleviate a physical or mental defect or illness. For example, the cost of a wig purchased upon the advice of a physician for the mental health of a patient who has lost all of his or her hair from disease or incontinence supplies can be included with medical expenses
Nonprescription medicines	Do not include in medical expenses nonprescription medicines unless they are recommended in writing by a medical practitioner licensed in the locality where practicing. These items must be recommended as treatment for a specific medical condition diagnosed by a physician or other health care provider licensed to make a diagnosis in the locality where practicing.

Certification of Long-Term Care Insurance

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-0204
(exp.03/31/2014)

Exhibit 5-4: Certification for Qualified Long-Term Care Insurance Expenses

I certify that the long-term care insurance policy for which I pay premiums,

(insert policy provider name) _____,

policy number _____ meets the following conditions.

1. It is guaranteed renewable;
2. It does not provide a cash surrender value which can be paid, assigned, pledged, or borrowed;
3. It provides that refunds (other than refunds on the death of the insured or complete surrender or cancellation of the contract) and dividends under the contract may be used only to reduce future premiums or increase future benefits; and,
4. It does not pay or reimburse expenses incurred for services or items that would be reimbursed under Medicare (except where Medicare is a secondary payer or the contract makes per diem or other periodic payments without regard to expenses).

Name (print)

Name (sign)

Unit Number

Public reporting burden for this collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information is required to obtain benefits and is voluntary. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. Upon completion of the certification, the insurance premiums are then included in the tenant's total medical expenses deduction which is electronically transmitted by the owner/management agent to HUD's Tenant Rental Assistance Certification System (TRACS).

This information is authorized by the 24 CFR 5.611(a)(3)(i) which allows for unreimbursed medical expenses in excess of three (3) percent of annual income be included as a mandatory deduction from annual income for any elderly family or disabled family in order to arrive at the adjusted income used for rent and subsidy determination. This information is considered non-sensitive and does not require any special protection.

Document Package for Applicant's/Tenant's Consent to the Release Of Information

This Package contains the following documents:

- 1. HUD-9887/A Fact Sheet describing the necessary verifications**
- 2. Form HUD-9887 (to be signed by the Applicant or Tenant)**
- 3. Form HUD-9887-A (to be signed by the Applicant or Tenant and Housing Owner)**
- 4. Relevant Verifications (to be signed by the Applicant or Tenant)**

Each household must receive a copy of the 9887/A Fact Sheet, form HUD-9887, and form HUD-9887-A.

Verification of Information Provided by Applicants and Tenants of Assisted Housing

What Verification Involves

To receive housing assistance, applicants and tenants who are at least 18 years of age and each family head, spouse, or co-head regardless of age must provide the owner or management agent (O/A) or public housing agency (PHA) with certain information specified by the U.S. Department of Housing and Urban Development (HUD).

To make sure that the assistance is used properly, Federal laws require that the information you provide be verified. This information is verified in two ways:

1. HUD, O/As, and PHAs may verify the information you provide by checking with the records kept by certain public agencies (e.g., Social Security Administration (SSA), State agency that keeps wage and unemployment compensation claim information, and the Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH) database that stores wage, new hires, and unemployment compensation). HUD (only) may verify information covered in your tax returns from the U.S. Internal Revenue Service (IRS). You give your consent to the release of this information by signing form HUD-9887. Only HUD, O/As, and PHAs can receive information authorized by this form.
2. The O/A must verify the information that is used to determine your eligibility and the amount of rent you pay. You give your consent to the release of this information by signing the form HUD-9887, the form HUD-9887-A, and the individual verification and consent forms that apply to you. Federal laws limit the kinds of information the O/A can receive about you. The amount of income you receive helps to determine the amount of rent you will pay. The O/A will verify all of the sources of income that you report. There are certain allowances that reduce the income used in determining tenant rents.

Example: Mrs. Anderson is 62 years old. Her age qualifies her for a medical allowance. Her annual income will be adjusted because of this allowance. Because Mrs. Anderson's medical expenses will help determine the amount of rent she pays, the O/A is required to verify any medical expenses that she reports.

Example: Mr. Harris does not qualify for the medical allowance because he is not at least 62 years of age and he is not handicapped or disabled. Because he is not eligible for the medical allowance, the amount of his medical expenses does not change the amount of rent he pays. Therefore, the O/A cannot ask Mr. Harris anything about his medical expenses and cannot verify with a third party about any medical expenses he has.

Customer Protections

Information received by HUD is protected by the Federal Privacy Act. Information received by the O/A or the PHA is subject to State privacy laws. Employees of HUD, the O/A, and the PHA are subject to penalties for using these consent forms improperly. You do not have to sign the form HUD-9887, the form HUD-9887-A, or the individual verification consent forms when they are given to you at your certification or recertification interview. You may take them home with you to read or to discuss with a third party of your choice. The O/A will give you another date when you can return to sign these forms.

If you cannot read and/or sign a consent form due to a disability, the O/A shall make a reasonable accommodation in accordance with Section 504 of the Rehabilitation Act of 1973. Such accommodations may include: home visits when the applicant's or tenant's disability prevents him/her from coming to the office to complete the forms; the applicant or tenant authorizing another person to sign on his/her behalf; and for persons with visual impairments, accommodations may include providing the forms in large script or braille or providing readers.

If an adult member of your household, due to extenuating circumstances, is unable to sign the form HUD-9887 or the individual verification forms on time, the O/A may document the file as to the reason for the delay and the specific plans to obtain the proper signature as soon as possible.

The O/A must tell you, or a third party which you choose, of the findings made as a result of the O/A verifications authorized by your consent. The O/A must give you the opportunity to contest such findings in accordance with HUD Handbook 4350.3 Rev. 1. However, for information received under the form HUD-9887 or form HUD-9887-A, HUD, the O/A, or the PHA, may inform you of these findings.

O/As must keep tenant files in a location that ensures confidentiality. Any employee of the O/A who fails to keep tenant information confidential is subject to the enforcement provisions of the State Privacy Act and is subject to enforcement actions by HUD. Also, any applicant or tenant affected by negligent disclosure or improper use of information may bring civil action for damages, and seek other relief, as may be appropriate, against the employee.

HUD-9887/A requires the O/A to give each household a copy of the Fact Sheet, and forms HUD-9887, HUD-9887-A along with appropriate individual consent forms. The package you will receive will include the following documents:

1. **HUD-9887/A Fact Sheet:** Describes the requirement to verify information provided by individuals who apply for housing assistance. This fact sheet also describes consumer protections under the verification process.
2. **Form HUD-9887:** Allows the release of information between government agencies.
3. **Form HUD-9887-A:** Describes the requirement of third party verification along with consumer protections.
4. **Individual verification consents:** Used to verify the relevant information provided by applicants/tenants to determine their eligibility and level of benefits.

Consequences for Not Signing the Consent Forms

If you fail to sign the form HUD-9887, the form HUD-9887-A, or the individual verification forms, this may result in your assistance being denied (for applicants) or your assistance being terminated (for tenants). See further explanation on the forms HUD-9887 and 9887-A.

If you are an applicant and are denied assistance for this reason, the O/A must notify you of the reason for your rejection and give you an opportunity to appeal the decision.

If you are a tenant and your assistance is terminated for this reason, the O/A must follow the procedures set out in the Lease. This includes the opportunity for you to meet with the O/A.

Programs Covered by this Fact Sheet

- Rental Assistance Program (RAP)
- Rent Supplement
- Section 8 Housing Assistance Payments Programs (administered by the Office of Housing)
- Section 202
- Sections 202 and 811 PRAC
- Section 202/162 PAC
- Section 221(d)(3) Below Market Interest Rate
- Section 236
- HOPE 2 Home Ownership of Multifamily Units

O/As must give a copy of this HUD Fact Sheet to each household. See the Instructions on form HUD-9887-A.

Attachment to forms **HUD-9887 & 9887-A** (02/2007)

Notice and Consent for the Release of Information

to the U.S. Department of Housing and Urban Development (HUD) and to an Owner and Management Agent (O/A), and to a Public Housing Agency (PHA)

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

HUD Office requesting release of information (Owner should provide the full address of the HUD Field Office, Attention: Director, Multifamily Division.):	O/A requesting release of information (Owner should provide the full name and address of the Owner.):	PHA requesting release of information (Owner should provide the full name and address of the PHA and the title of the director or administrator. If there is no PHA Owner or PHA contract administrator for this project, mark an X through this entire box.):
---	---	--

Notice To Tenant: Do not sign this form if the space above for organizations requesting release of information is left blank. You do not have to sign this form when it is given to you. You may take the form home with you to read or discuss with a third party of your choice and return to sign the consent on a date you have worked out with the housing owner/manager.

Authority: Section 217 of the Consolidated Appropriations Act of 2004 (Pub L. 108-199). This law is found at 42 U.S.C.653(J). This law authorizes HHS to disclose to the Department of Housing and Urban Development (HUD) information in the NDNH portion of the "Location and Collection System of Records" for the purposes of verifying employment and income of individuals participating in specified programs and, after removal of personal identifiers, to conduct analyses of the employment and income reporting of these individuals. Information may be disclosed by the Secretary of HUD to a private owner, a management agent, and a contract administrator in the administration of rental housing assistance.

Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by section 903 of the Housing and Community Development Act of 1992 and section 3003 of the Omnibus Budget Reconciliation Act of 1993. This law is found at 42 U.S.C. 3544. This law requires you to sign a consent form authorizing: (1) HUD and the PHA to request wage and unemployment compensation claim information from the state agency responsible for keeping that information; and (2) HUD, O/A, and the PHA responsible for determining eligibility to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits; (3) HUD to request certain tax return information from the U.S. Social Security Administration (SSA) and the U.S. Internal Revenue Service (IRS).

Purpose: In signing this consent form, you are authorizing HUD, the above-named O/A, and the PHA to request income information from the government agencies listed on the form. HUD, the O/A, and the PHA need this information to verify your household's income to ensure that you are eligible for assisted housing benefits and that these benefits are set at the correct level. HUD, the O/A, and the PHA may participate in computer matching programs with these sources to verify your eligibility and level of benefits. This form also authorizes HUD, the O/A, and the PHA to seek wage, new hire (W-4), and unemployment claim information from current or former employers to verify information obtained through computer matching.

