

# Arkansas Development Finance Authority



## Affordable Housing Compliance Manual

# Arkansas Development Finance Authority



## Low-Income Housing Tax Credit



## Verification & Certification Forms

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### Application Forms

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[Household Eligibility Questionnaire](#) (If more than two adults in the household, an additional form is required.)

[Rental Application](#) (If more than two adults in the household, an additional form is required.)

### Applicant/Tenant Affidavit & Self-Certifications (cannot be completed by management)

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[Certification of Zero Income](#)

[Custody and Child Support Affidavit](#)

[Live In Aide Affidavit](#)

[Live In Aide Verification Form](#)

[Marital Status Affidavit](#)

[Seasonal Work Affidavit Form](#)

[Unemployed Status Affidavit Form](#)

[Asset Certification Form](#)

### Asset Verification Forms

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[Bank Account Verification Form](#)

[Investment Account Verification](#)

[Real Estate Verification Form](#)

[Real Estate Asset Worksheet](#)

[Trust Account Verification Form](#)

[Asset Self-Certification Worksheet](#) (completed after Asset Certification Form)

### Certification Forms

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[Income & Asset Worksheet](#)

[Clarification Form](#)

[Race and Ethnicity Form](#)

[Tenant Income Certification](#)

[Tenant Income Certification Addendum](#)

[Tenant Income Certification-HOTMA](#)

[Tenant Income Certification Addendum-HOTMA](#)

## Verification & Certification Forms, cont.

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### Income Verification Forms

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[Affidavit of Income Self Certification](#)

[Employment Verification 2024](#)

[Form 509 Child Support or Alimony Income Verification](#)

[Form 520 Court Verification of Child Support or Alimony](#)

[Gift Income Verification Form](#)

[Pension Verification Form](#)

[Self Employed Income Affidavit](#)

[Social Security Verification Form](#)

[Unable to Obtain 3rd Party Verification Form](#)

[Unemployment Benefit Income Verification Form](#)

[Year to Date Clarification Form](#)

### Lease Addenda

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[ADFA Form 508 VAWA Lease Addendum](#)

[ADFA Form 608 LIHTC Lease Addendum](#)

[ADFA Form 601 HOME/HTF Lease Addendum](#)

### Student Forms

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[Financial Aid Affidavit](#)

[HOME Student Status Affidavit](#)

[LIHTC Student Status Affidavit](#)

### VAWA Forms

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[Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation](#)

[Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking](#)

[HUD-91067 Form VAWA](#)

[Notice of Occupancy Rights under the Violence Against Women Act](#)

[VAWA Final Rule Update Effective 12/16/2016](#)

[VAWA HUD Notice PIH-2017-08 \(HA\)](#)

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## Chapter 1: Development & Lease Up

### Section A: Placing In Service

#### Place in Service Defined

Essentially a building is placed in service when the building is ready to be used for its intended purpose. The definition of placed in service depends on the type of credit allocation.

#### Placed-in-Service Date

**New Construction:** For new construction, the project is placed in service is the date on which the building is certified as being suitable for occupancy in accordance with state or local law.

**Acquisition Credit:** The placed-in-service date (PIS) is the **date that the building is acquired (purchased)**.

**Rehab Credit:** The placed-in-service date, is an owner-elected date during **any 24-month period**, over which such **expenditures are aggregated**, where at least:

- 20% of the adjusted basis is spent, or
- The **minimum per-unit amount** is spent. The minimum per unit is subject to inflation and is published each year by publication of a revenue procedure.

#### Rules Affected by Placed-in-Service Date

Not only is the placed-in-service date a crucial date as it relates to the project development, this date also can affect the application of certain compliance rules, such as:

- Determining Applicable Income Limits
- Determining Gross Rent Floor
- Determining the deadline for the Minimum Set-Aside
- Determining the deadline for the first ADFA Monitoring Review

The placed-in-service date can be found on the IRS Form 8609 for each building.

1a	Date of allocation ▶ .....	b	Maximum housing credit dollar amount allowable . . . . .	1b	
2	Maximum applicable credit percentage allowable (see instructions) . . . . .	2			%
3a	Maximum qualified basis . . . . .	3a			
b	Check here ▶ <input type="checkbox"/> if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(B). Enter the percentage to which the eligible basis was increased (see instructions) . . . . .	3b	1		%
4	Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter 0.) . . . . .	4			%
5a	Date building placed in service . . . . . ▶ .....				



#### Placed-in-Service Deadline

In general, a building must be placed in service by the end of the year in which the allocation of credits was received. However, if the project receives a Carryover Allocation, the building must be placed in service no later than the end of the second calendar year after the year that the Carryover Allocation is made.



## Chapter 1: Development & Lease Up

### Section A: Placing In Service, cont.

#### Carryover Allocations

In general, a building must be placed in service in the year that the credit allocation is awarded.

If a building is not placed in service by in the year that credits are allocated, the owner must obtain a Carryover Allocation in order to carry over the credits for use in future years.

#### Carryover Allocation Requirements

##### IRS Form 8610-A

The **Carryover Allocation Form, 8610-A**, must be issued by the Housing Finance Agency (HFA) no later than December 31<sup>st</sup> of the allocation year.

##### 10% Test

The issuance of the Form 8610-A does not automatically guarantee that the owner will be able to retain the credit reservation. The owner will need to demonstrate that **10% of the expected basis** is spent no later than 12 months after the date of the carryover allocation.

##### Expected Basis

The IRS defines expected basis as the *“adjusted basis in land or depreciable property that is reasonably expected to be part of the project, whether or not these amounts are includible in eligible basis.”*

#### Cost Certification & Supporting Documentation

The owner must submit a cost certification to the HFA, demonstrating that the “10%” was met within 12 months of the date of allocation.

#### Deadline to Place in Service

If a Carryover Allocation is made, and the owner meets all the requirements thereof, the deadline for the building to place in service, is **no later than the last day of the 2<sup>nd</sup> calendar year, following the year of the Carryover Allocation.**

#### Example – Placed-in-Service Deadline

*A building was allocated credits on June 5, 2024. The building is unable to be placed in service by the end of 2024. The owner receives a Carryover Allocation in December of 2024. The owner now has until the end of the second calendar after the year of the allocation to place in-service, which would be December 31, 2026.*

The image shows the IRS Form 8610, titled "Annual Low-Income Housing Credit Agencies Report (under section 42(b)) of the Internal Revenue Code". The form is for the year 2024. It includes a header with the IRS logo and the text "ADFA ARKANSAS DEVELOPMENT FINANCE AUTHORITY". The form is divided into several sections: "Part 1 Reconciliation of Attached Forms and Schedules", "Part 2 Reconciliation of Credit Ceilings and Allocations (see instructions)", and "Part 3 Compliance With Low-Income Housing Requirements". Each section contains a list of items to be reported, with corresponding lines on the form. The form also includes a signature line for the authorizing official and a date field.

## Chapter 1: Development & Lease Up

### Section B: Federal Set-Aside Elections

#### Minimum Set-Aside (MSA) – Required Election

The Minimum Set-Aside (MSA) elected for a project **determines the minimum percentage of units that must be LIHTC units in the project and the income limits applicable to the LIHTC units.** The owner determines the election by answering item 10c on the IRS Form 8609.

In order for a project to be an eligible LIHTC project, the project must meet the initial MSA test by the required deadline. If the owner fails to meet the MSA by the deadline, the owner permanently loses the LIHTC allocation. Once met, the MSA must be maintained continually throughout the Compliance Period.

The election of the MSA determines the federal income limit that applies to the project. **Once this election is made, it cannot be changed.**

There are **four (4) Minimum Set-Aside elections:**

- c** Elect minimum set-aside requirement (section 42(g)) (see instructions):
- 20-50       40-60       Average income       25-60 (N.Y.C. only)

20-50	40-60	Average Income	25-60 (NYC Only)
20% of the units must be rented to households with incomes at or below the 50% MTSP	40% of the units must be rented to households with incomes at or below the 60% MTSP	40% or more of the units must have income levels where the average of all the income levels is at or below 60%  (Allows for 20%, 30%, 40%, 50%, 60%, 70% and 80% limits as long as the average of the limits <u>do not</u> exceed 60%)	25% of the units must be rented to households with incomes at or below the 60% MTSP  <b>(Applies to NYC Only)</b>

With the exception of the Average Income MSA:

- The first number reflected in the MSA represents the **minimum percentage of units** that must be rented to low-income households.
- The second number represents the **income limit level** that low-income households must meet.

#### Example – 20-50 MSA

*A single-building project that contains 100 units elects a 20-50 MSA.*

*This means that 20% of the units in the project (20 units) must be rented to households with incomes at or below the 50% limit (100 x 20% = 20 units)*

#### Example – 40-60 MSA

*A single-building project that contains 150 units elects a 40-60 MSA.*

*This means that 40% of the units in the project (60 units) must be rented to households with incomes at or below the 60% limit (150 x 40% = 60 units)*

## Chapter 1: Development & Lease Up

### Section B: Federal Set-Aside Elections, cont.

#### Minimum Set-Aside (MSA) – Required Election, cont.

The Minimum Set-Aside **MUST** be met for the project, as defined by the owner’s election on the IRS Form 8609, line 8b.

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?  Yes  No

If the owner answers “**Yes**” to line 8b, then the building is treated as a multiple building project, and the MSA is based on the total units **in the project**.

