RESIDENT INCOME ELIGIBILITY

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3.1 INCOME ELIGIBILITY REQUIREMENTS

The LIHTC Program requires that the determination of eligible household income be based on the HUD Regulations in the Code of Federal Regulations. As a result, in order to determine income eligibility, the owner/agent must obtain verification of all income sources of all adult household members age 18 and older, as well as benefits paid on behalf of minors in the household. Unborn children and children who are in the process of being adopted (who do not live in the unit) are considered household members for purposes of determining unit size and income limits (Ref. HUD 4350.3 REV 1 Chapter 3). Income from assets is also to be included in annual income. To arrive at an income from asset figure, the owner/agent needs to verify all assets and establish a cash value of the asset. Include in the computation any assets that were disposed of for less than Fair Market Value within the two years prior to the effective date of the certification. At the time of verification, the anticipated income of the asset must be included in the total income figure that is compared to the applicable income limit.

For the LIHTC Program, the amount of income from assets will be determined on the total cash value of all assets owned by the household members.

- If the total cash value of all assets owned by the household is less than $5,000, include the actual income derived from the asset in annual income.
- If the total cash value of all assets owned by the household is $5,000 or greater, include in annual income the larger amount of either the actual income derived from the assets or an imputed amount, which is calculated by multiplying the total cash value of all assets owned by the household times the current passbook savings rate.

This process cannot occur until third-party verification of all income and assets has occurred. When this verification has been retrieved, the owner/agent will complete a Tenant Income Certification.

The Internal Revenue Service has determined that an owner may satisfy the documentation requirement for a low income tenant's income from assets by obtaining a signed, sworn statement from the tenant or prospective tenant if (1) the tenant's or prospective tenant's net family assets do not exceed $5,000, and (2) the tenant or prospective tenant provides a signed, sworn statement to this effect to the building owner. This determination was published in Revenue Procedure 94-65 and was effective October 11, 1994.

3.2 INCOME LIMITS

The U.S. Department of Housing and Urban Development (HUD) publishes median income information for Pennsylvania that is broken down into local areas, such as county or metropolitan areas. HUD publishes these limits on an annual basis. The Agency will make them available to all owners of the Low Income Housing Tax Credit Program.

Rural projects will use the greater of the area median gross income (AMGI) or the national non-metropolitan median income for determinations made after July 30, 2008.

3.3 INCOME INCLUSIONS AND EXCLUSIONS

Refer to HUD Handbook 4350.3 REV 1, Chapter 5, Exhibit 5-1.

The regulations can be found on HUD's website at www.hud.gov.

3.4 CALCULATING INCOME FROM EARNINGS AND BENEFITS

Verified income must be converted to annual amounts by using the following calculations:

1. To annualize full-time employment, multiply;

   - hourly wages by 2080 hours;
   - weekly wages by 52;
   - biweekly amounts by 26;
   - semi-monthly amounts by 24;
   - monthly amounts by 12.

2. To annualize income from anything other than full-time employment, multiply;

   - hourly wages by the number of hours the family expects to work annually;
   - average weekly amounts by the number of weeks the family expects to work;
   - other periodic amounts (monthly, biweekly, etc.) by the number of periods the family expects to work.

3. Annual wages should always reflect a full 12-month period, regardless of the pay schedule. For example, if a schoolteacher earns a gross annual salary of $17,000, the $17,000 should be used as annual salary whether the teacher is paid over only nine months or throughout the year.

4. If a family indicates that income might not be received for the full 12 months, i.e., unemployment compensation, the owner should still annualize the income, i.e., income benefits may be extended.

3.5 INCOME FROM ASSETS

The Tenant Income Certification will help in working through the calculation to determine income from assets.

Third-party verification is required to determine the market value of an asset. The value of the asset may then be reduced by whatever costs that may be incurred to convert that asset to cash. Examples of these costs are:

- penalties for premature withdrawal;
- brokers fees;
- legal fees;
- settlement costs for real estate transactions.

HOW TO CALCULATE CASH VALUE

Owners must use the cash value of the asset, i.e., the amount the family would receive if the asset were converted to cash.

Cash value is the market value minus any reasonable expenses that would be incurred in selling or converting the asset to cash, such as:

- penalties for early withdrawals;
- broker and legal fees;
- settlement costs for real estate.

When valuing checking accounts, remember to use the average monthly balance for the last six months. If the bank will not provide this information, you must collect the statements from the residents and compute a six-month average.