Uses of Information to be Obtained: HUD is required to protect the income information it obtains in accordance with the Privacy Act of 1974, 5 U.S.C. 552a. The O/A and the PHA is also required to protect the income

information it obtains in accordance with any applicable State privacy law. After receiving the information covered by this notice of consent, HUD, the O/A, and the PHA may inform you that your eligibility for, or level of, assistance is uncertain and needs to be verified and nothing else.

HUD, O/A, and PHA employees may be subject to penalties for unauthorized disclosures or improper uses of the income information that is obtained based on the consent form.

Who Must Sign the Consent Form: Each member of your household who is at least 18 years of age and each family head, spouse or co-head, regardless of age, must sign the consent form at the initial certification and at each recertification. Additional signatures must be obtained from new adult members when they join the household or when members of the household become 18 years of age.

Persons who apply for or receive assistance under the following programs are required to sign this consent form:

Rental Assistance Program (RAP)

Rent Supplement

Section 8 Housing Assistance Payments Programs (administered by the Office of Housing)

Section 202; Sections 202 and 811 PRAC; Section 202/162 PAC Section 221(d)(3) Below Market Interest Rate

Section 236

HOPE 2 Homeownership of Multifamily Units

Failure to Sign Consent Form: Your failure to sign the consent form may result in the denial of assistance or termination of assisted housing benefits. If an applicant is denied assistance for this reason, the owner must follow the notification procedures in Handbook 4350.3 Rev. 1. If a tenant is denied assistance for this reason, the owner or managing agent must follow the procedures set out in the lease.

Consent: I consent to allow HUD, the O/A, or the PHA to request and obtain income information from the federal and state agencies listed on the back of this form for the purpose of verifying my eligibility and level of benefits under HUD's assisted housing programs.

Signatures:

Additional Signatures, if needed:

Head of Household

Date

Other Family Members 18 and Over

Date

Spouse

Date

Other Family Members 18 and Over

Date

Other Family Members 18 and Over

Date

Other Family Members 18 and Over

Date

Other Family Members 18 and Over

Date

Other Family Members 18 and Over

Date

Agencies To Provide Information

State Wage Information Collection Agencies. (HUD and PHA). This consent is limited to wages and unemployment compensation you have received during period(s) within the last 5 years when you have received assisted housing benefits.

U.S. Social Security Administration (HUD only). This consent is limited to the wage and self employment information from your current form W-2.

National Directory of New Hires contained in the Department of Health and Human Services' system of records. This consent is limited to wages and unemployment compensation you have received during period(s) within the last 5 years when you have received assisted housing benefits.

U.S. Internal Revenue Service (HUD only). This consent is limited to information covered in your current tax return.

This consent is limited to the following information that may appear on your current tax return:

1099-S Statement for Recipients of Proceeds from Real Estate Transactions

1099-B Statement for Recipients of Proceeds from Real Estate Brokers and Barter Exchange Transactions

1099-A Information Return for Acquisition or Abandonment of Secured Property

1099-G Statement for Recipients of Certain Government Payments

1099-DIV Statement for Recipients of Dividends and Distributions

1099 INT Statement for Recipients of Interest Income

1099-MISC Statement for Recipients of Miscellaneous Income

1099-OID Statement for Recipients of Original Issue Discount

1099-PATR Statement for Recipients of Taxable Distributions Received from Cooperatives

1099-R Statement for Recipients of Retirement Plans W2-G

Statement of Gambling Winnings

1065-K1 Partners Share of Income, Credits, Deductions, etc.

1041-K1 Beneficiary's Share of Income, Credits, Deductions, etc.

1120S-K1 Shareholder's Share of Undistributed Taxable Income, Credits, Deductions, etc.

I understand that income information obtained from these sources will be used to verify information that I provide in determining initial or continued eligibility for assisted housing programs and the level of benefits.

No action can be taken to terminate, deny, suspend, or reduce the assistance your household receives based on information obtained about you under this consent until the HUD Office, Office of Inspector General (OIG) or the PHA (whichever is applicable) and the O/A have independently verified: 1) the amount of the income, wages, or unemployment compensation involved, 2) whether you actually have (or had) access to such income, wages, or benefits for your own use, and 3) the period or periods when, or with respect to which you actually received such income, wages, or benefits. A photocopy of the signed consent may be used to request a third party to verify any information received under this consent (e.g., employer).

HUD, the O/A, or the PHA shall inform you, or a third party which you designate, of the findings made on the basis of information verified under this consent and shall give you an opportunity to contest such findings in accordance with Handbook 4350.3 Rev. 1.

If a member of the household who is required to sign the consent form is unable to sign the form on time due to extenuating circumstances, the O/A may document the file as to the reason for the delay and the specific plans to obtain the proper signature as soon as possible.

This consent form expires 15 months after signed.

Privacy Act Statement. The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937, as amended (42 U.S.C. 1437 et. seq.); the Housing and Urban-Rural Recovery Act of 1983 (P.L. 98-181); the Housing and Community Development Technical Amendments of 1984 (P.L. 98-479); and by the Housing and Community Development Act of 1987 (42 U.S.C. 3543). The information is being collected by HUD to determine an applicant's eligibility, the recommended unit size, and the amount the tenant(s) must pay toward rent and utilities. HUD uses this information to assist in managing certain HUD properties, to protect the Government's financial interest, and to verify the accuracy of the information furnished. HUD, the owner or management agent (O/A), or a public housing agency (PHA) may conduct a computer match to verify the information you provide. This information may be released to appropriate Federal, State, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. You must provide all of the information requested. Failure to provide any information may result in a delay or rejection of your eligibility approval.

Penalties for Misusing this Consent:

HUD, the O/A, and any PHA (or any employee of HUD, the O/A, or the PHA) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form.

Use of the information collected based on the form HUD 9887 is restricted to the purposes cited on the form HUD 9887. Any person who knowingly or willfully requests, obtains, or discloses any information under false pretenses concerning an applicant or tenant may be subject to a misdemeanor and fined not more than \$5,000.

Any applicant or tenant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD, the Owner or the PHA responsible for the unauthorized disclosure or improper use.

Applicant's/Tenant's Consent to the Release of Information

Verification by Owners of Information
Supplied by Individuals Who Apply for Housing Assistance

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Instructions to Owners

1. Give the documents listed below to the applicants/tenants to sign. Staple or clip them together in one package in the order listed.
 - a. The HUD-9887/A Fact Sheet.
 - b. Form HUD-9887.
 - c. Form HUD-9887-A.
 - d. Relevant verifications (HUD Handbook 4350.3 Rev. 1).
2. Verbally inform applicants and tenants that
 - a. They may take these forms home with them to read or to discuss with a third party of their choice and to return to sign them on a date they have worked out with you, and
 - b. If they have a disability that prevents them from reading and/or signing any consent, that you, the Owner, are required to provide reasonable accommodations.
3. Owners are required to give each household a copy of the HUD9887/A Fact Sheet, form HUD-9887, and form HUD-9887-A after obtaining the required applicants/tenants signature(s). Also, owners must give the applicants/tenants a copy of the signed individual verification forms upon their request.

Instructions to Applicants and Tenants

This Form HUD-9887-A contains customer information and protections concerning the HUD-required verifications that Owners must perform.

1. Read this material which explains:
 - HUD's requirements concerning the release of information, and
 - Other customer protections.
2. Sign on the last page that:
 - you have read this form, or
 - the Owner or a third party of your choice has explained it to you, and
 - you consent to the release of information for the purposes and uses described.

Authority for Requiring Applicant's/Tenant's Consent to the Release of Information

Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by section 903 of the Housing and Community Development Act of 1992. This law is found at 42 U.S.C. 3544.

In part, this law requires you to sign a consent form authorizing the Owner to request current or previous employers to verify salary and wage information pertinent to your eligibility or level of benefits.

In addition, HUD regulations (24 CFR 5.659, Family Information and Verification) require as a condition of receiving housing assistance that you must sign a HUD-approved release and consent authorizing any depository or private source of income to furnish such information that is necessary in determining your eligibility or level of benefits. This includes information that you have provided which will affect the amount of rent you pay. The information includes income and assets, such as salary, welfare benefits, and interest earned on savings accounts. They also include certain adjustments to your income, such as the allowances for dependents and for households whose heads or spouses are elderly handicapped, or disabled; and allowances for child care expenses, medical expenses, and handicap assistance expenses.

Purpose of Requiring Consent to the Release of Information

In signing this consent form, you are authorizing the Owner of the housing project to which you are applying for assistance to request information from a third party about you. HUD requires the housing owner to verify all of the information you provide that affects your eligibility and level of benefits to ensure that you are eligible for assisted housing benefits and that these benefits are set at the correct levels. Upon the request of the HUD office or the PHA (as Contract Administrator), the housing Owner may provide HUD or the PHA with the information you have submitted and the information the Owner receives under this consent.

Uses of Information to be Obtained

The individual listed on the verification form may request and receive the information requested by the verification, subject to the limitations of this form. HUD is required to protect the income information it obtains in accordance with the Privacy Act of 1974, 5 U.S.C. 552a. The Owner and the PHA are also required to protect the income information they obtain in accordance with any applicable state privacy law. Should the Owner receive information from a third party that is inconsistent with the information you have provided, the Owner is required to notify you in writing identifying the information believed to be incorrect. If this should occur, you will have the opportunity to meet with the Owner to discuss any discrepancies.

Who Must Sign the Consent Form

Each member of your household who is at least 18 years of age, and each family head, spouse or co-head, regardless of age must sign the relevant consent forms at the initial certification, at each recertification and at each interim certification, if applicable. In addition, when new adult members join the household and when members of the household become 18 years of age they must also sign the relevant consent forms.

Persons who apply for or receive assistance under the following programs must sign the relevant consent forms:

Rental Assistance Program (RAP)
Rent Supplement
Section 8 Housing Assistance Payments Programs (administered by the Office of Housing)
Section 202
Sections 202 and 811 PRAC
Section 202/162 PAC
Section 221(d)(3) Below Market Interest Rate
Section 236
HOPE 2 Home Ownership of Multifamily Units

Failure to Sign the Consent Form

Failure to sign any required consent form may result in the denial of assistance or termination of assisted housing benefits. If an applicant is denied assistance for this reason, the O/A must follow the notification procedures in Handbook 4350.3 Rev. 1. If a tenant is denied assistance for this reason, the O/A must follow the procedures set out in the lease.