#### Example – MSA – Multiple Building Project

*Highland Apartments is a 4-building project with a total of 132 units. Each building has 33 units.*

*The owner of Highland Apartments elected an MSA of 40-60 and elected to treat all buildings as part of a multiple building project.*

*In this example, all buildings are treated as one project, and therefore the MSA is met as long as 40% of the total units 132 units (**53 units**) are rented to qualified households at or below the 60% income limits.*

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?  Yes  No

If the owner answers “**No**” to line 8b, then **each building is considered its own project** and the MSA is based on the units in **each building**.

#### Example – MSA – NOT a Multiple Building Project

*Lowland Apartments is a 4-building project with a total of 132 units. Each building has 33 units.*

*The owner of Lowland Apartments elected an MSA of 40-60 and chose not to treat all buildings as part of a multiple building project.*

*In this example, each building is its own “project”; therefore, each building must meet the MSA individually by renting 40% of the 33 units in each building (**14 units in each building** (13.2 units rounded up)) to households at or below the 60% income limits.*

## Chapter 1: Development & Lease Up

### Section B: Federal Set-Aside Elections, cont.

#### Minimum Set-Aside (MSA) – Required Election, cont.

##### Federal Set-Aside Election Deadlines

A project must meet the MSA no later than the last day of the year the project is placed in service, or if credits are deferred, the MSA must be met no later than the last day of the year following the year placed in service.

Failing to meet this requirement for the first year of the credit period will result in a **permanent loss of the entire credit**.



##### Example – Minimum Set-Aside Deadline

*A project is placed in service on 02/01/2025. The MSA must be met no later than 12/31/2025; however, if the project owner defers claiming credits to the following year, then the MSA would have to be met no later than 12/31/2026.*

#### Deep Rent Skewing – Optional Election

In addition to the election of a Minimum Set-Aside, the owner may elect to rent 15% of the low-income units in the project to households with incomes at or below 40% Area Median Income (AMI). This optional election is made on the IRS Form 8609, line 10d. **Once this election is made, it cannot be changed.**

Note: This election also impacts the gross rents for the low-income units as well as the application of the Next Available Unit Rule. See the section on Rent Limits and the section on the Next Available Unit Rule for more information.

##### Example – Deep Rent Skewed Election

*Skyview Apartments is a 1-building project, with a total of 100 units.*

*The owner elected an MSA of 40-60 and made the Deep Rent Skewing election. Out of the 100 units, 80 units are LIHTC units.*

- *To meet the MSA, the owner must rent 40% of the units (100 Units x .40 = 40 units) to households with incomes at or below the 60% limit.*
- *To meet the Deep Rent Skewed Set-Aside, the owner must rent 15% of the total LIHTC units in the project (80 units x 15% = 12 units) to households with incomes at or below the 40% income limit.*

Note: *The number of Deep Rent Skewed units needed is determined by multiplying the actual number of LIHTC units by 15%, and not just the minimum number of units required to be low-income under the MSA.*

#### Deep Rent Skewing Set-Aside Election Deadline

The deadline for meeting the Deep Rent Skewed Set-Aside is identical to the deadline for meeting the MSA. However, failing to meet the Deep Rent Skewed Set-Aside deadline does not result in credit loss; instead, the project will not be considered a Deep Rent Skewed project.

## Chapter 1: Development & Lease Up

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### Section C: State Set-Asides

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The ADFA LIHTC application allows for deeper income restrictions on units, guaranteed at 30%, 40%, 50%, and 60% of the Area Median Income (AMI), in order to earn additional points in the application scoring requirements. The ADFA deeper income-targeting requirements should not be confused for the Federal Average Income Set-Aside election.

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits

#### Multifamily Tax Subsidy Program Limits

The LIHTC program uses the **Multifamily Tax Subsidy Program (MTSP) limits**, which are published by HUD annually. The income limits are published by county or Metropolitan Statistical Area.

**The MTSP limits are effective on the date published and must be implemented within 45 days of publication.**

The income limit category that applies to an LIHTC project is determined by the project's Minimum Set-Aside, which can be found on the IRS Form 8609, line 10(c).

The **MTSP limits** determined by the minimum set-aside are determined by **multiplying the 50% MTSP limit** by a **conversion factor**.

HUD's Low-Income Limit	Convert To	Conversion Factor	Formula
<b>50%</b>	80%	1.6	50% limit x 1.6 = 80%
	70%	1.4	50% limit x 1.4 = 70%
	60%	1.2	50% limit x 1.2 = 60%
	40%	.8	50% limit x .8 = 40%
	30%	.6	50% limit x .6 = 30%
	20%	.4	50% limit x .4 = 20%

Income Limits can be obtained from Novogradac's Website:

<https://rent-income.novoco.com/free/calculator>

#### Income Limit Rules

#### HERA Special Limits

Some projects may be eligible to use the HERA (Housing and Economic Recovery Act) special limits. To use the HERA special limits, two criteria must be met:

1. The project would need to have been placed in service **prior to 01/01/2009, AND**
2. The project is in a **county** that HUD states the **HERA special limits apply to**.

#### Example – HERA Special Limits – Not Applicable

*Seaside Apartments is located in an area that HUD states the HERA special limits apply to and was placed in service on 03/01/2017.*

*Since Seaside Apartments was not placed in service prior to 01/01/2009, the HERA special Limits **cannot** be used.*

#### Example – HERA Special Limits – Applicable

*Bayview Apartments is located in an area that HUD states the HERA special limits apply to and was placed in service on 06/01/2007.*

*Since Bayview Apartments was placed in service prior to 01/01/2009, the HERA special Limits **can** be used.*

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Multifamily Tax Subsidy Program Limits, cont.

##### Income Limits, cont.

##### Held Harmless Limits

In some counties, the income limits may decrease from year to year.

An LIHTC project may use the prior year's higher limit **if the project is placed in service prior to publication of the new lower limits.**

*2023 60% 1-person income limit = \$34,440: Max Rent 1-bedroom = \$922*

*2024 60% 1-person income limit = \$33,780: Max Rent 1-bedroom = \$904*

*Vanessa manages two LIHTC projects: Cliffwood Apartments and Valleyview Apartments. Both Cliffwood and Valleyview are 40-60 projects. Cliffwood placed in service on 02/01/2024 and Valleyview placed in service on 07/15/2024. On 04/01/2024, HUD published the 2024 limits.*

*Since Cliffwood placed in service prior to the publication of the 2024 income limits, the higher 2023 limits will still be used at Cliffwood. However, since Valleyview did not place in service prior to the publication of the 2024 limits, Valleyview must use the lower 2024 limits.*

### National Non-Metro Income Limits (Rural Limits)

A project may use the National Non-Metro Income limits if the following criteria are met:

1. The project is an area that is defined as being rural by **USDA, AND**
2. The project is **NOT** financed with tax-exempt bonds.

*Lake Hollow Apartments is located in an area that has been determined to be rural by USDA. The building is also financed with tax-exempt bonds.*

*Even though the project is located in a rural area, since the project is financed with tax-exempt bonds, the project **cannot** use the National Non-Metro income limits.*

*Cove Apartments is located in an area that has been determined to be rural by USDA. The building is not financed with tax-exempt bonds.*

*As the project is located in a rural area, and is not financed with tax-exempt bonds, the project **may use** the National Non-Metro income limits.*

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Multifamily Tax Subsidy Program Limits, cont.

##### Projects with Multiple Buildings

The election of whether buildings will be treated as part of a multiple building or not can affect the application of income limits at the project.

##### **8609 8(b) – YES**

If the owner elected to treat the building as part of a multiple building project, by checking **YES** to line 8(b) on the IRS Form 8609, the project's placed-in-service date is the date the **first building in the project placed-in-service**.

##### **Example – Buildings Treated as a Multiple Building Project**

2023 60% 1-person income limit = \$34,440: Max Rent 1-bedroom = \$922

2024 60% 1-person income limit = \$33,780: Max Rent 1-bedroom = \$904

Gray County had a decrease in income limits in 2024.

*Applecrest Apartments is a 2-building project located in Gray County. The owner elected to treat the buildings as part of a multiple building project.*

*Building 1 placed in service on 03/01/2024 and building 2 placed in service on 12/16/2024.*

*HUD published the 2024 limits on 04/01/2024.*

*Since the owner elected to treat the buildings as part of a multiple building project, the project is considered placed in service, based on the date the first building placed in service (03/01/2024); therefore, the higher 2023 limits may be used for both buildings in the project.*

##### **8609 8(b) – NO**

If the owner did NOT elect to make the building as part of a multiple building project by checking **NO** to line 8(b) on the IRS Form 8609, then the income limits applicable to the BIN are based on the **placed-in-service date for each BIN**.

##### **Example – Buildings NOT Treated as a Multiple Building Project**

2023 60% 1-person income limit = \$34,440: Max Rent 1-bedroom = \$922

2024 60% 1-person income limit = \$33,780: Max Rent 1-bedroom = \$904

Gray County had a decrease in income limits in 2024.

*Cedar Nest Apartments is a 2-building project located in Gray County. The owner elected to not treat the buildings as part of a multiple building project.*

*Building 1 placed in service on 03/01/2024 and building 2 placed in service on 12/16/2024.*

*HUD published the 2024 limits on 04/01/2024.*

*Since the owner elected not to treat the buildings as part of a multiple building project, each building is considered its own project. Therefore, building 1 may use the higher 2023 income limits, but building 2 must use the lower 2024 limits.*

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

In order for a unit to be in compliance with LIHTC requirements, the **gross rent charged** for the unit **cannot exceed the LIHTC maximum rent limit**. The max rent is based on 30% of the imputed income limits.

