DETERMINING INCOME

For HOME, NSP, HTF, and LIHTC Projects

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Introduction

Award recipients must determine the amount of a family's income before the family is allowed to purchase or lease assisted housing. HUD program regulations specify the types and amounts of income and deductions to be included in the calculation of annual and adjusted income.

For the NSP and HOME programs, HUD allows the use of two different methods to calculate income, depending on the activity being undertaken. The Authority, as an administrator of funds for these programs is required to choose one of these methods to be used by its recipients to determine household income. The LIHTC program does not have the same flexibility and requires the use of the *Annual Income* method as defined in 24 CFR Part 5.609. In order to be consistent across all development programs, income calculations for all NSP and HOME funded rental and homeownership projects are also required to be completed using the *Annual Income* method. The *Adjusted Income* method, provided in this manual, should only be used when circumstances require it is necessary to calculate adjusted income to determine rent levels for over-income households residing in fixed HOME and NSP rental units. When verifying income, recipients must take into consideration all funding sources utilized in the development and follow the most restrictive program's requirements.

Although the ***Technical Guide for Determining Allowances for the HOME Program*** provides very thorough information on determining income, this manual also incorporates the additional information provided in ***HUD Handbook 4350.3 Occupancy Requirements of Subsidized Multifamily Housing Programs*** into the Authority's State policies for determining income. This manual has been created to provide further clarification and guidance on how to certify income and to reduce errors encountered during monitoring reviews of income determinations noted in beneficiary files. The most frequently noted errors are often related to the following issues:

1. Households failing to fully disclose income information;
2. Errors in identifying required income exclusions and inclusions; and
3. Incorrect calculations often resulting from failure to obtain sufficient third-party verification.

Careful interviewing and thorough verification can minimize the occurrence of these errors.

Determining Annual Income

This section 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 what is considered income and what is considered assets.

Key Regulations

This paragraph identifies the key regulatory citation pertaining to determining *Annual Income*. The citation and its title are listed below:

24 CFR 5.609 Annual Income

Key Requirements

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 initial certification or annual recertification effective dates.

Annual income includes all amounts that are not specifically excluded by regulation. **Exhibits 1 and 2**, ***Income Inclusions and Exclusions***, provide the complete list of income inclusions and exclusions published in the regulations and *Federal Register* notices. Annual income includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

Methods for Projecting and Calculating Annual Income

The requirements for determining whether a household is eligible for assistance requires the recipient to project or estimate the annual income that the household 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 recipient must use current circumstances to anticipate income. The recipient 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.

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 recipient may add the total income for the months before, and the total for the months after the increase.

Once all sources of income are known and verified, recipients 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

Some circumstances present more than the usual challenges to estimating anticipated income. Examples of challenging situations include a family that has sporadic work, seasonal income, or a household member who is self-employed. In all instances, recipients are expected to make a reasonable judgment as to the most reliable approach to estimating what the household will receive during the year. Some examples of approaches to more complex situations are provided below.

Example – 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.

Example – 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.

Example –
Irregular Employment Income
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 recipient will use a copy of her tax return received from the IRS.

Calculating Income: Elements of Annual Income

Income of Adults and Dependents

Adults: When determining the annual income of a household, all persons living in the household, including non-related individuals must be counted. 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 the paragraph below.

Student Participation:
The 2013 HOME rule excludes certain students from participating independently in the HOME program. The HOME program adopts the Section 8 Housing Choice Voucher (HCV) program restrictions on student participation found at 24 CFR 5.612, which exclude any student that:

1. Is enrolled in a higher education institution
2. Is under age 24
3. Is not a Veteran of the U.S. Military
4. Is not married
5. Does not have a dependent child(ren)
6. Is not a person with disabilities
7. Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income.

Excluded students are prohibited from receiving any type of HOME assistance, including renting HOME-assisted rental units, receiving HOME tenant-based rental assistance, or otherwise participating in the HOME program independent of their low or very low-income families.

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.

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.

e. 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.

f. 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.

Whose Income is Counted:

Household Member	**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		
Children 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.**		

Income of Temporarily Absent Family Members

1. Recipients must count all income of family members approved to reside in the unit, even if some members are temporarily absent.

2. If the recipient determines that an absent person is no longer a family member, the individual must be removed from the lease.

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.

Deployment of Military Personnel to Active Duty

Recipients are encouraged to be as lenient as responsibly possible to support affected households in situations where persons are called to active duty in the Armed Forces. Specific actions that recipients 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.