Conditions

No action can be taken to terminate, deny, suspend or reduce the assistance your household receives based on information obtained about you under this consent until the O/A has independently 1) verified the information you have provided with respect to your eligibility and level of benefits and 2) with respect to income (including both earned and unearned income), the O/A has verified whether you actually have (or had) access to such income for your own use, and verified the period or periods when, or with respect to which you actually received such income, wages, or benefits.

A photocopy of the signed consent may be used to request the information authorized by your signature on the individual consent forms. This would occur if the O/A does not have another individual verification consent with an original signature and the O/A is required to send out another request for verification (for example, the third party fails to respond). If this happens, the O/A may attach a photocopy of this consent to a photocopy of the individual verification form that you sign. To avoid the use of photocopies, the O/A and the individual may agree to sign more than one consent for each type of verification that is needed. The O/A shall inform you, or a third party which you designate, of the findings made on the basis of information verified under this consent and shall give you an opportunity to contest such findings in accordance with Handbook 4350.3 Rev. 1.

The O/A must provide you with information obtained under this consent in accordance with State privacy laws.

If a member of the household who is required to sign the consent forms is unable to sign the required forms on time, due to extenuating circum-

stances, the O/A may document the file as to the reason for the delay and the specific plans to obtain the proper signature as soon as possible.

Individual consents to the release of information expire 15 months after they are signed. The O/A may use these individual consent forms during the 120 days preceding the certification period. The O/A may also use these forms during the certification period, but only in cases where the O/A receives information indicating that the information you have provided may be incorrect. Other uses are prohibited.

The O/A may not make inquiries into information that is older than 12 months unless he/she has received inconsistent information and has reason to believe that the information that you have supplied is incorrect. If this occurs, the O/A may obtain information within the last 5 years when you have received assistance.

I have read and understand this information on the purposes and uses of information that is verified and consent to the release of information for these purposes and uses.

Name of Applicant or Tenant (Print)

Signature of Applicant or Tenant & Date

I have read and understand the purpose of this consent and its uses and I understand that misuse of this consent can lead to personal penalties to me.

Name of Project Owner or his/her representative

Title

Signature & Date
cc:Applicant/Tenant
Owner file

Penalties for Misusing this Consent:

HUD, the O/A, and any PHA (or any employee of HUD, the O/A, or the PHA) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form.

Use of the information collected based on the form HUD 9887-A is restricted to the purposes cited on the form HUD 9887-A. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or tenant may be subject to a misdemeanor and fined not more than \$5,000.

Any applicant or tenant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD, the O/A or the PHA responsible for the unauthorized disclosure or improper use.

Exhibit 5-8: Tenant Rent Formulas

Section 8, RAP, PRAC, PAC

Total Tenant Payment (TTP) is the greater of:

- 30% monthly adjusted income;
- 10% monthly gross income;
- Welfare rent (welfare recipients in as-paid localities only); or
- \$25 minimum rent (Section 8 only).

NOTE: An owner may admit an applicant to the Section 8, RAP, and PAC programs only if the TTP is less than the gross rent. This note does not apply to the PRAC program. In some instances under the PRAC program a tenant's TTP will exceed the PRAC operating rent (gross rent).

Section 236—No Utility Allowance

Tenant rent is the greater of:

- 30% of monthly adjusted income; or
- Section 236 basic rent.

Tenant rent is never more than market rent.

Rent Supplement

Total Tenant Payment (TTP) is the greater of:

- 30% of monthly adjusted income; or
- 30% of gross rent.

NOTE: For move-ins and initial certifications, the amount of Rent Supplement assistance may be no less than 10% of the gross rent. If the initial amount of Rent Supplement assistance would be less than 10% of the gross rent, the tenant is not eligible for Rent Supplement Assistance.

Section 236—With Utility Allowance

Tenant rent is the greater of:

- 30% of the monthly adjusted income less the utility allowance;
- 25% of monthly adjusted income; or
- Basic rent.

Tenant rent is never more than market rent.

Section 221(d)(3) BMIR (Below Market Interest Rate)

At move-in or initial certification, if the tenant's annual income is:

- At or below the BMIR income limit, the tenant is charged the BMIR rent.
- Above the BMIR income limit, the tenant may not be admitted to the project.

At recertification, if the tenant's annual income is:

- Less than or equal to 110% of the BMIR income limit, the tenant pays the BMIR rent.
- Greater than 110% of the BMIR income limit, the tenant pays 110% of the BMIR rent.

Section 12

HUD 4350.3 REV-1 Appendix 6: Verification and Consent

-Guidance and Sample Formats

Appendix 15

**Verification of Consent – Guidance and Sample
Formats**

**Appendix 6-A: Guidance for Development of
Individual Consent Forms.**

Appendix 6-B: Verification of Disability.

**Appendix 6-C: Guidance About Types of Information
to Request When Verifying Eligibility and Income.**

APPENDIX 6: VERIFICATION AND CONSENT – GUIDANCE AND SAMPLE FORMATS

This appendix contains three components.

Appendix 6-A: Guidance for Development of Individual Consent Forms describes the required language that must be used when obtaining an applicant/tenant's consent to seek third-party verification of eligibility and income information, as well as a sample format.

Appendix 6-B: Verification of Disability – Instructions to Owners and Sample Formats provides additional instructions and sample formats for verifying an applicant/tenant's disability status for eligibility, or for receiving allowable income deductions based on disability.

Appendix 6-C: Guidance About Types of Information to Request When Verifying Eligibility and Income presents guidance about the types of information that are appropriate when an owner is seeking to verify an applicant/tenant's eligibility or income information.

Appendix 6-A: Guidance for Development of Individual Consent Forms

1. REQUIREMENTS FOR INDIVIDUAL CONSENT. See sample consent below.
Individual verification consent forms must contain the following consumer protections:
- a. State in bold (or other emphasis) in a prominent place that the applicant/tenant does not have to sign the consent if it is not clear who will provide the information or who will receive the information.

NOTE: This can be re-worded to suit the owner's individual style. This customer protection assures individuals that their consents will be used by authorized individuals only.

"NOTE: This information may have to be conveyed in languages other than English for LEP persons in accordance with HUD guidance."
- b. Include the following statement on the penalties for misusing the consent:

"Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. HUD and any owner (or any employee of HUD or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form. Use of the information collected based on this verification form is restricted to the purposes cited above. Any person who knowingly or willingly requests, obtains or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use. Penalty provisions for misusing the social security number are contained in the Social Security Act at **208 (a) (6), (7) and (8).** Violation of these provisions are cited as violations of 42 U.S.C. Section **408 (a) (6), (7) and (8).**"
- c. Request only that information necessary to determine the person's eligibility or level of assistance.

EXAMPLE – Information That Is Not Necessary to Determine Eligibility or Level of Assistance

In a verification for termination of employment, it would not be appropriate to ask “would you rehire this person?” But, it would be appropriate to ask “do you anticipate rehiring this person and, if yes, when?”

In a medical verification, it would not be appropriate to ask the purpose of an office visit or to ask for a diagnosis.

NOTE: Concerning verifications of disability (handicap), **Appendix 6-B** provides a specific explanation to the applicant/tenant on the limitations on any verification of disability (handicap).

- d. Include the following certification statement to be signed by the applicant/tenant:

"I hereby authorize the release of the requested information. Information obtained under this consent is limited to information that is no older than 12 months. There are circumstances that would require the owner to verify information that is up to 5 years old, which would be authorized by me on a separate consent attached to a copy of this consent."

- e. Provide a space for the title, agency/organization, and signature of the third party who is supplying the information. This information will be provided by the third party. For example:

NAME AND TITLE OF PERSON
SUPPLYING THE INFORMATION (PRINT)

AGENCY/ORGANIZATION

SIGNATURE

DATE

2. SAMPLE VERIFICATION CONSENT FORMAT

The format on the next page shows a sample of how consent for verification may be requested.

SAMPLE VERIFICATION CONSENT

DATE:

TO: (Name and address of third party
who is being requested to verify
this information)

FROM: (Name of individual
requesting the information,
title, name of housing project,
address)

RETURN THIS VERIFICATION TO THE PERSON LISTED ABOVE (or other instruction to the third party to ensure that the verification is returned to the right person. This is important because owners have a responsibility to treat this information confidentially.)

SUBJECT: Verification of Information Supplied by an Applicant for Housing Assistance

NAME _____

ADDRESS _____

This person has applied for housing assistance under a program of the U.S. Department of Housing and Urban Development (HUD). HUD requires the housing owner to verify all information that is used in determining this person's eligibility or level of benefits.

We ask your cooperation in providing the following information and returning it to the person listed at the top of the page. Your prompt return of this information will help to ensure timely processing of the application for assistance. Enclosed is a self-addressed, stamped envelope for this purpose. The applicant/tenant has consented to this release of information as shown below.

=====

INFORMATION BEING REQUESTED

(Owners: Fill in here the information requested. Consult **Appendix 6-C** of this handbook for examples of relevant information that owners may request from third parties in verifying several types of income and information and household characteristics. This list of information is not meant to be all-inclusive. Owners may add other information as long as any additional information is relevant to determining the individual's eligibility for assistance or level of benefits. This instruction does not have to appear on an individual consent.)

Name and Title of Person
Supplying the Information

Firm/Organization

Signature

Date

=====

=====

RELEASE: I hereby authorize the release of the requested information. Information obtained under this consent is limited to information that is no older than 12 months. There are circumstances that would require the owner to verify information that is up to 5 years old, which would be authorized by me on a separate consent attached to a copy of this consent.

Signature

Date

Note to Applicant/Tenant: You do not have to sign this form if either the requesting organization or the organization supplying the information is left blank.

=====

PENALTIES FOR MISUSING THIS CONSENT:

Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. HUD and any owner (or any employee of HUD or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected based on the consent form. Use of the information collected based on this verification form is restricted to the purposes cited above. Any person who knowingly or willingly requests, obtains, or discloses any information under false pretenses concerning an applicant or participant may be subject to a misdemeanor and fined not more than \$5,000. Any applicant or participant affected by negligent disclosure of information may bring civil action for damages and seek other relief, as may be appropriate, against the officer or employee of HUD or the owner responsible for the unauthorized disclosure or improper use. Penalty provisions for misusing the social security number are contained in the Social Security Act at **208 (a) (6), (7) and (8).** Violations of these provisions are cited as violations of 42 USC **408 (a) (6), (7) and (8).**



**We Do Business in Accordance With the Federal Fair
Housing Law**

(The Fair Housing Amendments Act of 1988)

Appendix 6-B: Verification of Disability – Instructions to Owners and Sample Formats

NOTE: These verification instructions and sample formats are not to be used when assigning accessible units.