#### Maximum Rent Limit

The computation of max rent is not based on the actual number of household members but instead imputes **1.5 persons per bedroom**.

#### Example – Max Rent Formula

40-60 Building, 3-person income limit is \$45,990.

The maximum rent for a 2-bedroom unit would be calculated based on the income limits for a household size of 3. (1.5 + 1.5 = 3 persons)

$\$45,990 \times 30\% \div 12 \text{ months} = \$1,149.75 = \mathbf{\$1,149.00}$  Maximum Rent (always drop cents)

#### Gross Rent

Gross rent includes the following:

- Tenant Paid Rent**
- + Utility Allowance**
- + Non-optional fees**
- Gross Rent**

PART VI. RENT			
Tenant Paid Rent	\$	<input checked="" type="checkbox"/>	
Utility Allowance	\$	<input checked="" type="checkbox"/>	
Rent Assistance:	\$	<input checked="" type="checkbox"/>	
Other non-optional charges:	\$	<input checked="" type="checkbox"/>	
GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges)		\$	<input type="text"/>
Unit Meets Rent Restriction at:		<input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30%	

Note: For Rural Development Projects allocated credits after 1991, gross rent does not include RD overage.

#### Utility Allowance (UA)

To ensure that rents for LIHTC are truly affordable, the estimate of any utilities that are required to be paid directly by the tenant must be included when calculating gross rent for a household. This estimate is referred to as the Utility Allowance.

Note: Optional utilities, such as internet, telephone, and cable, are not included as utilities for the purpose of determining a Utility Allowance.



**RD/LIHTC**  
Projects receiving a RD loan or RD Rental Assistance –  
**Must use applicable RD utility allowance.**



**HUD/LIHTC**  
In which HUD regulates the rents and utility allowances –  
**Must use applicable HUD utility allowance.**



**LIHTC**

1. The schedule used by the local Public Housing Authority (PHA) → **Always used for Section 8 voucher holders.**

2. An estimate from a utility company
3. The HUD Utility Schedule Model – Located on HUD’s website.
4. An energy consumption model

If collected, it must be used.

These options are covered in further detail on the following pages.

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Utility Allowance Methods and Requirements

One of the ways to preserve our existing subsidized housing stock is to rehab aging HUD and Rural Development properties using Low-Income Housing Tax Credits. Treas. Reg. § 1.42 -10 (a) and (b) specifies the utility allowance that must be used if an LIHTC project has RD or HUD funding.

#### RHS-Assisted Buildings and/or Tenants

##### RHS Multifamily Housing Programs

If a project receives assistance from a Rural Housing Service (RHS) program through Rural Development, the utility allowance for all LIHTC units in the project must be determined by using the method required by Rural Development.

Examples of RHS-assisted buildings include projects receiving any of the following forms of assistance:

- Section 515 Direct Loan Program
- Section 516 Off-Farm Labor Housing Loans and Grants
- Section 521 Rural Rental Assistance (RA)
- Section 538 Multi-Family Housing Loan Guarantee Program



Borrowers must have the project's utility allowance approved annually through the budget process using RD Form 3560-7.

##### HUD-Regulated Buildings

If an LIHTC building does not receive RHS assistance but is a HUD-regulated building, the applicable HUD utility allowance is to be used for all LIHTC units in the building.

Specifically, Treas Reg. § 1.42-10(b)(3) states, "*Buildings regulated by the Department of Housing and Urban Development. If neither a building nor any tenant in the building receives RHS housing assistance, and the rents and utility allowances of the building are regulated by HUD (HUD-regulated buildings), the applicable utility allowance for all rent-restricted units in the building is the applicable HUD utility allowance.*"



##### HUD Multi-Family Housing

HUD Notice H 2015-04 provides detailed instruction to owner/agents on how to calculate utility allowances for the following programs:

- Project-based Section 8
- Section 101 Rent Supplement
- Section 202/162 Project Assistance Contract (PAC)
- Section 202 Project Rental Assistance Contract (PRAC)
- Section 811 PRAC; Project Rental Assistance (PRA)
- Section 236
- Section 221(d)(3) Below Market Interest Rate (BMIR)
- Section 202 Senior Preservation Rental Assistance Contracts (SPRAC)

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Utility Allowance Methods and Requirements, cont.

##### Public Housing Authority Utility Allowance

Public Housing Authority Allowance If a property is not RD assisted or HUD-regulated, one Utility Allowance option that owner/agents may use is the Public Housing Authority (PHA) Utility Allowance.

HUD allows PHAs to decide which methodology to use in establishing allowances. Typically, one of two methods is used:

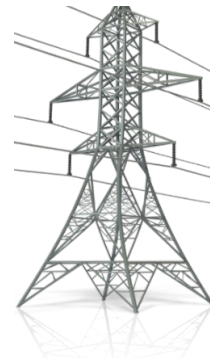
- Consumption-Based Methodology
- Engineering-Based Methodology

To use the PHA Utility Allowance schedule, the owner/agent must obtain the PHA Utility Allowance schedule HUD-52667. Once the schedule is acquired, the owner/agent will need to determine the Utility Allowance for each unit size based on the source (i.e., for heating, natural gas, electric, or coal, etc.) for each type of utility that will be paid for by the tenant. It should be noted that the cost of the range and refrigerator should only be included in the Utility Allowance calculation if the refrigerator and/or range is provided by the tenant.

**Note:** Under the 2013 Final HOME Rule, projects awarded HOME funds on or after August 23, 2013, could not use the PHA Utility Allowance Method. The 2025 HOME Final Rule, effective April 20, 2025, removed this restriction allowing all HOME projects to use the PHA Utility Allowance Method, regardless of when funds were allocated.

##### Utility Company Estimate

The Utility Company Estimate method involves collecting information from a local utility company. The data gathered needs to demonstrate the estimated cost of the utility for units of similar size and built in the same geographic area where the LIHTC building is located.



##### Deregulated Utilities

In some areas, utility services may be deregulated, meaning more than one company supplies the utility. Thankfully, in these areas, it is only required to obtain an estimate from a single provider even if multiple providers are providing the same service to the building. However, the utility provider selected to provide the estimate must actually provide the utility to the building.

For deregulated utilities, the estimate should include all component deregulated charges for providing the utility service, such as transmission and distribution fees.

##### Interested Party

Interestingly enough, the regulation tells us that this estimate may be obtained by any "interested party" at any time during the building's extended use period.

An "interested party" clearly includes the building owner, state Housing Finance Agency (HFA), and a low-income tenant.

If a tenant obtains the estimate, then the tenant is responsible for any cost incurred in collecting the estimate, and they must provide a copy of the estimate to the building owner.

While a copy of the estimate does not need to be provided to each low-income tenant in the building, the estimate must be made available to these tenants.

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Utility Allowance Methods and Requirements, cont.

##### Actual Consumption

Under the Agency Estimate option, some HFAs may require that the Utility Allowance be based on actual consumption, meaning that the estimate is determined using actual usage data and utility rates for the building.

If the estimate is to be based on actual consumption, the data used must meet the following requirements:

- Usage data collected must be for the twelve-month period ending no earlier than 60 days prior to the beginning of the 90-day period\*\*, and;
- Utility rates used must be no older than the rates in place 60 days prior to the beginning of the 90-day period.

\*\* 90-day period - When applicable utility allowances for LIHTC units change, the new utility allowances must be implemented when determining gross rents due 90 days after the change.

If a property is newly constructed or has recently undergone rehab, 12 months of consumption cannot always be obtained. In such cases, the consumption data for the 12-month period of units of similar size and built in the same geographic area may be used.

##### HUD Utility Schedule Model (HUSM)

HUD created this utility model to provide a consistent basis for determining utility allowances.

HUD developed a web-based application to facilitate the use of this method and also provides a spreadsheet that can be used as well.

This model uses the form [HUD-52667](#) to create an estimated utility allowance using data based on the Residential Energy Consumption Survey. This survey collects energy data of housing units, utility usage patterns, and household demographics.

In order to use the HUSM, the owner/agent must input a significant amount of data as it relates to:

- Project Location
- Project Type
- Unit Information
- Energy Savings Design (Energy Star Certification, LEED Certification, Significant Green Retrofit)
- Utility Tariffs, extra charges, and fees
- Utilities paid by tenants

HUD provides instructions on the use of the method, which can be located by visiting the following web address

<https://www.huduser.gov/portal/sites/default/files/pdf/HUSM-Instructions.pdf>

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Utility Allowance Methods and Requirements, cont.

##### Energy Consumption Model

In using this model, the owner/agent determines the utility allowance utilizing an energy and water/sewer consumption and analysis model. There are specific factors that must be taken into consideration when using this method. These factors include, but are not limited to:

- Unit Size
- Building orientation (the positioning of the building as it relates to seasonal variations of the sun's path and prevailing wind patterns)
- Design and materials
- Mechanical systems
- Appliances in the units
- Characteristics of the building location

Available historical data.\*\*

\*\* It should be noted that prior to the publications of the final regulations on March 3, 2016, the regulation previously stipulated that the historical data used must be limited to the building's consumption data for the twelve-month period ending no earlier than 60 days prior to the beginning of the 90-day period. This was changed to "available historical data," as many utility providers do not maintain utility information beyond the most recent 12-month period.