<u>Examples:</u>

	Balance	**Interest Rate**	**Penalty for Early Withdrawal**
A.	$5,000	6.0%	3 months
B.	$8,000	7.5%	4 months

C. House valued at $50,000 with broker fees of $2,000 and settlement cost of $6,000.

<u>To Calculate:</u>

A. $5,000 x 6% divided by 12 x 3 = $75 (penalty for early withdrawal).
$5,000 - $75 = $4,925 (cash value).
$5,000 x 6% = $300 (actual yearly income from asset).

B. $8,000 x 7.5% divided by 12 x 4 = $200 (penalty for early withdrawal).
$8,000 - $200 = $7,800 (cash value).
$8,000 x 7.5% = $600 (actual yearly income from asset).

C.		
	Market Value	$50,000
	Broker Fees	-2,000
	Settlement Costs	-6,000
	Cash Value	$42,000

Actual yearly income from asset - zero.

3.6 ASSET INCLUSIONS AND EXCLUSIONS

Refer to HUD Handbook 4350.3 REV 1, Chapter 5, Exhibit 5-2.

The regulations can be found on HUD's website at www.hud.gov.

3.7 INCOME AND ASSET VERIFICATION

All sources and forms of income and assets must be verified. Verification must be received by the owner/agent prior to the execution of the Move-in Certification and occupancy, as well as prior to the annual recertification.

PROCESSING/DATING OF CERTIFICATIONS

Effective Date: For an initial certification, this date is the same as the move-in date. For an annual certification, this date is either the exact month/day of the move-in on yearly intervals, or the first of the month, at yearly intervals from move-in. EXAMPLE: Resident(s) move in 01/21/08, their Annual Certification is effective either 1/21/09 or 01/01/09. (Exceptions: (1) If a new recertification is needed prior to the anniversary date to meet RHS income recertification requirements, a new LIHTC TIC can be processed too. This will establish a new yearly recertification date to coincide with the RHS processing. (2) If a new recertification is needed prior to the anniversary date due to the resident being accepted into the Section 8 Program between certifications, a new LIHTC TIC can be processed to allow the paperwork to coincide with that of the Section 8 office. This will establish a new yearly recertification date to coincide with the Section 8 processing.) When a transfer occurs, an interim certification is processed effective the day of the transfer. An annual recertification is then processed at yearly intervals from the original move-in date. Note: The effective date, and not the date the resident signs the Certification Form, is the driving force behind the Certification. The resident should not backdate his signature date.

Move-In Date: This is the initial date the resident took legal possession of the unit. If the move-in is the result of a transfer, use the original move-in effective date into the property. If the move-in is the result of an acquisition with existing residents, the move-in date is the date of the acquisition.

Each adult household member prior to the application interview and again at the annual recertifications should sign an Authorization for Release of Verification Form. These forms are consent forms to allow for the release of information necessary for third-party verification. Additional signatures of new adult members should be obtained prior to move-in or when the member turns 18 years of age.

If a tenant's net family assets do not exceed $5,000, then the Internal Revenue Service has determined that an owner may satisfy the documentation requirement for verification of income from assets by obtaining a signed, sworn statement directly from the tenant. The statement must include notations that the tenant's net family assets do not exceed $5,000 and a reference to the amount of annual income the tenant earns from the net family assets.

In the event the property received acquisition and rehabilitation tax credits and the property was occupied on the date of acquisition, tenant income certifications must be completed effective the date of the acquisition (with verification of existing income and assets being completed within

120 days before or after the date of acquisition). Based upon an owner's demonstration of special circumstances, the Agency may, in its sole discretion, determine income eligibility as of the rehabilitation placed-in-service date. See Rev. Proc. 2003-82 (safe harbors), which may require January 1 recertifications. Note: The Revenue Procedure says to test the household income, the Agency considers this "test" to be a complete tenant income certification requirement.

VERIFICATION TERM

All items that affect an applicant's eligibility must be verified and be 120 days current to (prior to) the move-in or annual recertification; with the exception of acquisition move-in certification data, which may be verified within 120 days after the date of acquisition.

Four methods of verification are acceptable. They are listed in order of acceptance:

1. Written verification by a third party, which should not be hand carried by the resident. Oral verification by a third party is acceptable if a form is completed, signed, and dated by agent indicating identity of the third-party oral source.

2. Review of documents evidencing income sources, but only when a third-party verification is not possible.

3. Resident Certification (notarized statement) when third-party verification or review of documents is not possible or delayed beyond four weeks. This method is usually not acceptable and should only be used as a last resort.

4. Asset Verification Only - If the tenant's net family assets are less than $5,000, then the owner can obtain a signed, sworn statement from the tenant in accordance with Revenue Procedure 94-65.

Verification should be date stamped upon receipt to ensure compliance. Sample verification forms are included as Exhibits to this manual.