1. EXPLANATION TO THE APPLICANT

(Instruction to Owners: This explanation is required. It may be in the form of a cover letter or may appear directly on the verification consent. Owners may edit the following explanation as long as the same message is conveyed. This instruction does not have to appear on the verification consent.)

HUD permits owners to verify that you have a disability only if:

- 1) Your eligibility for admission is dependent on your being a person with a disability; or
- 2) You claim eligibility for deductions that are given to a person with a disability.

The definitions of disability vary depending on the project you are applying for or living in. The owner determines the definition(s) to use by consulting with HUD Handbook 4350.3 REV-1. The third party from whom this verification is being requested has knowledge of whether your disability meets the applicable definition(s) of disability (or person with a disability). An owner may request from a third party only the minimum information necessary to determine whether you meet the applicable definition of disability (or person with a disability). Any other request for information about you is not relevant and may not be asked (e.g., diagnosis, treatment plan).

"NOTE: This information may have to be conveyed in languages other than English for LEP persons in accordance with HUD guidance."

2. SAMPLE FORMATS

The two sample formats on the next page can be used to verify an applicant/tenant's disability status for purposes of eligibility for occupancy in properties/units where occupancy is restricted to disabled families or persons with disabilities, or for income deductions based on disability when determining an applicant/tenant's adjusted income.

Please note that if Item 4, on either sample format, is checked "YES", the applicant/tenant does not meet HUD's definition of disability.

**HUD- 90102 - SAMPLE VERIFICATION OF DISABILITY WHEN ELIGIBILITY FOR
ADMISSION OR QUALIFICATION FOR CERTAIN INCOME DEDUCTIONS IS BASED
ON DISABILITY**

FOR USE WITH **SECTION 202/8, SECTION 202 PAC, Section 202 PRAC,
AND SECTION 811 PRAC**

<http://www.hud.gov/offices/adm/hudclips/forms/files/90102.pdf>

HUD -90103 - SAMPLE VERIFICATION OF DISABILITY WHEN ELIGIBILITY FOR
ADMISSION OR QUALIFICATION FOR CERTAIN INCOME DEDUCTIONS IS BASED ON
DISABILITY

FOR USE WITH ALL PROGRAMS **EXCEPT** SECTION 202/8, SECTION 202 PAC,
SECTION 202 PRAC, AND SECTION 811 PRAC

<http://www.hud.gov/offices/adm/hudclips/forms/files/90103.pdf>

Appendix 6-C: Guidance About Types of Information to Request When Verifying Eligibility and Income

Paragraph 1.c of **Appendix 6-A** states that owners may request only that information necessary to determine the person's eligibility or level of assistance. The first paragraph under most of the types of income listed below provides information that would meet this requirement. For some types of income listed below, appropriate requests for information are combined with the types of verification that are permitted. In deciding whether to add information to a particular verification request that is not listed below, the owner must ask: Is this information necessary to determine the individual's eligibility for assistance or level of assistance? If the answer is "yes", then the owner may verify that information. If the answer is "no", then the owner may not verify that information

"NOTE: This information may have to be conveyed in languages other than English for LEP persons in accordance with HUD guidance."

A. Employment Income

1. Relevant information to verify with third party:

a. Nonmilitary employment

(1) Date first employed,

(2) Base pay rate (Gross) (check one)

Per hour \$_____ or per week \$_____

OR per month \$_____

Date present rate became effective _____

Expected average hours to be worked during next 12 calendar months at base pay rate _____

Per week _____ or per month _____,

(3) Overtime pay rate

Per hour \$_____

Expected average number of hours to be worked per week during next 12 calendar months _____,

(4) Other compensation not included above (specify for commissions, bonuses, tips, etc.)

For _____ \$_____ per _____,

- (5) Total anticipated base pay earnings for the next 12 calendar months \$ _____,
- Total anticipated overtime earnings for the next 12 calendar months \$ _____,
- (6) Medical insurance premium deducted (if any). (This would be relevant only for families eligible for the medical deduction.),
- _____
- (7) Has employment been terminated? _____
- If yes, is individual eligible for unemployment benefits?
- _____

b. Military employment

- (1) Years ____ and months ____ of services for pay purposes.
- Number of dependents claimed _____,
- (2) Monthly income from the following sources:
- | | |
|---|------------------|
| Base pay and longevity pay | \$ _____ |
| Proficiency pay | \$ _____ |
| Sea and foreign duty pay | \$ _____ |
| Hazardous duty pay | \$ _____ |
| Imminent danger pay | \$ _____ |
| Subsistence allowance | \$ _____ |
| Quarters allowance
(Include only amount contributed by government) | \$ _____ |
| Other (explain) | \$ _____ |
| TOTAL AMOUNT RECEIVED MONTHLY | \$ _____. |

2. Acceptable forms of verification:

- a. Employment verification form completed by the employer verifying frequency of pay, effective date of the last pay increase, and probability and effective date of any increase during the next 12 months;

- b. Check stubs or earning statements showing employee's gross pay per pay period and frequency of pay;
- c. W-2 forms if applicant has had the same job for at least two years and pay increases can be accurately projected; and
- d. Notarized statements, affidavits or income tax returns signed by the applicant describing self-employment and amount of income or income from tips and other gratuities.

B. Date Employment Terminated

1) Relevant information to verify with third party:

- a. Date of hire;
- b. Date of termination;
- c. Last day actually worked;
- d. Do you anticipate rehiring this employee? If yes, when?
- e. Will the employee receive additional paychecks for worker's compensation?

If yes, provide the name and address of the company through which this can be verified.
- f. Is employee eligible for unemployment benefits?
- g. Total severance pay anticipated for the next 12 months.

2. Acceptable forms of verification:

- a. Termination of employment verification;
- b. Letter from employer stating date of termination; and
- c. Letter from an agency providing unemployment compensation stating that the individual's employment terminated and that unemployment benefits will begin.

C. Social Security and Supplementary Security Income (SSI)

- 1. Relevant information to verify *Social Security and SSI income.* The following information is generally available from *EIV or the* award or benefit letter *or the Proof of Income Letter*.

a. Name of original annuitant;

- b. Pension claim number or social security number of person receiving the pension claim;
- c. Current monthly gross amount of pension or annuity;
- d. Deductions from gross amount for medical insurance premiums;
- e. Date benefits began;
- f. Effective date of current amount;
- g. For social security, ask: Has the monthly payment been reduced for overpayment of previous benefits? If so, by how much?

2) Acceptable forms of verification:

- a. Initial occupancy. At initial occupancy, acceptable forms of verification are:
 - Benefit verification form completed by agency providing the benefits;
 - Award or benefit notification letters prepared and signed by the authorizing agency. (Since checks or bank deposit slips show only net amounts remaining after deducting supplemental security income or Medicare, they may be used only when award letters can't be obtained.) If the applicant does not have his or her award letter, the applicant may obtain it by calling 800-772-1213.
- b. Annual recertification. At annual recertification, the owner **must** verify benefit information by obtaining a Benefit History Report from **EIV**. If the owner cannot obtain this report from **EIV**, the owner uses the verification methods for initial occupancy.

NOTE: Failure to obtain a Benefit History Report from **EIV** is not an indication that the tenant does not receive benefits. Due to data sharing limitations between existing data systems, it is possible for a tenant to receive benefits on which the owner cannot obtain a Benefit History Report.

D. Pensions and Disability Income Other Than from the Social Security Administration

This paragraph is not suggesting that owners group verifications of these different sources of income into one verification. Owners may have to adapt the questions, depending on the source of income being verified. This paragraph provides suggestions on the types of questions that are appropriate to ask a third party.

1. Relevant information to verify with third party:

- a. Name of original annuitant;

- b. Pension claim number or social security number of person receiving the pension claim;
- c. Current monthly gross amount of pension or annuity;
- d. Deductions from gross amount for medical insurance premiums;
- e. Date benefits began;
- f. Effective date of current amount;
- g. For annuities, ask: Did the individual invest in an annuity? If yes, what is the amount invested? What is the amount received to date from the annuity? Does the individual receive regular payments? When are they received (monthly, annually)?
- h. For pensions and annuities, ask: Is the individual reimbursed for medical costs?

2) Acceptable forms of verification:

- a. Benefit verification form completed by the company/agency providing the benefits;
- b. Award or benefit notification letters prepared and signed by the authorizing company/agency. (Checks or bank deposit slips show only net amounts remaining after deductions.)

E. Unemployment Compensation

1. Relevant information to verify with third party:

- a. Gross weekly payment;
- b. Date of initial payment;
- c. Duration of benefits: _____ weeks;
- d. Is the claimant eligible for further benefits?
- e. If yes, how many weeks?
- f. If no, what is the date the benefits are terminated?

2. Acceptable forms of verification:

- a. Verification form completed by the unemployment compensation agency; and
- b. Records from unemployment office stating payment dates and amounts.

F. Public Benefits

1. Relevant information to verify with third party:
 - a. Number of members in the family;
 - b. Names of the children for whom benefits are received and their social security numbers;
 - c. Date of initial assistance;
 - d. Is recipient covered by Medicaid? If yes, what is the Medicare spend down amount?
 - e. Does the recipient meet his/her spend down amount each period?
 - f. What is the rate per month under the following grant:
 - (1) Temporary Assistance to Needy Families (TANF),
 - (2) Supplemental Social Security,
 - (3) Other assistance: Type _____, and
 - g. The following question applies only to "as-paid" States only: Amount specifically designated for shelter and utilities (This is the maximum allowance for rent and utilities);
 - h. The grant is increased by the following amounts (Specify purpose):
 - (1) Employment income \$ _____
 - (2) Child care allowance \$ _____
 - (3) Transportation \$ _____
 - (4) Other _____ \$ _____;
 - i. The grant is reduced by the following amounts:
 - (1) Alimony \$ _____
 - (2) Child support \$ _____
 - (3) Other (specify) \$ _____;
 - j. Is there anything else that will influence the amount of the grant? If yes, specify purpose and amount. \$ _____
 - k. Has the monthly payment been reduced for overpayment of previous benefits? If so, by how much? \$ _____

I. TOTAL MONTHLY GRANT \$ _____.

2. Acceptable forms of verification:

- a. All welfare programs. Welfare agency's written statements as to type and amount of assistance family is now receiving and any changes in assistance expected during the next 12 months;
- b. Additional information for "as-paid" programs. Welfare agency's written schedule or statement that describes how the "as-paid" system works, the maximum amount a family may receive for shelter and utilities and, if applicable, any factors used to ratably reduce the client's grant.