##### Qualified Professionals

The owner/agent cannot just hire anyone to conduct this analysis. The regulation states that this analysis can only be completed by a licensed engineer or other "qualified professional." While the regulation does not define a "qualified professional," it does state that if the qualified professional is not a licensed engineer, the owner must obtain approval from the State Housing Finance Agency in order to use the qualified professional. It is essential to keep in mind that even if the qualified professional is a licensed engineer, the State Housing Finance Agency may still disapprove the energy consumption model or may require that the owner provide additional information to support the analysis before the owner can utilize the determined Utility Allowance at the project.

##### Related Parties

Furthermore, the qualified professional cannot be related to the building owner as defined in 26 US Code section 267(b) or 707(b).

Section 267(b)(10) defines as related parties a corporation and a partnership if the same persons own more than 50 percent in value of the outstanding stock of the corporation, and more than 50 percent of the capital interest, or the profits interest, in the partnership.

Similarly, section 707(b) defines this as a partnership and a person owning, directly or indirectly, more than 50 percent of the capital interest, or the profits interest, in such partnership, or two partnerships in which the same persons own, directly or indirectly, more than 50 percent of the capital interests or profits interests.

##### Utility Rate Data

The utility rates used in this model cannot be any older than the rates in effect 60 days prior to the beginning of the 90 day period under paragraph (c)(1) of treasury regulation § 1.42-10. Paragraph (c) (1) states that when the utility allowance changes, the newly determined utility allowance must be used when determining gross rent due 90 days after the change in utility allowance occurs.

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Utility Allowance Methods and Requirements, cont.

##### Submetering

Treasury Regulation § 1.42-10 states that *"If the cost of any utility (other than telephone, cable television, or Internet) for a residential rental unit is paid directly by the tenant(s), and not by or through the owner of the building, the gross rent for that unit includes the applicable utility allowance determined under this section."*

Essentially, this means:

- If a tenant in a low-income unit pays for utilities directly to the utility provider, the gross rent calculation must include a utility allowance;
- If a building owner pays for utilities, there is no utility allowance;
- If the owner pays utilities directly and charges a fee (in addition to rent) to the resident for the utilities, there is no utility allowance; however, the fee would be considered a non-optional fee and therefore included in the gross rent calculation.



Submetering occurs when a building's overall utility consumption is billed to the building owner, and the building owner bills the tenants for utilities based on the tenants' **actual consumption** using unit-based meters.

In 2009, the IRS issued Notice 2009-44, which clarified that tenant-paid utility costs based on actual consumption in a submetered LIHTC unit are treated as paid by the tenant directly to the utility company, not by or through the owner of the building. Meaning, the gross rent is determined using the applicable utility allowance under § 1.42-10(b), and the amount paid by the tenant is not treated as a non-optional fee.

Notice 2009-44 also stipulated that if the owner/agent charges tenants a reasonable fee for the administrative costs of submetering, then the fee is not included when determining gross rent. The fee charged must not exceed an aggregate amount per unit of 5 dollars per month (unless State law provides otherwise); however, this guidance was further clarified with the 2016 amendment.

In 2012 the IRS published proposed changes to Treas. Reg. § 1.42-5 to incorporate the guidance in Notice 2009-44, with some revisions. These proposed regulations become final, and the regulations were amended on March 3, 2016.

The 2016 amendment to Treas. Reg. § 1.42-5 added section (e), which defined submetering for purposes of complying with the utility allowance regulations.

*Actual-consumption submetering arrangements—(1) Definition. For purposes of this section, an actual consumption submetering arrangement for a utility in a residential unit possesses all of the following attributes:*

- The utility consumed in the unit is described in paragraph (e)(1)(i)(A) of this section or in § 1.42-10T(e)(1)(i)(B);*
  - The utility is purchased from or through a local utility company by the building owner (or its agent or other party acting on behalf of the building owner).*
- The tenants in the unit are billed for, and pay the building owner (or its agent or other party acting on behalf of the building owner) for, the unit's consumption of the utility;*
- The billed amount reflects the unit's actual consumption of the utility. In the case of sewerage charges, however, if the unit's sewerage charges are combined on the bill with water charges and the sewerage charges are determined based on the actual water consumption of the unit, then the bill is treated as reflecting the actual sewerage consumption of the unit; and*
- The rate at which the building owner bills for the utility satisfies the following requirements:*
  - To the extent that the utility consumed is described in paragraph (e)(1)(i)(A) of this section, the utility rate charged to the tenants of the unit does not exceed the rate incurred by the building owner for that utility; and*
  - To the extent that the utility consumed is described in § 1.42-10T(e)(1)(i)(B), the utility rate charged to the tenants of the unit does not exceed the rate described in § 1.42-10T(e)(1)(iv)(B)*

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Utility Allowance Methods and Requirements, cont.

##### Submetering, cont.

The 2016 amendment further expanded the requirements that must be met in order for an administrative fee to be excluded from a unit's gross rent determination. The exclusion from gross rent does not apply unless:

- The fee is computed in the same manner for every unit receiving the same submetered utility service
- The aggregate monthly fee or fees for all of the unit's utilities under one or more actual-consumption submetering arrangements **does not exceed** the greater of—
  1. \$5 per month
  2. An amount (if any) designated by publication in the Internal Revenue Bulletin; or
  3. The lesser of
    - a. The dollar amount (if any) specifically prescribed under a State or local law; or
    - b. A maximum amount (if any) designated by publication in the Internal Revenue Bulletin

##### Ratio Utility Billing System (RUBS)

A ratio utility billing system (RUBS) is a type of system that uses a formula to allocate a property's utility costs based on certain factors such as the number of occupants and the size of the unit.

Since RUBS is formula-based and not based on actual consumption, this type of system clearly does not meet the definition of "Actual Consumption Submetering Arrangements" under Treas. Reg. § 1-42-10(e).

That said, § 1.42.10(e) does not preclude a building owner from using RUBS at an LIHTC project. An owner can still use RUBS, but no utility allowance would be included when determining the gross rent; instead, the amount charged to the tenant for utilities would be treated as a non-optional fee when determining gross rent.

##### Renewable Energy Source

The 2016 amendment to Treas. Reg. § 1.42-5 also included temporary regulations regarding energy that is obtained directly from a renewable energy source. The IRS realized when reviewing comments submitted regarding the 2012 proposed utility allowance regulations that the definition of "Actual Consumption Submetering Arrangements" under Treas. Reg. 1-42-10(e) technically excluded electricity generated from renewable sources by the owner or that the owner purchases directly from some other person.

To address this inadvertent exclusion, the 2016 amendment included temporary regulations that applied the submetering principles to renewable energy sources if the renewable energy source meets the requirements established by Treasury.

On March 4, 2019, the IRS published the final regulations. While the final regulations carry forward many of the requirements in the temporary regulations published in 2016, a few of the provisions were modified prior to being adopted in the final regulations.

##### Renewable Energy Source Qualification

Per § 1.42-10 (e)(1)(i), an energy source may qualify as a renewable energy source described in Section 48 or Section 45, even if the building owner does not actually qualify for or receive any credits under Section 48 or Section 45 for the renewable energy source. (See § 1.42-10(e)(1)(i)(D))

The text of paragraph § 1.42-10(e)(1)(i)(C) in the temporary regulations was unclear as to whether the owner of the energy source had to qualify for, or receive credit for, the energy source in order for the energy source to meet the requirements of the § 1.42-10(e)(1)(i).

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Utility Allowance Methods and Requirements, cont.

##### Renewable Energy Source, cont.

The final regulations provided clarification by adding paragraph (D) to § 1.42-10(e)(1)(i), which states *"Determinations under (e)(1)(i)(C)(1) and (2) take into account only the manner in which the energy is produced and not who owns it or whether the applicable portions of sections 48 and 45 have expired."*

##### Utility Rates

When a renewable energy source is based on an actual-consumption sub-metering arrangement, and the rate requirement is met, the utility cost is treated as being paid directly by the tenant(s) and not by, or through, the owner of the building.

The temporary regulations stated that the utility rate charged to the tenants would meet the sub-metering requirements if the rate charged to tenants *"is the rate at which the local utility company would have charged the tenants in the unit for the utility if that entity had provided it to them."* This requirement did not provide enough information as to how building owners can demonstrate that the rate charged to tenants meets the requirements of § 1.42-10(e)(1)(iv).

The final regulations provided clarification by amending the text of paragraph § 1.42-10(e)(1)(iv)(B) to specify that the rate charged to the tenants cannot exceed the highest rate that the tenants would have paid for the utility from a local utility company.

##### Utility Allowance Annual Deadline



##### Annual Review Deadline

Since utility rates change, utility allowances must be updated to account for these changes. Treasury Regulation § 1.42-10 requires that owners conduct an annual review of the utility allowance, but the annual review does not need to occur every twelve months; instead, owners must review utility allowances at least one time during each calendar year. Meaning, the deadline to conduct the utility allowance review is the end of each calendar year and not twelve months from the last review.

##### New Buildings

For new buildings, a review of utility allowances or implementation of new utility allowances is not required until the building has reached 90% occupancy for 90 consecutive days or the end of the first year of the credit period, whichever occurs first.