4. Give consideration for any case involving delayed payment of tenant rent. Determine whether it is appropriate to accept a late payment.

5. Allow a 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.

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. 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.

Income of Permanently Confined Family Members

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 of the permanently confined individual is counted; or

b. *Exclude* the individual as a family member and the income of the permanently confined individual is <u>not</u> counted.

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. This is true whether the assistance is paid to the student or directly to the educational institution.

NOTE* There is an exception for students receiving Section 8 Assistance.

Alimony and Child Support

Recipients must count alimony or child support amounts awarded by the court unless the applicant certifies that payments are not being made ***<u>and</u>*** 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 recipient 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. *Note, this is not applicable to SC, however may be applicable if qualifying households relocating from other areas outside of SC.

3. When no documentation of child support, divorce, or separation is available, either because there was no marriage or for another reason, the recipient must require the family to sign a certification stating the amount of child support received or certify that it is not received, whichever is applicable. ***NOTE, refer to the LIHTC Compliance Manual for LIHTC requirements.**

Regular Cash Contributions and Gifts

1. Recipients 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.

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.

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.

Income from a Business

When calculating annual income, recipients 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, recipients 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, recipients 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.

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.

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. ***NOTE, there are no adjustments for LIHTC properties.**

Examples – 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.

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. Recipients should discuss how the rules are applied with the Authority.

Examples – 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
<u>$190</u> Maximum for shelter and utilities
$315 Monthly public assistance income

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. 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.

Examples – 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 household is receiving long-term care insurance payments, any payments in excess of $180 per day must be counted toward the gross annual income.

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.

   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.

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.

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.

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, 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.

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.

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 a re-certification is conducted; and
c. Whether the family's income increases or decreases as a result.

4. Lottery winnings paid in one payment are treated as assets. Lottery winnings *paid in periodic payments* must be counted as income.

Exclusions from Income

1. Regulations 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 recipients 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).

3. Some additional examples of income that is excluded from the calculation of annual income follow:

Examples – Income Exclusions

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.

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.

More Examples – Income Exclusions

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.

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.

Calculating Income: Assets

Annual income includes amounts derived from assets to which family members have access.

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 households 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. See **Exhibit 3: Asset Inclusions and Exclusions**.

Determining Income from Assets

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.

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.

Determining the Total Cash Value of Family Assets

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. (HOME requires all assets to be verified.)

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. 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 recipient because it is a required step when determining income from assets under program requirements.

Examples – 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 x 0.04 = $200 in annual income
$200/12 months = $16.67 interest per month
$16.67 x 3 months = $50.01
$5,000 - $50 = $4,950 cash value of CD

Examples – 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.

Market value
- Mortgage amount owed
=Equity in the property

Calculate the cash value by subtracting the expense of selling the property:

Equity
- Expense of selling
=Cash Value

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 - $60,000
=40,000

Cost of disposing of the asset (real estate commission, and other costs of sale)
- $8,000

Cash Value $32,000

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 recipients.

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.

In some instances, but not all, knowing whose social security number is connected with the asset may help in identifying ownership. Recipients 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. 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 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.

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.

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 – 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.

Examples – Determining Income from Assets when Net Family Assets Exceed $5,000

Type of Asset Cash Income	Value Actual	Yearly
Checking Account (non-interest bearing)	$455	$0
Savings Account (interest at 2.5%)	$6,000	$150
Stocks (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 x $9,455 = $189.10

$189.10 is greater than the actual income from assets ($150).

In this case, therefore, the owner will add $189.10 to the annual income calculation as income from assets.

Calculating Income from Assets: Specific Types of Assets

Trusts

Explanation of Trusts:
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.

Trusts may be revocable or non-revocable. 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 non-revocable trust, the creator has no access to the funds in the account.

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.

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.

How to treat Trusts:
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.

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.

Non-revocable 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.

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.

Non-revocable trust as an asset disposed of for less than fair market value. If a household sets up a non-revocable 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 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 – Non-Revocable Trust as an Asset Disposed of for Less than Fair Market Value

Sarah Gordy placed $100,000 in a non-revocable 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.

Non-revocable trust distributing income. When a household places an asset in a non-revocable 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 recipient will count only the actual income distributed from the trust to the tenant.

Example – Non-Revocable Trust Distributing Income to the Creator/Household

Reggie Bouchard has established a non-revocable 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 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.

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.

Special Needs Trust.
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 – Payment of Principal Amounts from a Trust

Jared Leland receives funds from a non-revocable 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.

