Asset Verification & Calculation Requirements for Affordable Housing Programs

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Verification and Calculation of Assets for Affordable Housing Properties (Section 8/LIHTC/HOME/HOPE VI/Rural Development)

Asset verification and calculation of asset income must be done in accordance with requirements of HUD Handbook 4350.3, Chg. 4.

Examples of Assets

- Cash held in checking and savings accounts, safe deposit boxes, homes, etc.;
    - Cash on hand and safe deposit boxes – obtain affidavits (no verification required);
        - Cash is always an asset and should be specifically asked about.
    - For savings accounts, use current balance;
    - For checking, use average balance for most recent six months;
    - Assets held in foreign countries are considered assets.
- Revocable trusts; (details later)
- Equity in rental property or other capital investments;
    - Include the current fair market value less any (a) unpaid balance on any loans secured by the property, and (b) reasonable costs that would be incurred in selling the asset.
- Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts;
    - Interest or dividends earned are counted as income from assets even when the earnings are reinvested.
- IRA's, 401k, Pensions, etc.;
        - Regular withdrawals count as income (details later)
- Cash value of life insurance policies available to the tenant before death;
    - Whole life/Universal life
    - Term life is not an asset
- Personal property held as an investment
    - Gems
    - Jewelry
        - Personal jewelry is not considered an asset
    - Coin Collections
    - Antique Cars

Disposition of Assets
A statement regarding disposition of assets for less than fair market value is not required for the VHDA programs.

***ASSETS ARE AN INCOME ISSUE

Definition of Annual Income

*4350.3, Para. 5-4

1) All amounts, monetary or not, that go to or are received on behalf of the family head, spouse or co-head (even if a member is temporarily absent); or
2) All amounts anticipated being received from a source outside the family during the 12-month period following admission or annual recertification effective date.

Annual income includes amounts derived during the 12-month period from assets to which any member of the family has access.

What about assets from an Active Business?

In addition to net income, owners must count any salaries or other amounts distributed to family members from the business, and cash or assets withdrawn by family members, except when the withdrawal is a reimbursement of cash or assets invested in the business.

Assets used as part of an active business (e.g., lawnmowers, hairdryers, bank accounts, etc.) are not counted as personal assets.

Lump Sum Payments

1. Generally, lump sum amounts received by a family, such as inheritances, insurance settlements, or proceeds from the sale of property are considered assets, not income. However,
    a. While settlement payments from claim disputes over welfare, unemployment, or similar benefits are counted as assets, *lump sum payments caused by delays in processing periodic payments for unemployment or welfare assistance are included as income.*
    b. Lottery winnings paid in one payment are treated as assets. If paid in *periodic payments* they are treated as income.

Calculating Income from Assets

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

What is an asset? Assets are items of value that may be turned into cash. However, necessary personal property is not considered an asset.

Assets Owned Jointly

If more than one person owns an asset, prorate the value of the asset according to the percentage of ownership. If no percentage is specified, prorate evenly.

If an individual does not effectively own an asset, do not count it as an asset.

- E.g., asset is held in an individual's name but the asset and income from the asset accrue to the benefit of someone who is not a member of the household and the other person is responsible for income taxes for the asset.
    - This is common for 'seniors' who have joint accounts with their children.

Verification of income from assets is not required unless the household's sole source of income is derived from assets. Management may accept documentation of such income from the resident's financial institution; the resident's bank statements are acceptable.

- *If assets are $5,000 or less, a resident affidavit may be used.*
- *There is no requirement to impute income to assets, regardless of amount.*

Calculating Income from Specific Types of Assets

Real Estate

Establish Fair Market Value

- Assessment
- Appraisal
- Real Estate Listing
- Brokers Statement
- Bona Fide Sales Contract

Establish Cash Value

- Fair Market Value minus Mortgage Principal and Cost of Sale = Cash Value
    - Cost of sale includes broker fees, closing costs, etc.

Income from Real Estate

- Verify any rental amount
    - Deduct on-going operating expenses, taxes, insurance, mortgage interest (all must be verified)

Trusts

What is a "trust?"

A trust is a legal arrangement generally regulated by State law in which one party (grantor) transfers property to a second party (trustee) who holds the property for the benefit of one or more third parties (beneficiaries). The property may be any asset that can be converted to cash.

Trusts may be "revocable" or "nonrevocable."

Beneficiaries often may not touch any of the trust funds until a specified date or event (e.g., death of the grantor).

The beneficiary and the grantor may be members of the same family.

Revocable Trusts

If any member of the tenant household 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.

Nonrevocable Trusts

If no household 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.

Note: *If the income is available, the income is included in annual income, but the trust is not included in the calculation of income from assets unless there is access to the principal.*

Payment of Principal from a Trust

- If paid in lump sum, treat as an asset;
- If paid periodically, treat as income.

Annuities

What is an Annuity?

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.

Types of annuities include:

- Hybrid (investment is allocated between "fixed" and "variable" components);
- Deferred (principal & earnings are paid in one lump sum when the contract is cashed in);
- Immediate (principal & earnings are paid periodically over a pre-determined period of time); and
- Life annuity (series of future payments for life)
  - Single life; and
  - Joint life

Example of an Immediate Annuity:

- ✓ *A lump sum amount is paid to an insurance company (e.g., $100,000);*
- ✓ *The insurance company immediately begins paying out a fixed amount each month (e.g., $550)*

Example of an Inflation Adjusted Annuity:

- ✓ *A lump sum amount is paid to an insurance company (e.g., $100,000);*
- ✓ *The insurance company immediately begins paying out an inflation-adjusted amount each month (e.g., $375, increasing each year based on the CPI)*

Generally, a person who holds an annuity from which he or she is not yet receiving payments will be earning income on the annuity, but the income is counted only if there is access to the principal.