##### Implementation of New Utility Allowances

###### **Treas. Reg. § 1.42-10(c)(1)**

*(1) In general. If, at any time during the building's extended use period (as defined in section 42(h)(6)(D)), the applicable utility allowance for units changes, the new utility allowance must be used to compute gross rents of the units due 90 days after the change (the 90-day period). For example, if rent must be lowered because a local utility company estimate is obtained that shows a higher utility cost than the otherwise applicable PHA utility allowance, the lower rent must be in effect for rent due at the end of the 90-day period.*

If the utility allowance does change, the new utility allowance must be implemented 90 days after the change. This timeframe is referred to in regulation as the "90-day period."

After the 90-day period, the new utility allowance must be used. The application of the 90-day period applies somewhat differently, depending on the utility allowance method used.

- **PHA Utility Allowance** – If the building uses the PHA utility allowance, the owner must implement the new utility allowance 90 days after publication by the PHA. **\*\*See Decreases In Utility Allowances.**
- **Utility Company Estimate, the HUD Utility Schedule Model, & Energy Consumption Models** For buildings using the Utility Company Estimate, the HUD Utility Schedule Model, and Energy Consumption Models, the owner must provide the updated utility allowance estimates to the HFA and make the estimates available to all tenants 90 days prior to implementing the updated utility allowance.

## Chapter 1: Development & Lease Up

### Section D: Income & Rent Limits, cont.

#### Utility Allowance Methods and Requirements, cont.

##### Increases in Utility Allowances

###### Gross Rent Test

When the new utility allowance increases, a gross rent test should be conducted to determine if the gross rent for any unit will exceed the maximum rent once the new utility allowance is applied. If there are any units where the gross rent will exceed the maximum rent, the tenant portion of the rent must be decreased enough to reduce the gross rent to be at or below the maximum rent by the end of the 90-day period.



##### Decreases in Utility Allowances



A Gross Rent Test is not necessary when the utility allowance decreases, as the decrease in the utility allowance is also decreasing the gross rent. While a decrease in the utility allowance may allow room to increase the tenant's rent portion while still remaining under the maximum rent, any rent increase must only be implemented as per the tenant's lease and in accordance with applicable local and state tenant-landlord law, and not prior to the end of the 90-day period.

###### UA Record Retention

- ADFA requires that the utility allowance documentation be retained for the entirety of the compliance period, plus three years.
- Owner/agents must be prepared to provide the utility allowance documentation supporting the utility allowance used during an Agency Monitoring Review.

###### Rental Rate Impact

**2017 – 2022 Applications:** All applications during this period required the submission of Rental Rate Impact (RRI) Net Rent Maximums, with a 2.75% annual rent increase allowed each year on January 1st. This 2.75% increase must be rounded down to the nearest whole dollar and added to the previous year's rent. The increase is applicable for the first 15 years of the credit period, starting from the year of lease-up.

###### Background

In 2017, ADFA introduced the Rental Rate Impact Scoring Criteria (RRI) in its Qualified Allocation Plan (QAP). The RRI allows for annual rent increases of 2.75%. Since its introduction, the RRI has undergone some revisions:

- In 2018, the QAP clarified that RRI would be calculated based on gross LIHTC rents.
- In 2019, ADFA updated the calculation to use net LIHTC rents and 60% AMI rent limits, rather than gross LIHTC rents and Fair Market Rents (FMR).

###### Implementation

- Rent increases will start on the first calendar day of the year following the year in which the application is approved. For example, for 2019 awardees, the first rent increase will occur on January 1, 2020.
- Regardless of the year of the award, rent increases will be based on the net LIHTC rents as evidenced in the application, not gross LIHTC rents.
- The annual rent increase limit of 2.75% will remain in effect throughout the 15-year compliance period.
- A development may experience more than 15 individual rent increases over the 15-year credit period, since rent increases are applied annually, even before a development is placed in service.  
This approach ensures consistent application of rental increases, while aligning with ADFA's RRI criteria to promote affordability over the credit compliance period.

## Chapter 1: Development & Lease Up

### Section E: Calculating & Claiming Credits

#### Annual Credit Calculation

A formula is used to determine the amount of credits that an owner is eligible to claim throughout the 10-year credit period. The credit amount is calculated for each low-income building in a project.

Each building has a “BIN,” a Building Identification Number. **Example – AR-14-12345**

The first two *letters* represent the state the BIN is in, and the first two *numbers* represent the year the BIN was allocated credits, the next two numbers represent the order in which the application was received, and the last 3 numbers represent the building numbers.

#### Annual Credit Formula

**Eligible Basis** x **Applicable Fraction** = **Qualified Basis**

**Qualified Basis** x **Applicable Credit %** = **Annual Tax Credit**



#### Eligible Basis

**New Buildings** – The Eligible Basis is generally the construction costs.

**Existing Buildings** – The Eligible Basis is the cost of the acquisition plus rehabilitation expenditures that are not treated as a separate new building.

#### Includes:

- ✓ Construction costs of residential units
- ✓ Construction costs of common areas/amenities for use by tenants, if no fee is charged to the tenants
- ✓ Cost of unit amenities, if comparable to the amenities in other units

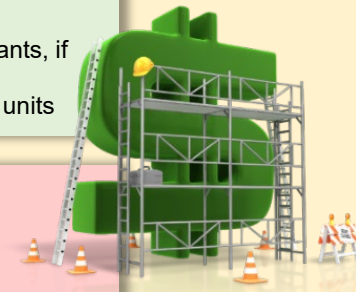
#### Excludes:

- ✗ Federal Grants
- ✗ Land
- ✗ Some soft costs

#### Annual Credit Formula

**Eligible Basis** x **Applicable Fraction** = **Qualified Basis**

**Qualified Basis** x **Applicable Credit %** = **Annual Tax Credit**



#### 130% Basis Boost

A building is eligible to receive an increase of 30% to the building's eligible basis if:

- The building is located in a Difficult to Develop Area (DDA).
- The building is located in a Qualified Census Tract (QCT).

#### Example – 130% Basis Boost

*Vista View Apartments is a building located in a Difficult to Develop Area (DDA).*

*Vista View's Eligible Basis is \$1,000,000. However, as Vista View is located in a DDA, for the purposes of calculating the annual tax credit, Vista View's Eligible Basis increases to **\$1,300,000**, which thereby increases the annual credit the owner is eligible to receive.*

## Chapter 1: Development & Lease Up

### Section E: Calculating & Claiming Credits, cont.

#### Annual Credit Calculation, cont.

#### Applicable Fraction

The Applicable Fraction, which is expressed as a percentage, reflects the fraction of the residential portion of the project that is actually housing low-income individuals.

#### Annual Credit Formula

Eligible Basis x Applicable Fraction = Qualified Basis

Qualified Basis x Applicable Credit % = Annual Tax Credit

The Applicable Fraction is determined by the **LESSER** of the following two calculations:

1. **Unit Fraction** – Total Tax Credit Units divided by all residential units
2. **Floor Space Fraction** – Total Tax Credit Square Feet divided by all residential square feet

$$\frac{\text{Total Tax Credit Units}}{\text{All Units}}$$

$$\frac{\text{Total Tax Credit Sq. Ft.}}{\text{All Units Sq. Ft.}}$$



#### Expressing a Fraction as a Percentage

Once the fraction is converted into a decimal (i.e.,  $6 / 9 = .66666$ ), carry out the answer 4 decimal points, making sure to round the last number (i.e.,  $.6667$ ) and move the decimal point two places to the right (66.67%).

#### Included in the Calculation:

- ✓ **All Residential Units, this includes:**
- ✓ **Model Units**
  - Model units are residential units, even if never occupied.
  - The cost of the model unit can be included in Eligible Basis.
  - Model units are never considered a tax credit unit unless the unit is rented to a low-income tenant.

#### Excluded from the Calculation:

- ✗ **Common Areas and Any Non-Residential Areas**
- ✗ **Exempt Employee Units**
  - Exempt employee units are commonly referred to as a “manager’s unit”
  - Exempt employee units must be occupied by full-time employees of the property (i.e., manager, maintenance, or security staff)

## Chapter 1: Development & Lease Up

### Section E: Calculating & Claiming Credits, cont.

#### Annual Credit Calculation, cont.

##### Applicable Fraction, cont.

##### Average Income & The Applicable Fraction

##### Units Included in the Applicable Fraction Determination

The final regulations incorporated the definition of a low-income unit for purposes of the Average Income Test (AIT) to also be used for purposes of determining the Applicable Fraction.

The final regulations states that it is **no longer necessary** to include all low-income units imputed income limitation when determining compliance with the AIT, only a “group of qualified units” where at least 40% of the units in the project must be used when determining AIT compliance. However, as most projects have low-income units in excess of the 40% required under the Minimum Set-Aside (MSA) requirement, those excess units are taken into consideration when determining a building’s Applicable Fraction.

The requirements regarding the Applicable Fraction in IRC 42(c), reference “low-income units” when determining the numerator of the Applicable Fraction.

The definition of a low-income unit found in IRC 42(i) refers to the income limitation applicable to the project as cited in 42(g)(1), which is the section of code regarding the MSA.

**The taxpayer must identify a “group of qualified units” (herein referred to as the AF Qualified Unit Group) to be used for purposes of determining the Applicable Fraction.**

The definition of a “qualified group of units” for purpose of the AIT Qualified Unit Group is the **SAME** definition to be used for the Applicable Fraction Qualified Unit Group. This definition can be found in 26 CFR § 1.42-19(b)(2) and states that a group of units is considered a “qualified group of units” if:

- The rents for the units included in the group are rent-restricted
- The household occupying the units included in the group are qualified households under the specific imputed income limitation designated to the unit
- The average of the imputed income limitations for the units included in the group average 60% or less.