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.

Annuities

Annuity facts and terms.
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.

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. Most annuities charge surrender or withdrawal fees. In addition, early withdrawal usually results in tax penalties. Depending on the type of annuity and the current status of the annuity, the recipient will need to ask different questions of the verification source, which will normally be the applicant or tenant's insurance broker.

Income after the holder begins receiving payments.
When verifying an annuity, recipients 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. 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.

Calculations when an annuity is considered an asset.
When a household 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. 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.

The recipient 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.

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. 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.) 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.

Lump Sum Receipts Counted as Assets

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. Recipients must count lump sum payments received by a household's as assets. Examples of lump sum payments include the following:

- Inheritances;
- Capital gains;
- Lottery winnings paid in one payment;
- Cash from the sale of assets;
- Insurance settlements (including health and accident insurance, workers compensation, and personal and property losses); and
- Any other amounts that are received in one-time lump sum payments.

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, a vacation, or for education— the lump sum must not be counted.

Examples – 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 x .045 =$918

Balances Held in Retirement Accounts

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. IRA, Keogh, and similar retirement savings accounts are counted as assets, even though withdrawal would result in a penalty. 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.

Include in annual income any retirement benefits received through periodic payments.

Example – Balances Held in an IRA or 401K

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.

Example – Lump Sum Additions to Family Assets (one-time payments)

• 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).

Federal Government/Uniform 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 are counted as income for the applicant/tenant.

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.

Mortgage or Deed of Trust

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."

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.

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. Recipients 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.)

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, recipients must compare the cash value of the asset to any amount received in compensation. 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. When the two-year period expires, the income assigned to the disposed asset also expires.

Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce, or separation are *not* counted. Assets placed in non-revocable 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 judgments. 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. Recipients need to verify the tenant self-certification only if the information does not appear to agree with other information reported by the tenant/applicant.

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.)

Examples – Assets Disposed of for Less Than Market Value

(Example 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
- 1,800	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.)

(Example 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.

Determining Adjusted Income

For Authority funded HOME and NSP projects, *Adjusted Income* is **ONLY** used under the following circumstances:

- Determining the income of households receiving HOME Tenant Based Rental Assistance
- Determining monthly income of **over-income** tenants in HOME or NSP fixed units

***NOTE, the LIHTC Program does <u>not</u> allow the use of adjusted income.**

Key Regulations

This paragraph identifies the key regulatory citation pertaining to determining *Adjusted Income*.

The citation and its topic are **24 CFR 5.611 Adjusted Income**

Key Requirements for Determining Adjusted Income

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***. This section focuses on the calculation of annual adjusted income. Before rent is calculated, annual adjusted income is converted to monthly adjusted income.

Of the five possible deductions, three are available to any assisted family, and two are permitted only for elderly or disabled families.

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.

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.

Calculating Adjusted Income

Dependent Deduction

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.

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.

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.

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 **recipient** 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.

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.

2. 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.

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.)

Deduction for Disability Assistance Expense

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.

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. If the disability assistance enables more than one person to be employed, the recipient 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.

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.

- 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.
- 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).
- If the apparatus is not used exclusively by the person with a disability, the recipient must prorate the total cost and allow a specific amount for disability assistance.

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.

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.

When the same provider takes care of children and a disabled person over age 12, the recipient 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.

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.

Example: Calculating a Deduction for Disability Assistance Expenses

Head's earned income	$14,500
Spouse's earned income	+$12,700
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.)

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, recipients 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 recipient 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.

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

   c. 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
   d. The following example illustrates the two options. Tenants may use either option.

   NOTE: If the one-time expense is added at an interim recertification, it cannot be added to expenses at the annual recertification.

Example: Calculating a Medical Expense Deduction

Age of head of household 64	Annual income	$12,000
Age of spouse 58	Total medical expenses	$ 1,500
	Sample Calculation	
	Annual income	$12,000
		x .03
	3% of annual income	$ 360
	Total medical expenses	$1,500
		- $360
	***Allowable* medical expenses**	**$ 1,140**

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.

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 recipients 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. 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.

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.

Example: Medical Expenses 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.

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.

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.

Verification

Key Regulations

This paragraph identifies key regulatory citations pertaining to the verification of income certifications. 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)

D. 92.203 HOME Program Regulations

Regulatory Update: 92.203(a)(1)(i) and (a)(2) to now require that a minimum of two months of source documentation is collected and reviewed for consistency with third-party verifications.