3.8 INCOME AND ASSET VERIFICATION OF HUD-ASSISTED RESIDENTS

Should the LIHTC resident be the recipient of Section 8 assistance in the form of a Section 8 Certificate, Section 8 Voucher, or Section 8 Moderate Rehabilitation Contract, the owner/agent would certify with the Contract Administrator (CA) for the HUD assistance, i.e., the local PHA, that each recipient of this assistance is income eligible according to the income limit requirements of the LIHTC Program.

Verification may be secured by letter to the CA outlining the income requirements, as well as the income limits. The CA should certify that this occurs for all recipients of the assistance program by returning the letter with a certification.

A copy of that letter must accompany the appropriate certification worksheet form for all move-ins and recertifications.

3.9 RECERTIFICATION

The determination of continued resident eligibility of all set-aside units must be performed annually. This calculation is performed in the same manner as the initial eligibility requirements. The owner/agent is required to retrieve third-party verification of all income sources of all adult household members age 18 and older, as well as benefits paid on behalf of minors in the household. An **exemption** to the third party verification process may apply if: 1) a project received a tax credit allocation for 100% of it's units and 2) the owner provides a statement to the Agency that the property is eligible for the exemption because it is a 100% LIHTC property and no units were occupied be nonqualifying households. (The exemption is discussed later in this chapter.)

Applicable income from assets is to be included in annual income. This amount is established by obtaining third-party verification of assets, or if assets are less than $5,000, by obtaining a signed, sworn statement from the tenant. The income from the asset to be included in annual income is the actual income from asset if the total cash value of all assets is less than $5,000. If the total cash value of all the assets is $5,000 or more, include the larger amount when compared to the actual income from asset as opposed to the imputed amount, which is calculated by multiplying the total cash value of assets times the current passbook savings rate.

When this recertification procedure is performed, the owner/agent needs to pay particular attention to the circumstances that may have affected the continuing eligibility of a resident in a set-aside unit. Areas of concern include:

- New or additional income sources;
- Change in employment status;
- Change in family composition - (If the number of household members decreases or increases, the income limit used at time of recertification is 140 percent of the new household size);
- Addition of assets;
- Deletion of assets.

The owner must complete a Tenant Income Certification (TIC) or Alternate Certification, to establish continued eligibility. The income limits are amended to reflect 140 percent of the median income limit as adjusted for family size.

- If the household annual income at recertification increases above the qualifying income level at move-in, but is less than 140 percent of the area median income limit, as adjusted for family size, the family continues to qualify as a low income set-aside unit household.

- If the household annual income at recertification exceeds 140 percent of the area median income limit, as adjusted for family size, the unit may continue to count as a low income set-aside unit as long as all available units of comparable or smaller size in the building are occupied by qualified low income residents. (The revised available unit rule was effective as of September 26, 1997.)

The **addition of household members** is to be processed as follows:

- Complete a move-in TIC to include only the new member. The effective and move-in dates are both to be the date the person moves into the unit. The current income limits apply. If the new member is eligible as of that date, then they would also qualify to remain in the unit should all other original household members decide to vacate. If the new member is ineligible, they will have to move-out when all initial household members vacate. Third party income verification is required. **(This TIC is not entered into the Agency's Automated Web Entry System.)**

- Complete a second TIC to include all members of the household (existing; plus new). Check the "Other" category on top of the TIC form. The effective date is the date the new member joins the household. The move-in date remains the original move-in date of the household. The annual recert date for the household does not change.

  Add the income from the new member's move-in TIC to the income from the most recent TIC of the existing household to complete this TIC; no third party documentation is required. Apply the 140% rule as of the effective date. (Enter this TIC into the Agency's Automated Web Entry System.)

The Housing and Economic Recovery Act of 2008 (H.R. 3221) allows for an exemption from the annual recertification requirement (effective 1/1/2009). In order to take advantage of the exemption, an eligible owner must provide a statement to the Agency (via the Owner's Certificate of Continuing Program Compliance) that the property is eligible for an exemption of recertification because it is a 100% LIHTC property and no units were occupied by nonqualifying households. Also, the Agency may not have determined any of the units were occupied by tax credit ineligible households.The key points to this procedure are as follows:

- The exemption only applies to recertifications, not initial certifications. Each tenant must still be certified at the time of their initial move-in (including transfers within the property and when adding additional household members age 18 and older).

- The exemption is from the requirement to obtain 3rd party supporting documentation. It <u>does not</u> exempt the owner from the requirements of obtaining information regarding household composition, student status, or rents. The Agency has developed the Alternate Certification Form for purposes of recording and reporting this data.

- Properties with additional types of financing, i.e., HOME Investment Partnership Program, must continue using the recertification process.