G. **Alimony or Child Support Payments**

1. Relevant information to verify with third party:

- a. Amount of alimony or child support being provided to the family;
- b. Will such amounts be terminated within the next 12 months. If so, when?

2. Acceptable forms of verification:

- a. Copy of a separation or settlement agreement or divorce decree stating amount and type of support and payment schedules;
- b. A letter from the person paying the support;
- c. Copy of latest check. Owner must record the date, amount, and number of check; and
- d. Applicant's notarized statement or affidavit of amount received or that support payments are not being received and the likelihood of support payments being received in the future.

H. **Net Income from a Business**

The following documents show income for the prior years. Owners must consult with tenants and use this data to estimate income for the next 12 months.

1. IRS Tax Return, Form 1040, including any:

- a. Schedule C (Small Business);
- b. Schedule E (Rental Property Income); and
- c. Schedule F (Farm Income).

2. An accountant's calculation of depreciation expense, computed using straight-line depreciation rules. (Required when accelerated depreciation was used on the tax return or financial statement.)

3. Audited or unaudited financial statement(s) of the business.
4. Loan Application listing income derived from the business during the previous 12 months.
5. Applicant's notarized statement or affidavit as to net income realized from the business during the previous years.

I. Recurring Gifts

Acceptable forms of verification:

1. Notarized statement or affidavit signed by the person providing the assistance. It must give the purpose, dates and value of gifts.
2. Applicant's notarized statement or affidavit that provides the purpose, dates and value of gifts.

J. Family Assets Now Held

1) Relevant information to verify with third party:

For non-liquid assets, collect enough information to determine the current cash value—the net amount the family would receive if the asset were converted to cash. (See paragraph 5.7.)

- a. Type of account;
- b. Current balance or, for checking accounts, the average balance for the last six months;
- c. Date account opened;
- d. Date account closed;
- e. Is this an interest bearing account? If so, what is the interest rate?
- f. For trusts:
 - (1) What is the value of the trust fund?
 - (2) What is the anticipated amount of income to be earned by the trust over the next 12 months?
 - (3) What is the amount anticipated to be distributed over the next 12 months?
- g. For property, what is the equity value?

2) Acceptable forms of verification:

- a. Verification forms, letters, or documents from a financial institution, broker, etc.;

NOTE: When financial institutions charge a fee to the applicant or tenant for providing verifications, the forms of verification in paragraph b) below would be the preferred method.

- b. Account statements, passbooks, broker's quarterly statements showing value of stocks or bonds, etc., and the earnings credited to the applicant's account statements, or financial statements completed by a financial institution or broker;

NOTE: The owner must adjust the information provided by the financial institution to project earnings expected for the next 12 months.

- c. Quotes from a stockbroker or realty agent as to net amount family would receive if they liquidated securities or real estate;
- d. Copy of IRS Form 1099 prepared by the financial institution showing the amount of income provided by the asset;
- e. Real estate tax statements if tax authority uses approximately market value;
- f. Copies of closing documents showing the selling price, the distribution of the sales proceeds and the net amount to the individual;
- g. Appraisals of personal property held as an investment; and
- h. Applicant's notarized statements or signed affidavits describing assets or verifying cash held at the applicant's home or in safe deposit boxes.

K. Assets Disposed of for Less than Fair Market Value During Two Years Preceding Effective Date of Certification or Recertification

(See paragraph 5.7 G.6.) Suggested information to obtain and acceptable forms of verification are included below.

1. For all certifications and recertifications except those prepared for BMIR tenants, certification as to whether any member *of the family* has disposed of assets for less than fair market value during the two years preceding effective date of the certification or recertification.
2. If the family certifies that they did dispose of assets for less than fair market value a certification that shows:
 - a. All assets disposed of for less than fair market value;
 - b. The date they disposed of the assets;

- c. The amount the family received; and
- d. The market value *of the asset(s)* at the time of disposition.

L. Income from Sale of Real Property Pursuant to a Purchase Money Mortgage, Installment Sales Contract, or Similar Arrangement

The following provide suggested information to verify with a third party and acceptable forms of verification:

- 1. A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the applicant is not sufficient since appropriate breakdowns of interest and principal are not included.)
- 2. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

M. Rental Income from Property Owned by Applicant/Tenant

The following provide suggested information to verify with a third party and acceptable forms of verification:

- 1. IRS Form 1040 with Schedule E (Rental Income).
- 2. Copies of latest rent checks, leases, or utility bills.
- 3. Documentation of applicant's/tenant's income and expenses in renting the property (tax statements, insurance premiums, receipts for reasonable maintenance and utilities, bank statements or amortization schedules showing monthly interest expense).
- 4. Lessee's written statement identifying monthly payments due the applicant and applicant's affidavit as to net income realized.

N. Full-Time Student Status

The following provide suggested information to verify with a third party and acceptable forms of verification:

- 1. Written verification from the registrar's office or appropriate school official.
- 2. School records indicating enrollment for sufficient number of credits to be considered a full-time student by the school.

O. Child Care Expenses

The following provide suggested information to verify with a third party and acceptable forms of verification:

1. Written verification from the person who receives the payments.
2. Verifications must specify the hours and days during which the care is provided, the names and ages of the children cared for, and the frequency and amount of compensation received. (Owners should recognize that child care costs may be higher during summer and holiday recesses.)

NOTE: Owners may want to ask the verifying party to indicate children age 12 or younger.

3. Applicant's certification as to whether any of those payments have been or will be reimbursed by outside sources.

NOTE: Owners may wish to use separate verification consents for child care and disability (handicap) care.

P. **Medical Expenses**

The following provide suggested information to verify with a third party and acceptable forms of verification:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, etc., of:
 - a. The estimated medical costs to be incurred by the applicant and of regular payments due on medical bills;
 - b. The extent to which those expenses will be reimbursed by insurance or a government agency; and
 - c. Whether the provider accepts Medicare assignment.
2. The insurance company's or employer's written confirmation of health insurance premiums to be paid by the applicant.
3. Social Security Administration's written confirmation of Medicare premiums to be paid by the applicant over the next 12 months.
4. For attendant care:
 - a. Doctor's certification that the assistance of an attendant is medically necessary;
 - b. Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family (or copies of cancelled checks the family used to make those payments); and
 - c. Applicant's certification as to whether any of those payments have been or will be reimbursed by outside sources.

5. Receipts, cancelled checks, or pay stubs that indicate health insurance premium costs, etc., that verify medical and insurance expenses likely to be incurred in the next 12 months.
6. Copies of payment agreements with medical facilities or cancelled checks that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
7. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. Owners may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.

Q. Need for Larger Unit Because of Physical or Mental Disability (Handicap)

The owner may request additional information to verify the request for a larger unit as a reasonable accommodation. The owner may request reliable disability-related information to verify that the requestor meets the definition of disability, that the accommodation is needed, and that the need is related to the disability. Such information may be, but need not be, provided by a health care professional. It could be provided by a non-medical service coordinator or service provider, a peer support group, or other reliable third party who is in the position to know about the requestor's disability.

R. Disabled (Handicap) Assistance Expense

1. Attendant care:
 - a. Attendant's written certification as to amount received from the applicant/tenant, frequency of receipt, hours of care provided, and/or copies of cancelled checks applicant/tenant used to make those payments; and
 - b. Family's written certification as to whether they receive reimbursement for any of the attendant care expenses and the amount of any reimbursement received.
- 2) Auxiliary apparatus: Receipts for purchases of, or evidence of monthly payments for auxiliary apparatus.
- 3) In all cases:
 - a. As routine practice, owners should accept the individual's written statement that an auxiliary apparatus or attendant care is necessary for employment. If the owner determines that verification is necessary in a particular case, the owner should obtain written certification from a *reliable source* that the family member who is a person with a disability (handicap) requires the services of an attendant or the use of auxiliary apparatus to permit this family member to be employed or to enable

another family member to be employed. *See* Chapter 2 regarding individuals' requests for reasonable accommodations.

- b. Family's written certification as to whether they receive reimbursement for any of the auxiliary apparatus expenses and the amount of any reimbursement received.

S. **Family Type and Membership in Family**

1. For elderly household where the head, co-head, or spouse is 62 years of age or older verification of age may be provided by:
 - a. Copy of a birth certificate, baptismal certificate, census record, official record of birth or other authoritative document; or
 - b. Receipt of supplemental security income old age benefits or social security retirement benefits.
2. For disability (because the individual's eligibility for admission is dependent on his/her being a person with a disability [handicap] or because the individual claims eligibility for income deductions that are given to persons with disabilities [handicaps]) verification of disability (handicap) may be provided by:
 - a. Receipt of supplemental social security disability or social security disability benefits, which would provide verification that an individual met the definition of "person with disabilities" as shown in Definition E of Figure 3-6 in Chapter 3 of this handbook; or
 - b. *Verification* by a *reliable source* that the individual meets the relevant definition of a "person with a disability (handicap)" for the particular project. *See Chapter 2 regarding individuals' requests for reasonable accommodations.*

IMPORTANT: See **Appendix 6-B** for the limitations on information that may be verified. **Appendix 6-B** also requires the owner to provide an explanation to the applicant/tenant describing these limitations. In particular, the consent should request the third party to identify any of the relevant definitions that apply to the individual. Any other request for information about the individual is not relevant and may not be asked (e.g., diagnosis, treatment plan).

3. For family members younger than age 18, verification of age may be provided by birth certificate, adoption papers, and/or custody agreements.

T. **Statutory and HUD Regulatory Preferences – Displacement by Government Action or Presidentially Declared Disaster**

(Applicable only to 221(d)(3) BMIR and Section 236 units):

1. Relevant information to verify with third party:

Date of displacement, or, if displacement has not yet occurred, the anticipated date of displacement; The applicant will be displaced if the applicant has vacated or will have to vacate his/her housing unit as a result of one or both of the following actions:

- a. A presidentially declared disaster, such as a hurricane, flood or fire, that has made the unit uninhabitable; or
- b. Code enforcement, public improvement, or development program activities by a U.S. agency or a State or local government body or agency.