Verification Requirements

Key Requirements

1. Recipients 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 recipient 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 recipient 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.

4. The recipient must handle any information obtained to verify eligibility or income in accordance with the Privacy Act.

5. Recipients must verify all sources of income with source documentation covering at least two consecutive months of activity. This is in addition to obtaining third party verification. (example: paystubs covering two consecutive months to verify employment income in addition to a third party verification obtained from an applicant's employer).

The 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.

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.

Timeframe for Conducting Verifications

All households that receive assistance must be income eligible at the time the assistance is provided. Income verification documents must be dated no earlier than within six (6) months prior to the date of certification for HOME and NSP properties and no earlier than 120 days for LIHTC properties. Timing income certifications can be a complicated process. If certifications are completed too early in the process they may become outdated and have to be completed again. If they are completed too late in the process, it could delay occupancy of the property. Income certifications are required to be conducted at the following times:

For Rental Projects:

- Prior to entering into initial lease-agreements and lease renewals
- Each household must be recertified at least annually

For Homeownership Projects:

- When purchasing existing homes, the household's income must be certified and approved by the Authority prior to closing
- When purchasing homes to be constructed, the household's income must be certified and approved by the Authority prior to signing the purchase contract.

For Lease-Purchase Projects:

- Whether or not the property already exists or is to be constructed, the household must be income certified at the time the lease-purchase agreement is signed.

Acceptable Verification Methods

Recipients must use verification methods that are acceptable to HUD and SCSHFDA Recipients are 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, recipients must document the file to explain why third-party verification was not available.

***HOME Regulatory Update:** The HOME 2013 Final Rule amends 92.203(a)(1)(i) and (a)(2) to now require that a minimum of two months of source documentation (e.g., wage statements, interest statements, or unemployment compensation) is collected and examined for all potential HOME beneficiaries. Source documents should be reviewed for consistency with third-party verifications and any discrepancies should be explained. Two months of source documentation must be obtained for all income certifications, even when using third-party verifications. This requirement is effective as of August 23, 2013.

Third-Party Verification

The following describes ways in which third-party verification may be obtained.

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 recipient through the mail. 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 recipient should examine the document for evidence of tampering. In these situations, the recipient may, but does not have to, accept the document as acceptable verification.

Electronic. The recipient 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 recipient 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 recipient 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.

Example: Verification from 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 recipient 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 recipient has reason to question the authenticity of a document, the recipient 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.

Oral. Oral verification, by telephone, from a reliable third-party source is an acceptable verification method that should only be utilized when it has not been possible to obtain third party verification through the previously described methods. Recipients 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 recipient's office. Oral verification must be documented in the file.

***NOTE, LIHTC properties should refer to the LIHTC Compliance Manual for further information**.

Review of Documents

In addition to third party verification, recipients must obtain source documentation covering at least two consecutive months of activity. This requirement applies to every income certification and is intended so that the source documents support the income amounts provided on the third party verification. However recipients may rely solely upon the source documents submitted by the applicant or tenant in one of the following situations:

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.

Third-party verification is delayed. If information from a third party is not received within two weeks of its request, recipients may rely solely upon the original documents submitted by the household. A recipient must place copies of the reviewed documents in the applicant's or tenant's file.

Obtaining accurate verification through a review of documents requires the recipient to consider the following:

- 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.

- Is the documentation complete? Recipients may not accept pay stubs to document employment income unless the applicant or tenant provides the most recent pay stubs (minimum of 2 consecutive months) 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.

- 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.

Examples:
Appropriate Occasions to Verify Information through a Review of Documents

• The recipient sent a verification request to the tenant's employer but did not receive a response. The recipient then made several calls to the employer but has not received a return call. The recipient may solely rely upon a review of documents (pay stubs) for verification. The recipient must obtain a series of consecutive, recent pay stubs covering a two month time period.

• The household's bank charges the bank account a fee for completing verification requests. The recipient allows the applicant to provide a current savings account statement and/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 recipients phone to provide income verification. The recipient may solely rely upon a review of documents (pay stubs) for verification. The recipient must obtain a series of consecutive, recent pay stubs covering a two month time period.

• 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.

Family Certification

A recipient may accept a notarized statement or signed affidavit regarding the veracity of information submitted if the information cannot be verified by another acceptable verification method.

Identifying Appropriate Verification Sources

A recipient must only collect information that is necessary to determine the applicant's or tenant's eligibility for assistance or level of assistance.