Most annuities charge surrender or withdrawal fees.

The verification source for annuities will normally be the applicant or tenant's insurance broker.

<u>Annuity: Asset or Income?</u>

If an applicant cannot withdraw the balance of an annuity, the annuity has no cash value.

If regular payments are being received, an annuity cannot <u>generally</u> be converted to cash and is therefore not an asset, but the payments are counted as income.

<u>When is an Annuity an Asset?</u>

1. If the applicant can withdraw the balance of an annuity, it is an asset.
2. In most cases, interest will be earned on the balance of the annuity.
3. Items to be verified;
    a. The right of the holder to withdraw the balance (even if penalties are involved);
    b. Expected income to be earned by the annuity over the next year;
    c. Early withdrawal penalties; and
    d. Tax rate and tax penalty that would apply if the annuity were withdrawn.

Lump sum receipts counted as Assets

Lump sum payments received by a tenant are counted as assets.

Examples of Lump sum payments include:

- Inheritances;
- Capital Gains;
- Lottery winnings paid in one payment;
- Cash from the sale of assets;
- Insurance settlements; and
- Any other one-time lump sum payment.

If the family uses the lump sum payment for something that is not an asset (e.g., car, vacation, education) the lump sum must not be counted.

Retirement Accounts

Retirement accounts have cash value if the money is accessible to the household. However, accounts that are accessible only if the person retires, and retirement is not expected, should be considered to have no cash value.

- Also, access that is restricted to emergencies or available as a loan does not establish any cash value.

IRA's and similar accounts (not company pension plans) are always considered assets (with one exception, outlined below), even if there are withdrawal penalties.

For company retirement/pension plans:

- If an individual is still employed, count only what they can withdraw without retiring or terminating employment.
- After retirement or termination of employment, count any amount they elect to receive as a lump sum as an asset.
    - Periodic payments will be counted as income.

If regular distributions are being taken from a retirement account such as an IRA or 401k, count the distributions as pension income. Do not count the balance in the account as an asset, even if the resident has access. Interest earned on the account in this case is not counted as income.

Mortgage or Deed of Trust

If an individual sells a piece of real estate and finances it through a "contract sale," the mortgage or deed of trust is an asset.

The value of the asset equals

- The unpaid principal as of the effective date of the certification.

The interest portion of any mortgage payments is the annual income.

Reverse Mortgage

A "reverse mortgage" is a loan against a home that does not have to be paid back for as long as the homeowner lives there. Once the owner moves out of the home, the loan will become due (with very limited exceptions). **The homeowner still owns the home!**

The real estate is the asset and the market value, less the amount owed plus a cost of sale on the real estate, is the cash value of the asset.

(*As a practical matter, since the loan must usually be paid off when the homeowner moves, this would rarely, if ever, be an issue.)*

Asset Verification Requirements

HUD Handbook 4350.3, para. 5-12 requires that all assets affecting eligibility be verified.

For tax credit properties, households with assets of $5,000 or less may provide an affidavit stating that assets are $5,000 or less and indicating any income from assets.

Acceptable Verification of Assets

Three types of assets generally do not require third party verification:

1. Cash-on-hand
2. Investment Value of the Content of Safe Deposit Boxes
3. Value of Personal Property Held for Investment Purposes

Methods for Verifying Assets

1. Current net family assets
    a. Third party (forms, letters, or documents received from financial institutions, stock brokers, real estate agents, etc.)
    b. Applicant provided documents
        i. Passbooks, checking or savings statements, CD's, property appraisals;
        ii. Copies of real estate tax statements (must know the assessment method);
        iii. Quotes from attorneys, stockbrokers, banks and real estate agents that verify penalties and reasonable costs to convert assets to cash;
        iv. Copies of real estate closing documents.
2. Dividend income and savings account interest income
    a. Verification form completed by bank;
    b. Phone or in-person contact with appropriate party, documented in the file;
    c. Documents provided by the applicant.
        i. Current statements, passbooks, CD's (if they show balance and current rate of interest);
        ii. Copies of Form 1099 from financial institution and verification of projected income for next 12 months;
        iii. Brokers quarterly statements showing the value of stocks/bonds and earning credited to the applicant.
            1. An owner must obtain enough information to accurately project income for the next 12 months.
        iv. Be sure to verify interest rate as well as asset value.

3. Income from sale of real property (e.g., contract for deed, installment sales contract, etc.)
    a. Verification form from an accountant, attorney, broker, buyer or financial institution with a copy of amortization schedule from which interest income for next 12 months can be determined.
    b. Applicant provided documents
        i. Copy of contract;
        ii. Copy of amortization schedule

Note: Copy of check paid by the buyer to the applicant is not acceptable since it shows both interest and principal.

Assets do *not* include:

- Personal Property (clothing, furniture, cars, wedding ring, personal jewelry, vehicles specially equipped for the disabled);
- Interests in Indian Trust Land;
- Term life insurance policies;
- Equity in a cooperative unit in which the family lives;
- Assets that are part of an active business; and
- Assets that are NOT effectively owned by the applicant;
    - Assets are held in an individual's name, but (a) the assets and any income they earn accrue to the benefit of someone else who is not a member of the household, and (b) that another person is responsible for income taxes incurred or income generated by the assets.
- Assets that are not accessible to the applicant and provide no income to the applicant.