**It should be noted that the units included in the AF Qualified Unit Group can include, but are not required to include, the units included in the AIT Qualified Unit Group.**

Furthermore, for multiple building projects (per the 8(b) election on the IRS Form 8609), units to be included in the Applicable Fraction Qualified Unit Group **ARE NOT** limited to one BIN and **CAN** span across multiple BINs.

##### Applicable Fraction - Date of Determination

The Applicable Fraction that is reached at the end of the first year of the credit period must be maintained for the entire 15-year compliance period.

**The Applicable Fraction is determined based on the number of the low-income units that are in compliance as of the last day of the owner’s tax year.**

##### Annual Credit Formula

Eligible Basis x Applicable Fraction = Qualified Basis

Qualified Basis x Applicable Credit % = Annual Tax Credit

## Chapter 1: Development & Lease Up

### Section E: Calculating & Claiming Credits, cont.

#### Annual Credit Calculation, cont.

##### Qualified Basis

The portion of the Eligible Basis (construction/acquisition costs) attributable to the low-income units is the building's Qualified Basis.

The Qualified Basis is determined by multiplying the Eligible Basis by the Applicable Fraction.

##### Example#1 – Qualified Basis

A building has an **Eligible Basis** of \$3,000,000 and an **Applicable Fraction** of 65%.

The **Qualified Basis** is \$1,950,000 (Eligible Basis (\$3,000,000) x Applicable Fraction (65%)).

##### Annual Credit Formula

$$\text{Eligible Basis} \times \text{Applicable Fraction} = \text{Qualified Basis}$$

$$\text{Qualified Basis} \times \text{Applicable Credit \%} = \text{Annual Tax Credit}$$

##### Applicable Credit Percentage (4% or 9%)

The Applicable Credit Percentage is a rate that is applied to the Qualified Basis to determine the annual tax credit.

There are **two categories**:

1. **4%** (aka 30% of present-value credits)
2. **9%** (aka 70% of present-value credits)

The credit percentage category used for a building is determined based on:

1. Project Funding
2. The type of credit stream

In general, the Applicable Credit Percentage category for most buildings is 9%.

However, the Applicable Credit Percentage is restricted to 4% for:

1. Projects financed with Tax-Exempt Bonds
2. Acquisition Credit Streams

**4% v.**

**9%**

Historically, the 4% and 9% rates were categories only, and the actual rate used was dependent on the project's placed-in-service date (or allocation date, if elected by the owner).

- In **2015**, the 9% rate was set to the **higher** of 9% or the actual rate.
- In **2021**, the 4% rate was set to the **higher** of 4% or the actual rate.

##### Date of Determination

The Applicable Credit Percentage rate applicable to a building is the rate in effect on:

- The placed-in-service date, or
- The date of allocation, *if elected by the owner* no later than the 5th day after the close of such month. This election is irrevocable.

## Chapter 2: Acquisition/Rehab

### Section A: Allocation & Calculation of Credits

In addition to being used for new construction, credits can be allocated for:

- **Rehabilitation credits** for the rehab of an existing building
- **Acquisition credits** for the acquisition of an existing building IF **rehabilitation credits** are also allocated to the building.

#### Calculation of Acquisition & Rehabilitation Credits

Acquisition credits and rehab credits are **separate credit allocations**, meaning, for buildings allocated both acquisition credits & rehab credits, a separate calculation is made to determine the annual credit from both credit allocation streams.



#### Annual Credit Formula

**Eligible Basis** x **Applicable Fraction** = **Qualified Basis**

**Qualified Basis** x **Applicable Credit %** = **Annual Tax Credit**

Acquisition Credit & Rehab Credit Calculation Differences		
	Rehab Credit	Acquisition Credit
<b>Eligible Basis</b>	Based on eligible rehab expenditures	Based on eligible acquisition costs
<b>Applicable Fraction</b>	Same AF is used for both Acquisition Credit and Rehab Credit	
<b>Qualified Basis</b>	Eligible Basis (based on the rehab costs) x the Building's Applicable Fraction	Eligible Basis (based on acquisition costs) x the Building's Applicable Fraction
<b>Applicable Credit %</b>	<b>9%</b> Note: Unless the building is financed with Tax-Exempt Bonds, in which case the Applicable Credit % would be restricted to 4%.	<b>4%</b>

#### Eligible Basis for Existing Buildings

The eligible basis for a building is zero (0) unless the building meets the following requirements:

1. The building is acquired by purchase (as defined in section 179(d)(2)).
2. There is a period of at least 10 years between the date of its acquisition by the taxpayer and the date the building was last placed in service, and the building was not previously placed in service by the taxpayer or by any person who was a related person with respect to the taxpayer as of the time previously placed in service.

Note: For federally or state-assisted buildings, the above-mentioned 10-year rule does not apply.

## Chapter 2: Acquisition/Rehab

### Section B: Claiming Credits

#### Placed-In-Service Dates - Acquisition & Rehabilitation Credits

**Acquisition Credit** – The placed-in-service date (PIS) is **the date that the building is acquired (purchased)**.

**Note:** The acquisition date is NOT owner-elected, meaning, it must be the date the building is purchased. Adding a new investor after the date of purchase does NOT change the Acquisition Placed-in-Service date.

**Rehab Credit** – The placed-in-service date, is an **owner-elected date during any 24-month period**, over which such expenditures are aggregated, where at least:

- **20% of the adjusted basis is spent**, or
- **The minimum per-unit amount is spent.**

**Note:** This number is subject to inflation and is published each year by publication of a revenue procedure.

For buildings claiming both rehab and acquisition credits, **both credits must begin in the same year.**

**Same Year** – If the acquisition and the rehab place in service in the same year, the credits for both credit streams may be claimed beginning the date of acquisition.

#### Example – Same Year

*A building's acquisition date is 02/01/2025. The rehab is placed in service on 11/30/2025.*

*Both credit streams may be claimed as of the date of acquisition of 02/01/2025.*

**Different Years** – If the rehab credit places in services in a different year than the acquisition credit, both credit streams may be claimed as of the first of the year that the rehab placed in service.

#### Example – Different Years

*A building's acquisition date was 07/01/2024. The rehab is placed in service on 03/01/2025.*

*Both credits may be claimed beginning on 01/01/2025.*



## Chapter 2: Acquisition/Rehab

### Section C: Certifying Existing Tenants

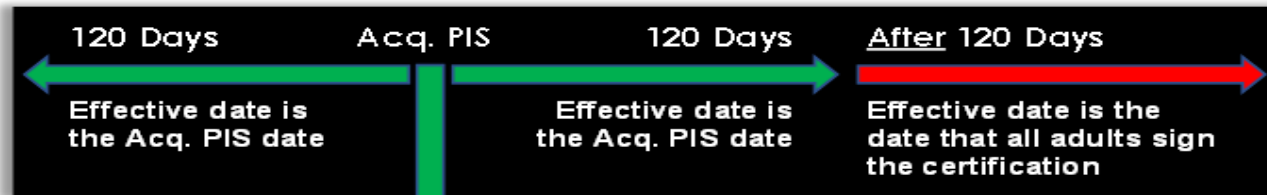
The placed-in-service date for the acquisition credit is a key date as it relates to certifying **existing household** for the LIHTC program.

**For units occupied by existing households** at the time of acquisition, **credits may be claimed** for these units going **back to the date of acquisition, IF:**

- ✓ The household's tenant income certification is completed within **120 days prior** to the acquisition date, or;
- ✓ The household's tenant income certification is completed within **120 days after** the acquisition date.

**For the above households, the effective date of their certification is the date of acquisition.**

For existing households, whose tenant income certifications are completed **more than 120 days after** the date of acquisition, credits may begin on those units as of the month that all adults execute the tenant income certification. The effective date is the date the last adult household member signs and dates the Tenant Income Certification Forms.



#### Example – Existing Tenant Income Certification Effective Dates

Acquisition PIS Date: 03/01/2023

- Unit 301 – Certification completed on 05/03/2023; effective date on TIC is 03/01/2023
- Unit 119 – Certification completed on 12/18/2022; effective date on TIC is 03/01/2023
- Unit 227 – Certification completed on 10/18/2023; effective date on TIC is 10/18/2023

ADFA requires that the Tenant Income Certification (TIC) for the household qualifying the unit under the credit allocation be marked as an Initial Certification (IC). This ensures that ADFA has a record showing only one household qualifies each unit. Additionally, a lease must be provided with the same effective date as the TIC.

A list of qualifying households for each unit must be uploaded, including at a minimum the unit number, head of household name, and move-in date. Additionally, the corresponding move-in file for each qualifying household must be uploaded to ADFA's Property Management Portal slot. This ensures ADFA maintains a record of all qualifying household files for historical and monitoring purposes.

## Chapter 2: Acquisition/Rehab

### Section D: Uniform Relocation Act

In general, the Uniform Relocation Act (URA) does not apply to the LIHTC program; however, it will apply if a federally funded project, such as a Project-Based Section 8 property, is acquired/rehabbed with LIHTCs.

Essentially, the URA affords benefits and protections to households displaced as a result of a federally funded project.

The benefits required to be provided depends on whether the tenant is permanently displaced or temporarily displaced.

Benefits may include:

- Relocation payments for the reasonable cost of moving and other moving-related expenses
- Rental Housing Payments (RHP) to make up for the additional cost incurred in securing replacement housing.