Required Verification and Consent Forms

Consent and Verification Forms
Adult members of assisted families must authorize recipients to request independent verification of data required for program participation. To provide recipients with this authorization, adult family members must sign consent forms. Households must sign consent and verification forms at the time of initial certification and annual re-certifications. All adults in each assisted family must sign the required consent forms or the family must be denied assistance. Recipients must provide the family a copy of each form signed.

Recipients may create their own verification forms to request information from employers, child care providers, medical professionals, and others. However, the Authority has provided consent and verification forms for HOME and NSP recipients on our website at the following links:

http://www.schousing.com/HOME_Investment_Partnerships_Program/HOME_Forms_&_Announcements

http://www.schousing.com/Neighborhood_Stabilization_Program/NSP_Manuals_&_Forms

The Authority does permit recipients to use their own consent and verification forms, however there are several SC Housing forms that are **MANDATORY** and must be used and kept in each beneficiary file. The following SC Housing forms are mandatory and must be used when certifying income for all NSP and HOME beneficiaries:

Income and Asset Questionnaire	*HOME form M-19A, NSP form 3-1A*
Certification of Assets Disposed	*HOME form M-19C, NSP form 3-1C*
Declaration of Citizenship Status	*HOME form M-19P, NSP form 3-1P*
(TIC)Tenant Income Certification Form	*Required for all rental beneficiary files*
Calculating Annual Income	*Required for all Homeownership files* *HOME form M-19, NSP form 3-1*

Required Language for Consent Forms
The following statement must appear on all consent forms developed by recipients:

*"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 recipient (or any employee of HUD or the recipient) 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 recipient 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)."*

Effective Term of Verifications

Signed consent forms, verification forms, and third-party documentation must be used within a reasonable time after the applicant or tenant has signed them if the applicant's signature is to represent a valid and current authorization by the family. Therefore, HUD has set a (6) six month limit on the duration of the validity of information collected to determine income for the HOME and NSP programs. The LIHTC program has a 120 day requirement. Once income has been certified for a rental household, that certification is valid for a period of (1) year from the date of the certification and the household's income will need to re-certified annually.

Time limits do not apply to information that does not need to be re-verified, such as:

a) Age;

b) Disability status;

c) Family membership; or

d) Citizenship status.

e) 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:

    1. To supply verification of a social security number if one has been received; or
    2. To certify, again, that he/she has never received a social security number.

Documenting Verifications

Recipients must include verification documentation in the beneficiary files.

Documenting Third-Party Verification
Third-party verification received through the mail or by facsimile transmission must be put in the beneficiary file.

Documenting Telephone Verification
When verifying information by phone, the recipient must record and include in the beneficiary 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.

Recording Inspection of Original Documents

Original documents should be photocopied, and the photocopy should be placed in the beneficiary 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.

Documenting Why Third-Party Verification Is Not Available
When third-party verification is not available, recipients must document in the file efforts made to obtain the required verification and the reason the verification was not obtained. The recipient must include the following documents in the beneficiary 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; and/or

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.

Reasonable Accommodation
If an applicant or tenant cannot read or sign a consent form because of a disability, the recipient must provide a reasonable accommodation.

Examples of reasonable accommodation are the following:

- 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.

Confidentiality of Applicant and Tenant Information

Federal law limits the information recipients can collect about an applicant or tenant to only information that is necessary to determine eligibility and level of assistance. Federal privacy requirements also establish the responsibility of recipients 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, recipients and their employees are subject to penalties for unauthorized disclosure of applicant/tenant information. In addition, applicants and tenants may initiate civil action against a recipient for unauthorized disclosure or improper use of the information they provided.

2. HUD encourages recipients 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 recipients.

Recipients 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.

Refusal to Sign Consent Forms

If an applicant refuses to sign verification or consent forms, the recipient must deny assistance. If an applicant or tenant is unable to sign the forms due to extenuating circumstances, the recipient must document the reasons for the delay in the file and indicate how and when the household will provide the proper signature(s).

Record-Keeping Procedures

A. Recipients must keep the following documents in the beneficiary file:

1. All original, signed consent and verification forms.
2. Third-party verifications.
3. Mandatory Forms listed on page 44.

B. Recipients must maintain documentation of all income certifications throughout the term of assistance and for at least three years after the tenant moves out or the affordability period for homeownership projects ends.

C. The beneficiary file should be available for review by the household upon request or by a third party who provides signed authorization for access from the household.

D. Recipients 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.

E. Recipients 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.

NOTE* See the LIHTC Compliance Manual for specific LIHTC program requirements.