2) Acceptable forms of verification:

- a. Displacement by disaster. Verification from a unit or agency of government that an applicant has been or will be displaced as a result of a presidentially declared disaster that results in the uninhabitability of an applicant's unit.
- b. Displacement by government action. Verification from a unit or agency of government that an applicant has been or will be displaced by activity carried on by an agency of the United States or by an State or local government body or agency in connection with code enforcement or a public improvement or development program.

Section 13

CHFA Post Year 15 Compliance Monitoring Policy

CONNECTICUT HOUSING FINANCE AUTHORITY POST YEAR-15 (Y-15) COMPLIANCE MONITORING POLICY

PURPOSE

This document serves as the Connecticut Housing Finance Authority's (CHFA) Post Year-15 Compliance Monitoring Policy for properties allocated Low-Income Housing Tax Credits by CHFA beginning in 1990. The purpose of this policy is to ensure compliance with the Extended Low-Income Housing Commitment (ELIHC) while allowing for the waiving of certain requirements during the Extended Use Period. CHFA's goal is to preserve these properties while maintaining reasonable monitoring requirements.

BACKGROUND

The Federal Low-Income Housing Tax Credit Program was created by Congress in 1986 and is administered in Connecticut by the Connecticut Housing Finance Authority. As Housing Credit Agency (HCA) for the State of Connecticut, CHFA monitors compliance as required by Section 42 of the Internal Revenue Code (IRC) and Section 1.42-5 of the Regulations and reports instances of noncompliance to the Internal Revenue Service (IRS). The compliance period for all tax-credit properties begins on the first day of the year in which tax credits are first claimed and ends at the end of the 15th year.

PRE-1990 PROPERTIES

Properties awarded housing credits by CHFA in 1987, 1988 and 1989 had a tax credit compliance period of 15 years. Tax credit properties with allocations prior to 1990 have no additional restrictions. The compliance period for these properties has ended. There is no further involvement of the IRS or CHFA except for properties where CHFA is the mortgagee. With the exception of these and any other lender or government program restrictions, owners are free to do whatever they wish with the property.

POST – 1989 PROPERTIES

The compliance period issue is much more complex for properties with an allocation of credits from 1990 or later. A change in federal law required a minimum of an additional 15 years of compliance, which is known as the Extended Use Period. As a result, properties that were awarded housing credits in 1990 or afterwards must comply with program restrictions for a minimum of 30 years, subject to certain exceptions. These restrictions are embodied in a recorded real estate document called the Extended Low-Income Housing Commitment. Extended Low-Income Housing Commitments are restricted covenants between the property owner and the state HCA that allocated the credits. The ELIHC stipulates the terms on which the credits were awarded by the state and outlines any special set-asides or terms to which the owner agreed in return for the credits. CHFA is solely responsible for enforcing the property's ELIHC after Year-15 through the end of the Extended Use Period.

Since the IRS is no longer involved in these properties after the initial 15-year compliance period, States must develop compliance monitoring procedures for the remaining years of the Extended Use Period.

EXTENDED USE PERIOD CONTINUING PROVISIONS

The following provisions contained in the Extended Low-Income Housing Commitment (executed before the end of the first year of the credit period) will remain in force for the entire Extended Use Period:

1. Failure to comply with the provisions of the ELIHC is an event of default, and the Authority or its successors may exercise any of the remedies available under the ELIHC. Furthermore, the Authority may seek specific performance of the ELIHC by the Owner or any successor in interest thereto, without declaring an event of default and without waiving any remedies in the ELIHC, by filing an action in any court of competent jurisdiction in the state of Connecticut. **Note:** *Noncompliance may result in an owner being placed in the status of "not in good standing with CHFA." The owner may not be eligible to apply for future Housing Credits in the State of Connecticut.*
2. After the close of the compliance period, the Extended Use Period shall be for the same number of years as stipulated in the ELIHC.
3. The applicable fraction (as defined in §(c)(1) of Section 42 of the Code) for each taxable year in the Extended Use Period shall not be less than the applicable fraction stipulated in the ELIHC. The applicable fraction must be maintained during the ELIHC.
4. Individuals who meet the income limitation applicable under §(g)(1) of Section 42 of the Code (whether prospective, present, or former occupants who qualify, qualified, or would qualify) hereby have the right to enforce in any state court the requirements of the ELIHC and may apply to any state court for specific performance of the provisions of the ELIHC, notwithstanding any action which may or may not be taken by the Authority.
5. The Extended Use Period shall continue after the close of the compliance period, unless terminated (Early Termination) on the date of foreclosure or deed in-lieu-of foreclosure or by Qualified Contract (if permitted by the ELIHC).
6. The development shall be occupied or be available for occupancy by Qualified Persons as defined in the Applicable Fraction.
7. The rent for each Qualified Unit shall not exceed the Qualified Rent, which will be uniform for each particular housing unit size, regardless of the number of persons residing in the household and in accordance with Section 42(g) of the Code.

8. For the 3-year period following an Early Termination of the Extended Use Period:
 - (i) No resident who was occupying a Qualified Unit at the end of the Extended Use Period may be removed (whether by eviction, lease expiration or any reason other than good cause); and
 - (ii) No rent may be increased for any Qualified Unit beyond the Qualified Rent as long as it is occupied by the resident who was occupying the unit at the early termination of the Extended Use Period.
9. The ELIHC prohibits the disposition to any person of any portion of the building to which the ELIHC applies unless all of the building to which such ELIHC applies is disposed of to such persons.
10. The ELIHC must be recorded promptly on the land records of the town or city where the property is located prior to the recording of any other lien or restriction.
11. The Owner may not refuse to lease to a holder of a voucher or certificate of eligibility under Section 8 of the U.S. Housing Act of 1937 because of the status of the prospective tenant as such a holder.
12. The restrictive covenants of the ELIHC shall be binding on all successors and assigns of the Owner and this commitment shall be recorded pursuant to Connecticut law and a restrictive covenant.
13. The ELIHC shall be governed by and construed in accordance with the laws of the State of Connecticut and federal law, where applicable.
14. The invalidity of any provisions of the ELIHC shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder of the provisions of the ELIHC, which shall continue in full force and effect as if such invalid provision had never been included herein.
15. The owner must comply with all requirements of the Fair Housing Act.

CHFA'S COMPLIANCE MONITORING REQUIREMENTS AFTER END OF INITIAL 15-YEAR COMPLIANCE PERIOD

There is no IRS compliance monitoring requirement during the Extended Use Period and Housing Credit Agencies no longer report to the IRS. Therefore, CHFA established a policy regarding how properties will be monitored and consequences for noncompliance during the Extended Use Period. Based on the requirements of the Extended Low-Income Housing Commitment specified in Section 42 of the Code, CHFA has the authority to establish different compliance criteria during the Extended Use Period.

The Post Year-15 compliance requirements will be in place and monitored during the Extended Use Period. CHFA believes these changes, which eliminate and/or streamline current IRS requirements, will prove to be beneficial to owners and managers of Housing Credit properties.

The following is a comparison of CHFA Pre and Post Year-15 compliance monitoring requirements:

1. INCOME AND RENT RESTRICTIONS

Initial 15-year Compliance Period:

IRS Code requires that Qualified Units be income and rent restricted.

Extended Use Compliance Period:

No change. Qualified Persons must be income qualified in accordance with current Housing Credit Income Limits. Qualified Households may not pay more than the Qualified Rent.

2. INITIAL ELIGIBILITY AND CERTIFICATION

Initial 15-Year Compliance Period:

IRS Code requires that the owner determine an applicant's eligibility for a Housing Credit Unit prior to initial occupancy. Income and assets must be verified by third-party verification in accordance with HUD Handbook 4350.3.

Extended Use Compliance Period:

No change in verification process. The Tenant Income Certification Form (TIC) must be completed. Initial eligibility must be confirmed in accordance with HUD guidelines as stated in HUD Handbook 4350.3.

3. ANNUAL RECERTIFICATION OF HOUSEHOLDS

Initial 15-Year Compliance Period:

Until July 30, 2008 and the adoption of HR 3221, the Housing and Economic Recovery Act of 2008, Section 1.42-5 of the Regulations required that a recertification of household income, including third-party verification, be completed at least once every 12 months after initial occupancy. HR 3221 waived this requirement for 100% Housing Credit and Bond Properties. Recertification is still required for all other properties, including Assisted Living.

Extended Use Compliance Period:

Change. CHFA will require that an initial Tenant Certification and an anniversary recertification be completed. Thereafter, the owner may self-certify tenants for all properties except Assisted Living. However, CHFA will require that the owner provide certain information annually to include tenant data, changes in household composition and student status.

4. BUILDING RULE

Initial 15-Year Compliance Period:

Change. IRS Code requires that compliance monitoring be conducted on a building-by-building basis.

Extended Use Compliance Period:

Change. CHFA will conduct compliance monitoring on a project-wide basis.

5. MINIMUM SET-ASIDE

Initial 15-Year Compliance Period:

IRS Code requires that an owner satisfy minimum set-aside requirements of either 20/50 or 40/60 throughout the compliance period.

Extended Use Compliance Period:

Change. Minimum set-aside requirements (MSA) must continue to be met. However, MSA may now be satisfied on a project basis instead of each individual building.

6. APPLICABLE FRACTION

Initial 15-Year Compliance Period:

IRS Code states that the applicable fraction for determining qualified basis is the lesser of the number of low-income units as a percentage of all residential units; or the total floor space of low-income units as a percentage of the total floor space of all residential units.

Extended Use Compliance Period:

Change. The applicable fraction will be determined by the unit fraction.

7. STUDENT RULE

Initial 15-Year Compliance Period:

IRS Code states that households consisting entirely of full-time students are not eligible to occupy housing credit units unless certain exceptions are met.

Extended Use Compliance Period:

Change. Housing credit units may now be occupied by households consisting entirely of income-eligible, full-time students with one exception. Full-time students must verify that they are not dependents on their parents' tax return (proof required) so that these units are not substitutes for dormitories.

8. UNIT TRANSFERS

Initial 15-Year Compliance Period:

IRS Code allows for unit transfers within a building and between buildings in the same project without recertification of eligibility.

Extended Use Compliance Period:

Unit transfers in a building and between buildings in the same property will be permitted without recertification of eligibility.