**Examples of Common Federal Funds Includes:**

- ✓ Project-Based Section 8
- ✓ Rural Development
- ✓ Housing Trust Funds
- ✓ HOME Funds



### Section 104 (d)

For Community Planning and Development (CPD) programs (e.g., Housing Trust Funds, HOME Funds, etc.), Section 104(d) of the Housing and Community Development Act of 1974 applies.

Section 104(d) establishes relocation requirements governing conversion, demolition, and one-for-one replacement of lower-income housing.

Under Section 104(d), a displaced lower-income tenant may choose either assistance at URA levels or the assistance available under section 104(d).

A summary of the major differences between the URA and Section 104(d) can be found on HUD's website on the following webpage: <https://www.hud.gov/sites/dfiles/OCHCO/documents/1378Exhibit7-1CPDH.pdf>.

## Chapter 3: Tenant Selection & Waiting Lists

### Section A: Tenant Selection Criteria

Tenant selection criteria outline the standards used by affordable housing providers to determine applicant eligibility and ensure fair and consistent leasing practices. Tenant selection criteria must be:

1. Project-specific
2. In writing
3. Provided to all applicants at the time of application.

#### Required Topics

The Tenant Selection Criteria must cover the following topics at a minimum:

- A. Income Limits – Instead of listing specific dollar amounts, income limits can be expressed as a percentage of the Area Median Income (e.g., 40%, 50%, 60%).
- B. Student Eligibility Requirements
- C. Maximum Occupancy Standards
- D. Background Screening requirements ( Criminal, Credit, Rental History)
- E. Project Preferences and/or Occupancy Restrictions - Any established preferences for certain applicant groups (e.g., veterans, seniors) or restrictions based on project funding requirements.
- F. Waiting List Procedures - Policies for maintaining, updating, and selecting applicants from the waiting list.
- G. VAWA Protections
- H. Reasonable Accommodation & Modifications under the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 (HOME-Funded Projects)

#### Clarity and Accessibility

Since the Tenant Selection Criteria are intended for applicants, the language should be clear, concise, and free of complex housing jargon. Applicants should be able to easily understand the requirements and procedures.

#### ADFA Review

While ADFA does not approve Tenant Selection Criteria, ADFA staff will review the Selection Criteria during the project's monitoring reviews and will require the owner/agent to modify the criteria if deficiencies are discovered.

Tenant Selection Criteria must be reviewed at least annually by the owner/agent to ensure that current operating practices, program priorities, and ADFA requirements are reflected in the plan.

## Chapter 3: Tenant Selection & Waiting Lists

### Section B: Waiting Lists

All properties must maintain a waiting list. A waiting list ensures a fair and organized process for allocating units to qualified households when units become available.

#### Required Data Collection:

ADFA requires that a waiting list must include specific data, which is to be taken from the rental application.

- ✓ Date and time the applicant submitted an application;
- ✓ Name of head of household;
- ✓ Annual income level (used to estimate levels for income-targeting, i.e., extremely low-income, very low-income, and low-income);
- ✓ Identification of the need for an accessible unit, including the need for accessible features;
- ✓ Preference status; and
- ✓ Unit size.

#### Excluded Data

ADFA does not require that the following information to be included on the waiting list.

- ✗ Race
- ✗ Ethnicity
- ✗ Gender
- ✗ Household size

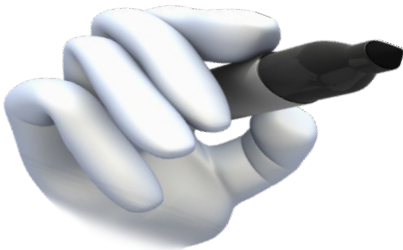
***This information is not directly related to tenant selection criteria and could lead to unintentional discrimination against applicants***

#### Waiting List Format

##### → Manually Recorded Waiting Lists

Waitlists may be maintained in paper form with the data being manually recorded. The following rules must be adhered to if using a written waitlist:

1. Manually maintained waiting lists must be maintained as a permanent record.
  - a. The list must not be “rewritten.”
  - b. The list must be maintained in a manner that cannot easily be altered.
  - c. The list must be kept in a manner that can be audited.
2. The manual waiting list must provide a record of the date and time of application, and date and time of selection from the waiting list. The information must be recorded in such a manner that it is easily readable by an independent party.



## Chapter 3: Tenant Selection & Waiting Lists

### Section B: Waiting Lists, cont.

#### Electronic Waiting Lists

A waiting list may also be maintained in an electronic format; however, owner/agents must have methods in place to track data input and changes made to the list.

Electronic waiting lists must have a mechanism for recording and maintaining the date and time of each applicant's placement on the waitlist, or selection from the waiting list and a way to document changes made to the list.

It is important to use electronic safeguards, such as assigning waiting list password access only to individuals responsible for maintaining the system.

The following are examples of methods that owners may use to track inputs and changes to the electronic waiting list.

- Use a data backup function to record the time and date of entry of new applications and changes to existing records in the electronic waiting list.
- Print a record of the appearance of the waiting list as often as necessary (at least monthly) to show each applicant's placement on and selection from the list.
- Whenever status changes occur, such as changes in household composition and unit size, the change should be recorded with an explanation, and the re-sorted list should be printed.

A system should record the following information whenever a record is changed or entered into the system:

- User name
- Time and date of action
- Type of action



#### Waitlist Changes & Updates

##### Documenting Changes to Waiting Lists

Owner/Agents are required to be able to provide an auditable record of changes to a waiting list.

To meet this requirement, a notation must be made on the waiting list whenever a change is made in the waiting list, an action is taken, or an activity specific to an applicant occurs.

The following actions must be notated in an auditable manner:

- Applicant additions
- Applicant selections
- Applicant withdrawals
- Applicant rejections

Independent reviewers looking at the waiting list should be able to:

- Find an applicant on the waiting list
- Readily confirm that an applicant was housed at the appropriate time based on:
  - Unit size
  - Preferences
  - Income-targeting
- Identify the actions taken with respect to a household's application for tenancy

It is crucial to conduct a periodic analysis of your waiting list policies and documentation procedures for transparency. This analysis should ensure that an independent party reviewing the waiting list can follow the actions taken, applicable preferences, and reasons why certain applicant households may have been selected ahead of other applicants on the waiting list.



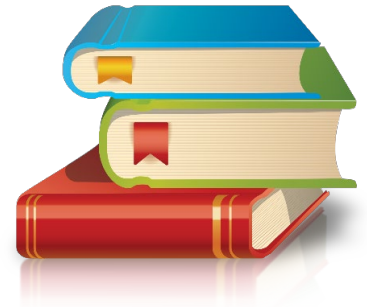
## Chapter 4: Student Eligibility

### Determining Student Eligibility

In order for a household to be eligible to occupy a Low-Income Housing Tax Credit (LIHTC) unit, the household must meet the LIHTC program's student eligibility requirements.

A household comprised entirely of all **full-time students (of any age)** who attend school at an educational organization is not eligible to occupy an LIHTC unit, unless the household meets **one of the five (5) exceptions**.

If the household contains one member who is not a full-time student, the household is not considered a full-time student household. Please note that ADFA does not consider an unborn child to be a non-student.



### Full-Time Student Defined

A full-time student is a student who attends school full-time for **all or parts of any five (5) months** out of the calendar year in which the taxable year of the taxpayer begins. One day is considered "part of a month". Months do not need to be in consecutive order.

The assessment of whether a student is determined to be full-time or part-time is determined by the educational organization.

#### EXAMPLE #1 – STUDENT CALENDAR

*Luke started attending college full-time in August of 2022 and attended full time each month until he graduated on May 26, 2023.*

*If Luke applied for an LIHTC unit on September 19, 2023, he would still be considered a full-time student as he attended full-time for all or parts of any five (5) months out of the calendar year.*

*Luke would no longer be considered a full-time student at the beginning of the next calendar year.*

#### EXAMPLE #2 – STUDENT CALENDAR

*Shae started attending college full-time on January 31, 2023 and attended full-time for the months of February and March. Shae took April and May to celebrate her spring break but she started back to college full-time on June 6, 2023 where she continued her education until she graduated on July 14, 2023.*

*If Shae applied for an LIHTC unit on October 6, 2023, she will still be considered a full-time student as she attended full-time for all or parts of any five (5) months out of the calendar year.*

*Shae would no longer be considered a full-time student at the beginning of the next calendar year.*



Three important questions to assist in determining student eligibility:

1. Were you or any members of your household a full-time student in the **past** 12 months?
2. Are you or any members of your household **currently** a full-time student?
3. Will you or any members of your household be a full-time student in the **next** 12 months?

## Chapter 4: Student Eligibility

### Determining Student Eligibility

#### Educational Organization Defined

The IRS defines an educational organization to be “an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on”.

This definition includes:

- ✓ Elementary Schools
- ✓ Junior High Schools (Middle Schools)
- ✓ High Schools
- ✓ Colleges
- ✓ Universities
- ✓ Technical Schools
- ✓ Trade Schools
- ✓ Mechanical Schools



This definition does not include on-the-job training courses.

#### Full-Time Student Household Exceptions

A household comprised of all full-time students may still be eligible for occupancy if the household meets one of the five (5) exceptions.

### Full-Time Student Exceptions

1. **One household member receives** assistance under Title IV of the Social Security Act (i.e., **Temporary Assistance for Needy Families (TANF)**).