Determining Household Size

HOME and NSP Projects: Some households may include persons who are not counted as family members for the purposes of HOME and NSP income limits and whose income, if any is not considered when calculating annual gross income. Therefore, do **not** count the following household members when determining household size for the purpose of comparing annual income to income limits:

- Foster Children
- Live-in Aides
- Children of Live-in Aides
- Unborn Children*
- Children being pursued for legal custody or adoption who are currently not living with the household.

A child who is subject to a shared-custody agreement in which the child resides with the household at least 50% of the time can be counted.

***NOTE, unborn children can be included as household members in LIHTC properties.**

Household's Purchasing NSP and HOME-assisted Properties: All person(s) entering into the loan agreement for the primary mortgage (including co-signers) must be included as household a member. It is not allowable for a buyer who cannot qualify for a first mortgage on their own to use a co-signer to purchase the property unless that co-signer also occupies the property as their primary residence and their income is included in annual household income.

Over-Income Households

In units financed with both LIHTC and HOME funds, the LIHTC rules relative to over-income households apply. Rent is not adjusted, and the unit does not need to be replaced by another comparable unit until the tenant's income rises above 140% of the LIHTC eligibility threshold.

In projects funded with HOME and/or NSP, however, over-income tenant households must be handled in accordance with the following requirements. Rents for over-income households are adjusted dependent upon whether the over-income household resides in a fixed or floating unit.

Adjusting rents for over-income tenants in "fixed" units.
Over-income tenants residing in fixed NSP and/or HOME assisted units must pay 30% of their adjusted income for rent and utilities. Unless state or local law imposes rent controls, there is NO RENT CAP for fixed units.

Adjusting rents for over-income tenants in "floating" units.
Over-income tenants residing in floating NSP and/or HOME assisted units must pay 30% of their adjusted income for rent and utilities, however, the rent may not exceed the market rent for comparable, unassisted units in the neighborhood.

Exhibit 1: Annual Income Inclusions

Annual income includes, but is not limited to:
(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 the 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 (b)(2) of this section. 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 (except as provided in paragraph (c)(14) of this section);
(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);
(6) Welfare assistance payments. (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
(B) Are not otherwise excluded under paragraph (c) of this section.
(ii) 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:
(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
(B) 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;
(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).
(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.

Exhibit 2: Annual Income Exclusions

Annual income does not include the following:
(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 (b)(5) of this section);
(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 § 5.403 ;
(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
(8) **(i)** Amounts received under training programs funded by HUD;
(ii) 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);
(iii) Amounts received by a participant in other publicly assisted programs which 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;
(iv) 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 PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;
(v) 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 resident management staff. 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;
(11) Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse);
(12) Adoption assistance payments in excess of $480 per adopted child;
(13) [Reserved]
(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
(15) 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;
(16) 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
(17) 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 PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

Exhibit 2: (continued)

Other Federal Exclusions (continued):

- The value of the allotment made under the Food Stamp Act of 1977;
- Payments received under the Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);
- Payments received under the Alaskan Native Claims Settlement Act;
- Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;
- Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes;
- Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program;
- Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- 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;
- Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs;
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (Green Thumb, Senior Aides, Older American Community Service Employment Program);
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
- Earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments;
- 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;
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, state job training programs and career intern programs, AmeriCorps);
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990;
- 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;
- 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; and
- Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment

Exhibit 3: Asset Inclusions & Exclusions

Inclusions:

1. Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average 6 month balance. Assets held in foreign countries are considered assets.
2. Cash value of revocable trusts available to the household.
3. Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g. broker fees) that would be incurred in selling that asset.
4. Cash value of stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts.
5. Individual retirement, 401(k), and Keogh accounts (even through withdrawal would result in a penalty.
6. Retirement and pension funds.
7. Cash value of life insurance policies available to the individual before death (e.g. surrender value of a whole life or universal life policy.)
8. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
9. Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
10. Mortgages or deeds of trust held by household members.

Exclusions:

1. Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars, and vehicles specifically equipped for persons with disabilities.
2. Interest in Indian Trusts lands.
3. Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn+ accrue to the benefit of someone else who is not a member of the household and that the other person is responsible for income taxes incurred on income generated by the asset.
4. Equity in cooperatives which the family lives.
5. Assets not accessible to and that provide no income for the applicant.
6. Term life insurance policies (i.e. where there is no cash value).
7. Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

Forms

All of the forms provided is this manual are available on the Authority's website, Contact your assigned program coordinator if you have any questions or problems with the forms.