9. NEXT AVAILABLE UNIT / 140% RULE

Initial 15-Year Compliance Period:

Change. IRS Code states that if the household income for residents in a qualified unit increases to more than 140% of the current applicable income limit, the unit is considered an "over-income unit" but may continue to be counted as a low-income unit as long as two conditions are met. The unit must continue to be rent restricted and the next comparable size unit in the building must be rented to a qualified low-income tenant. The owner of a low-income building must rent to qualified residents *all* comparable units that are available or that subsequently become available in the same building until the applicable fraction (excluding the over-income units) is restored to the percentage on which the credit is based.

Extended Use Compliance Period:

CHFA has eliminated the Next Available Unit Rule.

10. VACANT UNIT RULE

Initial 15-Year Compliance Period:

IRS Code states that if a qualified unit becomes vacant and the owner makes reasonable attempts to re-rent the unit, the vacant unit continues to generate credits. Vacant units must be rent-ready.

Extended Use Compliance Period:

No change. The owner must make reasonable attempts to rent all vacant units.

11. DEEP INCOME TARGETING

Initial 15-Year Compliance Period:

Properties are bound by CHFA to the deep-targeting commitments made by the owner as a condition of the allocation process.

Extended Use Compliance Period:

No change. Owners were awarded points in the competitive allocation process for deep targeting of income. Points for deep targeting had a significant impact on those properties awarded credits. Therefore, this requirement remains in place.

12. UTILITY ALLOWANCES

Initial 15-Year Compliance Period:

The IRS requires utility allowances to be updated annually.

Extended Use Compliance Period:

No change. Utility Allowances must be updated annually as determined by IRS regulations.

13. ANNUAL STATUS REPORT

Initial 15-Year Compliance Period:

Owners currently provide a unit status report to CHFA's Authorized Delegate by April 1.

Extended Use Compliance Period:

No change. A status report is still required to be e-mailed to CHFA's Authorized Delegate by April 1.

NOTE: *Owners are required to submit to CHFA's Authorized Delegate a status report by April 1 following the end of the fifteenth year of the compliance period. Failure to do so will result in the transmittal of Form 8823 to the IRS.*

14. OWNER'S CERTIFICATE OF CONTINUING LIHTC PROGRAM COMPLIANCE

Initial 15-Year Compliance Period

IRS Code requires the annual submission of the Owner's Certificate of Continuing LIHTC Program Compliance.

Extended Use Compliance Period

Change. CHFA will require the annual submission of a modified Owner's Certificate of Continuing LIHTC Program Compliance on April 1 of each year of the ELIHC period.

15. UNIT AND FILE INSPECTIONS

Initial 15-Year Compliance Period:

IRS Code requires inspections of all buildings and at least 20% of buildings, units and files once every three years.

Extended Use Compliance Period:

Change. CHFA will require inspections of all buildings and 20% of the project's units and files once every five years. CHFA reserves the right to inspect more frequently if necessary.

16. IRS FORM 8823

Initial 15-Year Compliance Period:

Change. IRS Code requires the Housing Credit Agency to report findings of noncompliance using IRS Form 8823.

Extended Use Compliance Period:

Change. CHFA will continue to use IRS Form 8823 to report findings of noncompliance to the Owner. However, CHFA will not submit this form to the IRS.

17. TRANSFER OF OWNERSHIP/MANAGEMENT

Initial 15-Year Compliance Period:

Owners must advise CHFA of any change in ownership or management. CHFA approval of transfers of ownership and change in management is required.

Extended Use Compliance Period:

No change. CHFA must be advised of and approve all changes.

18. MONITORING FEES

Initial 15-Year Compliance Period:

Monitoring fees were collected up front as a percentage of the first year's credit allocation.

Extended Use Compliance Period:

The Authority may collect from the Owner reasonable monitoring fees in an amount to be determined to cover expenses. Such fees will be applicable to all properties awarded tax credits after January 1, 2011. Fees are due annually on April 1 along with the Owner's Annual Certification and Status Report. CHFA reserves the right to adjust fees due to changing circumstances, rules or regulations.

DISCLAIMER:

The above Policy applies to Nine Percent (9%) Housing Credit Properties and Four Percent (4%) Credit Properties with Tax Exempt Bonds. Properties with RD, HUD Subsidy, and HOME Funds, etc must continue to meet the requirements of each respective Program.

Prior to implementing any changes in management practices, owners should seek counsel from their tax professionals and have discussion with other lenders, investors and syndicators.

Compliance with requirements of the ELIHC is the responsibility of the owner of the building for which the credit is allowed. CHFA's obligation to monitor for compliance with the requirements of the ELIHC does not make CHFA liable for an owner's noncompliance.

CONNECTICUT HOUSING FINANCE AUTHORITY POST YEAR-15 (Y-15) COMPLIANCE MONITORING POLICY

PURPOSE

This document serves as the Connecticut Housing Finance Authority's (CHFA) Post Year-15 Compliance Monitoring Policy for properties allocated Low-Income Housing Tax Credits by CHFA beginning in 1990. The purpose of this policy is to ensure compliance with the Extended Low-Income Housing Commitment (ELIHC) while allowing for the waiving of certain requirements during the Extended Use Period. CHFA's goal is to preserve these properties while maintaining reasonable monitoring requirements.

BACKGROUND

The Federal Low-Income Housing Tax Credit Program was created by Congress in 1986 and is administered in Connecticut by the Connecticut Housing Finance Authority. As Housing Credit Agency (HCA) for the State of Connecticut, CHFA monitors compliance as required by Section 42 of the Internal Revenue Code (IRC) and Section 1.42-5 of the Regulations and reports instances of noncompliance to the Internal Revenue Service (IRS). The compliance period for all tax-credit properties begins on the first day of the year in which tax credits are first claimed and ends at the end of the 15th year.

PRE-1990 PROPERTIES

Properties awarded housing credits by CHFA in 1987, 1988 and 1989 had a tax credit compliance period of 15 years. Tax credit properties with allocations prior to 1990 have no additional restrictions. The compliance period for these properties has ended. There is no further involvement of the IRS or CHFA except for properties where CHFA is the mortgagee. With the exception of these and any other lender or government program restrictions, owners are free to do whatever they wish with the property.

POST – 1989 PROPERTIES

The compliance period issue is much more complex for properties with an allocation of credits from 1990 or later. A change in federal law required a minimum of an additional 15 years of compliance, which is known as the Extended Use Period. As a result, properties that were awarded housing credits in 1990 or afterwards must comply with program restrictions for a minimum of 30 years, subject to certain exceptions. These restrictions are embodied in a recorded real estate document called the Extended Low-Income Housing Commitment. Extended Low-Income Housing Commitments are restricted covenants between the property owner and the state HCA that allocated the credits. The ELIHC stipulates the terms on which the credits were awarded by the state and outlines any special set-asides or terms to which the owner agreed in return for the credits. CHFA is solely responsible for enforcing the property's ELIHC after Year-15 through the end of the Extended Use Period.

Since the IRS is no longer involved in these properties after the initial 15-year compliance period, States must develop compliance monitoring procedures for the remaining years of the Extended Use Period.

EXTENDED USE PERIOD CONTINUING PROVISIONS

The following provisions contained in the Extended Low-Income Housing Commitment (executed before the end of the first year of the credit period) will remain in force for the entire Extended Use Period:

1. Failure to comply with the provisions of the ELIHC is an event of default, and the Authority or its successors may exercise any of the remedies available under the ELIHC. Furthermore, the Authority may seek specific performance of the ELIHC by the Owner or any successor in interest thereto, without declaring an event of default and without waiving any remedies in the ELIHC, by filing an action in any court of competent jurisdiction in the state of Connecticut. **Note:** *Noncompliance may result in an owner being placed in the status of "not in good standing with CHFA." The owner may not be eligible to apply for future Housing Credits in the State of Connecticut.*
2. After the close of the compliance period, the Extended Use Period shall be for the same number of years as stipulated in the ELIHC.
3. The applicable fraction (as defined in §(c)(1) of Section 42 of the Code) for each taxable year in the Extended Use Period shall not be less than the applicable fraction stipulated in the ELIHC. The applicable fraction must be maintained during the ELIHC.
4. Individuals who meet the income limitation applicable under §(g)(1) of Section 42 of the Code (whether prospective, present, or former occupants who qualify, qualified, or would qualify) hereby have the right to enforce in any state court the requirements of the ELIHC and may apply to any state court for specific performance of the provisions of the ELIHC, notwithstanding any action which may or may not be taken by the Authority.
5. The Extended Use Period shall continue after the close of the compliance period, unless terminated (Early Termination) on the date of foreclosure or deed in-lieu-of foreclosure or by Qualified Contract (if permitted by the ELIHC).
6. The development shall be occupied or be available for occupancy by Qualified Persons as defined in the Applicable Fraction.
7. The rent for each Qualified Unit shall not exceed the Qualified Rent, which will be uniform for each particular housing unit size, regardless of the number of persons residing in the household and in accordance with Section 42(g) of the Code.

8. For the 3-year period following an Early Termination of the Extended Use Period:
 - (i) No resident who was occupying a Qualified Unit at the end of the Extended Use Period may be removed (whether by eviction, lease expiration or any reason other than good cause); and
 - (ii) No rent may be increased for any Qualified Unit beyond the Qualified Rent as long as it is occupied by the resident who was occupying the unit at the early termination of the Extended Use Period.
9. The ELIHC prohibits the disposition to any person of any portion of the building to which the ELIHC applies unless all of the building to which such ELIHC applies is disposed of to such persons.
10. The ELIHC must be recorded promptly on the land records of the town or city where the property is located prior to the recording of any other lien or restriction.
11. The Owner may not refuse to lease to a holder of a voucher or certificate of eligibility under Section 8 of the U.S. Housing Act of 1937 because of the status of the prospective tenant as such a holder.
12. The restrictive covenants of the ELIHC shall be binding on all successors and assigns of the Owner and this commitment shall be recorded pursuant to Connecticut law and a restrictive covenant.
13. The ELIHC shall be governed by and construed in accordance with the laws of the State of Connecticut and federal law, where applicable.
14. The invalidity of any provisions of the ELIHC shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder of the provisions of the ELIHC, which shall continue in full force and effect as if such invalid provision had never been included herein.
15. The owner must comply with all requirements of the Fair Housing Act.

CHFA'S COMPLIANCE MONITORING REQUIREMENTS AFTER END OF INITIAL 15-YEAR COMPLIANCE PERIOD

There is no IRS compliance monitoring requirement during the Extended Use Period and Housing Credit Agencies no longer report to the IRS. Therefore, CHFA established a policy regarding how properties will be monitored and consequences for noncompliance during the Extended Use Period. Based on the requirements of the Extended Low-Income Housing Commitment specified in Section 42 of the Code, CHFA has the authority to establish different compliance criteria during the Extended Use Period.

The Post Year-15 compliance requirements will be in place and monitored during the Extended Use Period. CHFA believes these changes, which eliminate and/or streamline current IRS requirements, will prove to be beneficial to owners and managers of Housing Credit properties.

The following is a comparison of CHFA Pre and Post Year-15 compliance monitoring requirements:

1. INCOME AND RENT RESTRICTIONS

Initial 15-year Compliance Period:

IRS Code requires that Qualified Units be income and rent restricted.

Extended Use Compliance Period:

No change. Qualified Persons must be income qualified in accordance with current Housing Credit Income Limits. Qualified Households may not pay more than the Qualified Rent.

2. INITIAL ELIGIBILITY AND CERTIFICATION

Initial 15-Year Compliance Period:

IRS Code requires that the owner determine an applicant's eligibility for a Housing Credit Unit prior to initial occupancy. Income and assets must be verified by third-party verification in accordance with HUD Handbook 4350.3.

Extended Use Compliance Period:

No change in verification process. The Tenant Income Certification Form (TIC) must be completed. Initial eligibility must be confirmed in accordance with HUD guidelines as stated in HUD Handbook 4350.3.

3. ANNUAL RECERTIFICATION OF HOUSEHOLDS

Initial 15-Year Compliance Period:

Until July 30, 2008 and the adoption of HR 3221, the Housing and Economic Recovery Act of 2008, Section 1.42-5 of the Regulations required that a recertification of household income, including third-party verification, be completed at least once every 12 months after initial occupancy. HR 3221 waived this requirement for 100% Housing Credit and Bond Properties. Recertification is still required for all other properties, including Assisted Living.

Extended Use Compliance Period:

Change. CHFA will require that an initial Tenant Certification and an anniversary recertification be completed. Thereafter, the owner may self-certify tenants for all properties except Assisted Living. However, CHFA will require that the owner provide certain information annually to include tenant data, changes in household composition and student status.

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Extended Use Compliance Period:

CHFA has eliminated the Next Available Unit Rule.

10. VACANT UNIT RULE

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IRS Code states that if a qualified unit becomes vacant and the owner makes reasonable attempts to re-rent the unit, the vacant unit continues to generate credits. Vacant units must be rent-ready.

Extended Use Compliance Period:

No change. The owner must make reasonable attempts to rent all vacant units.

11. DEEP INCOME TARGETING

Initial 15-Year Compliance Period:

Properties are bound by CHFA to the deep-targeting commitments made by the owner as a condition of the allocation process.

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No change. Owners were awarded points in the competitive allocation process for deep targeting of income. Points for deep targeting had a significant impact on those properties awarded credits. Therefore, this requirement remains in place.

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Initial 15-Year Compliance Period:

The IRS requires utility allowances to be updated annually.

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No change. Utility Allowances must be updated annually as determined by IRS regulations.

13. ANNUAL STATUS REPORT

Initial 15-Year Compliance Period:

Owners currently provide a unit status report to CHFA's Authorized Delegate by April 1.

Extended Use Compliance Period:

No change. A status report is still required to be e-mailed to CHFA's Authorized Delegate by April 1.

NOTE: *Owners are required to submit to CHFA's Authorized Delegate a status report by April 1 following the end of the fifteenth year of the compliance period. Failure to do so will result in the transmittal of Form 8823 to the IRS.*

14. OWNER'S CERTIFICATE OF CONTINUING LIHTC PROGRAM COMPLIANCE

Initial 15-Year Compliance Period

IRS Code requires the annual submission of the Owner's Certificate of Continuing LIHTC Program Compliance.

Extended Use Compliance Period

Change. CHFA will require the annual submission of a modified Owner's Certificate of Continuing LIHTC Program Compliance on April 1 of each year of the ELIHC period.

15. UNIT AND FILE INSPECTIONS

Initial 15-Year Compliance Period:

IRS Code requires inspections of all buildings and at least 20% of buildings, units and files once every three years.

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Change. CHFA will require inspections of all buildings and 20% of the project's units and files once every five years. CHFA reserves the right to inspect more frequently if necessary.

16. IRS FORM 8823

Initial 15-Year Compliance Period:

Change. IRS Code requires the Housing Credit Agency to report findings of noncompliance using IRS Form 8823.

Extended Use Compliance Period:

Change. CHFA will continue to use IRS Form 8823 to report findings of noncompliance to the Owner. However, CHFA will not submit this form to the IRS.

17. TRANSFER OF OWNERSHIP/MANAGEMENT

Initial 15-Year Compliance Period:

Owners must advise CHFA of any change in ownership or management. CHFA approval of transfers of ownership and change in management is required.

Extended Use Compliance Period:

No change. CHFA must be advised of and approve all changes.

18. MONITORING FEES

Initial 15-Year Compliance Period:

Monitoring fees were collected up front as a percentage of the first year's credit allocation.

Extended Use Compliance Period:

The Authority may collect from the Owner reasonable monitoring fees in an amount to be determined to cover expenses. Such fees will be applicable to all properties awarded tax credits after January 1, 2011. Fees are due annually on April 1 along with the Owner's Annual Certification and Status Report. CHFA reserves the right to adjust fees due to changing circumstances, rules or regulations.

DISCLAIMER:

The above Policy applies to Nine Percent (9%) Housing Credit Properties and Four Percent (4%) Credit Properties with Tax Exempt Bonds. Properties with RD, HUD Subsidy, and HOME Funds, etc must continue to meet the requirements of each respective Program.

Prior to implementing any changes in management practices, owners should seek counsel from their tax professionals and have discussion with other lenders, investors and syndicators.

Compliance with requirements of the ELIHC is the responsibility of the owner of the building for which the credit is allowed. CHFA's obligation to monitor for compliance with the requirements of the ELIHC does not make CHFA liable for an owner's noncompliance.

Section 14

CHFA Policy on Annual Recertification for 100% Low-Income Tax Credit and Tax-Exempt Bond Projects

POLICY

The Housing and Economic Recovery Act of 2008 (HR 3221) was signed into law on July 30, 2008. One provision of the HERA Act is that 100% LIHTC projects may waive the annual tenant recertification requirement.

The following is a summary of CHFA requirements that an owner must comply with in order to implement the recertification waiver.

1. CHFA requires that owners continue to perform the initial tenant certification prior to move-in and one additional recertification upon the first anniversary date of any resident who had moved into the project in the previous year.
2. Regardless of the recertification waiver, CHFA must continue to track student status and changes in household composition. Therefore CHFA is requiring residents to complete a self-certification form. (attached)
3. The information obtained from the self-certification form must be incorporated into the End of Year Status Report provided to Spectrum annually on April 1st.
4. Other programs may require recertifications, so owners will, at a minimum, still need to do recertifications if required by those programs.

An owner that decides to implement the recertification waiver must do so by notifying CHFA and Spectrum in writing and obtaining a Recertification Waiver Approval from CHFA. Any questions regarding the waiver can be directed to Harold Tucker via email at htucker@spectrumlihtc.com

NOTE: Post Year 15 Properties

Post Year 15 properties may implement the self-certification form at any time without CHFA approval. The self-certification may be used in Post Year 15 properties that are 100% LIHTC and Mixed-Use (Market Rate).

SELF-CERTIFICATION OF ANNUAL INCOME (LIHTC Only)

To be completed for the second annual recertification and all subsequent recertifications in 100% tax credit projects or Properties in their Post Year 15 Compliance period.

DEVELOPMENT DATA			
Property Name:		BIN #:	PISD:
Address:	County:	Unit No:	# BR:

SECTION TO BE COMPLETED BY RESIDENT

HOUSEHOLD: Enter all household member name(s) and date(s) of birth below. Also note whether or not any household member is or will be a fulltime student in next 12 months. Continue on separate sheet of paper if necessary.

	Household Member Name	Date of Birth	Fulltime Student Yes/No?
Head			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

* Please attach a completed Housing Student Status Verification form.

INCOME: Enter household income including income from assets of each adult household member. If some members have no income put "Zero." Every adult Household member must sign below to certify their gross annual income anticipated for the next 12 months. See NOTES on second page of this form. Continue on separate sheet of paper if necessary.

	Household Member Name	Total Gross Annual Income & Income from Assets	Signature of Adult(s)
Head			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

Property Name:		Unit #:	
BIN#:		Household Name:	

I agree to notify management IMMEDIATELY if:
 Anyone in my household becomes a fulltime student, and/or
 My household composition changes in any way.

I certify under penalties of perjury that the above information is true and complete to the best of my knowledge. I understand that false or incomplete information is a violation of the terms of my lease and is grounds for eviction. I agree to furnish any additional income or other documentation required by the property owner/management to document my/our household income:

Head of Household Signature	Print Name	Date
Other Household Adult Signature	Print Name	Date
Other Household Adult Signature	Print Name	Date
Other Household Adult Signature	Print Name	Date

NOTES

TYPES OF INCOME: Possible types of income include but are not limited to: wages, salary, tips, bonuses, commissions, military pay, public assistance, Social Security/SSI, retirement benefits, VA benefits, child support, regular gifts, unemployment, and some types of financial aid. Include what you receive now and what you anticipate receiving in the next 12 months. All income listed must be GROSS income (income before taxes and deductions).

INCOME FROM ASSETS: Income from assets must also be included in Total Gross Annual Income. Possible types of assets include, but are not limited to: checking accounts, savings accounts, cash on hand, money market accounts, certificates of deposit, stocks, bonds, 401(k) and real estate. Include the annual interest from these accounts in your total income.

SECTION TO BE COMPLETED BY MANAGEMENT

MOVE-IN DATA:	CURRENT RECERTIFICATION:
Original Move-in Date:	Effective Date of Recertification:
Set-aside %:	Total Gross Annual Income:
Total Gross Annual Income:	Tenant Paid Rent:
	Utility Allowance:
	Gross Rent for Unit:
	Maximum Rent Limit:
	Subsidy Portion:
	Subsidy Type:

Signature of Management Representative	Print Name	Date
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