#### Verification Documentation



Verify that the household member meets this exception by obtaining third-party verification from the paying agency or a copy of the individual's TANF benefit letter.

#### Example – TANF Exception

*Denny (age 43) and his best friend, Gracie (age 36), and Gracie's daughter (age 13) are applying for an LIHTC unit. All household members are full-time students. Gracie receives TANF assistance.*

*In this example, since Gracie receives TANF and meets the 1<sup>st</sup> exception, the entire household is considered student eligible.*

2. **One household member was previously** under the care and placement responsibility of the state agency responsible for administering a plan under Part B or Part E of Title IV of the Social Security Act (i.e., **foster care**).

This exception was added with the passing of the **Housing and Economic Recovery Act (HERA)**, enacted by President Bush on July 30, 2008. This exception became effective the day after enactment and only applies to eligibility determinations made after that date. **It is ADFA's position that the household member would have been in Foster Care during the last five (5) calendar years prior to applying for residency.**

#### Example – Foster Care Exception

*Rupert (age 27) and his roommate, Erin (age 23), are applying for an LIHTC unit. Both Rupert and Erin are full-time students. Erin was placed in state foster care at the age of 11 and remained under the state's care until the age of 18.*

*In this example, since Erin was formerly in the foster care system and meets the 2<sup>nd</sup> exception, the entire household is considered student eligible.*

#### Verification Documentation



Verify that the household member meets this exception by obtaining third-party verification or other documentation from the placing agency (i.e., the Department of Human Services (DHS)).

## Chapter 4: Student Eligibility

### Full-Time Student Exceptions, cont.

3. **A single household member is enrolled** in a job training program receiving assistance under the **Job Training Partnership Act (JTPA)** or under other similar Federal, State, or local laws.

Note: The Workforce Investment Act (WIA) replaced JTPA in 2000. WIA was replaced by the **Workforce Innovation and Opportunity Act (WIOA)** in 2014.

**For a program to be considered similar to JTPA, it should have a similar mission statement and receive government funding. The Arkansas welfare-to-work program known as Transitional Employment Assistance (TEA) qualifies as a job training program.**

#### Verification Documentation



Verify that the household member meets this exception by obtaining third-party verification or other documentation from the program that fully demonstrates the program is similar to JTPA.

#### **Example – JTPA Exception**

*Leo (age 26) and his roommate, Ann (age 32), are applying for an LIHTC unit. Both Leo and Ann are full-time students. Ann participates in a program that is verified to be similar to JTPA.*

*In this example, since Ann participates in a program similar to JTPA and meets the 3<sup>rd</sup> exception, the entire household is considered student eligible.*

4. **At least one adult student is a single parents with dependent child(ren).** In order to meet this exception, no household member (adult or child) can be claimed as a dependent by another individual, other than the parent of such child(ren) who does not live in the unit.

The text of this exception was modified to include “*other than the parent of such children*” as a result of the enactment of the Mortgage Forgiveness Debt Relief Act of 2007 on December 20, 2007. This change to the code is applied retroactively.

#### Verification Documentation



Verify that all household members meet this exception by obtaining copies of tax returns, demonstrating the dependency of each household member (minors and adults).

If tax returns are not available, a signed affidavit attesting to the dependency status of all household members can be collected.

#### **Example #1 – Single Parent/Dependent Child Exception**

*Joe is applying for an LIHTC unit with his 14-year-old daughter, Blair. Both Joe and Blair are full-time students. Joe provides his most recent tax return which demonstrates that Joe claims himself and his daughter as dependents.*

*In this example, since Joe is a single parent with a dependent child and since neither he nor Blair are claimed as a dependent by another individual, the household meets the 4<sup>th</sup> exception, and the entire household is considered student eligible.*

## Chapter 4: Student Eligibility

### Full-Time Student Exceptions, cont.

5. One adult student is **married and files a joint tax return**. Per the 8823 Guide, a married couple that is entitled to file a joint tax return, but has not filed one, still satisfies this exception.

#### Example – Married & Entitled to File Exception

*Jeremiah and Jessie, a married couple, are applying for an LIHTC unit with Jeremiah's best friend Kaydence, who is not married. Jeremiah, Jessie, and Kaydence are all full-time students.*

*In this example, since one adult is married this household does meet the married and entitled to file exception.*

#### Verification Documentation



Verify that all household members meet this exception by obtaining copies of marriage certificates or copies of tax returns.

### Evaluating Student Status

Student eligibility must be evaluated at:

- ✓ Move-in
- ✓ Recertification (even for 100% LIHTC projects)
- ✓ Whenever a household reports a change in household composition
- ✓ Whenever a household reports a change in student status

Management must utilize the LIHTC Student Status Affidavit – ADFA Form 503.

### LIHTC/HUD-Assisted Programs

HUD has made it expressly clear that owners/agents must not evict existing Project-Based Rental Assistance assisted households for failing to continually meet the LIHTC student requirements.

HUD stated that it is permissible for owner/agents to offer incentives to HUD eligible households who no longer meet the LIHTC Student requirements, to voluntarily move. However, owner/agents may only do so as long as the incentives are not paid out from Section 8 or FHA project funds.

When offering incentives, to demonstrate that the choice of moving is truly voluntary, owner/agents should first inform the household in writing that they have the option to remain in the unit. This documentation should be maintained in the household's file.



## Chapter 5: Verification of LIHTC Eligibility

### Section A: General Verification Requirements

#### Verification & Documentation Dates

Verifications and documentation must be no older than **120 days** before the effective date of the Tenant Income Certification, if older than 120 days a new verification, certification and application must be completed .

#### Verification Hierarchy

ADFA requires the following verification hierarchy to be used to verify household income.

1. **Third-Party Verification**
2. **Review of Documents**



#### 1. Third-Party Verification

- Management must have applicants/tenants sign a release form before contacting third parties.
- Management must send the verification form directly to the third party via mail, email, or fax.
- Management must receive the completed verification directly from the third party. Verifications should never be delivered by the applicant or tenant.

#### Clarification Record

If the third-party verification did not provide all information required or if clarification is needed on the information provided, management should contact the third-party by telephone to obtain the missing information.

This contact needs to be documented utilizing the [Unable to Obtain 3rd Party Verification – ADFA Form 523](#)

- ✓ Name and Title of third-party contact
- ✓ Contact phone number
- ✓ Information obtained or clarified
- ✓ Date and time of the conversation
- ✓ Name and Title of management agent completing the phone clarification Signed and dated by the management representative

#### 2. Review of Documents

Applicant/Tenant provided documents may be used to verify income, if:

- Third-party verification has been attempted, but not received for a period of two weeks;
- The third-party refuses to complete the verification;
- Third-party verification is not possible or needed; or
- Third-party charges for verifications

Examples of tenant-provided documentation include:

- Pay stubs
- Forms W-2 and 1040
- Financial statements

The [Unable to Obtain 3rd Party Verification](#) form can be utilized to document the tenant file as to why third party verification could not be obtained.

### Section 8 Voucher Holders

At annual recertification, if a tenant has a Section 8 housing assistance voucher, an owner may accept a **statement from the Public Housing Authority (PHA)** declaring that the applicant's or tenant's income does not exceed the income limit applicable under the LIHTC program. ADFA requires that the statement from the PHA document that income determination made by the PHA was conducted within 120 days before the effective date of the Tenant Income Certification, (TIC)." A TIC must still be executed at first annual recertification. After the first annual recertification, the 50558/50059 may be used in lieu of the TIC.

## Chapter 5: Verification of LIHTC Eligibility

### Section B: Verification of Income

#### Wages

Written third party verification is the preferred method of verification of wages. ADFA has a sample [Employment Verification](#), Employment Verification – ADFA Form 504 that can be utilized. When YTD earnings annualized differs from anticipated income, Year to Date Clarification Form - ADFA Form 522, must be used to document the discrepancy. If third party verification cannot be obtained, paystubs can be used to document income. ADFA requires that when paystubs are used to verify wages, two (2) consecutive months' worth of paystubs must be obtained. If the applicant/tenant has not been employed long enough to provide 2 consecutive months' worth of paystubs, clarification of the applicant/tenant's date of hire must be documented in the tenant file. Any previous employment within the last 12 months should be listed on the application with employment end date.

#### Self-Employment

To document self-employment income, obtain the applicant's or tenant's most recent **entire** tax return and have the applicant/tenant complete the ADFA Form 521 [Self Employed Income Affidavit](#). The entire tax return includes: IRS Form 1040, Schedule 1 and Schedule C.

If the business has not been in operation long enough to file a tax return, the net income from self-employment can be annualized based on the number of months in the year that the has been in operation.

The formula to determine this amount is:

→ Net Income Year to Date ÷ Number of Months in Business during the Current Year x 12 months

#### Military Pay

To verify military pay, obtain a copy of the service member's most recent Leave and Earnings Statement (LES). The service member can obtain their LES by accessing their "MyPay" account with the Defense Finance and Accounting Service (DFAS). <https://mypay.dfas.mil/mypay.aspx>

#### Social Security Benefits

The annual benefit letter for social security benefit or VA benefits is considered third-party verification and can be used the entire calendar year to document income from this source.

**Supplemental Social Security Benefits**, as these benefits may fluctuate throughout the calendar year, a recent benefit letter dated within 120 days of the effective date must be obtained to document benefit income.

Social Security recipients can request a benefit verification letter by submitting a request through their "My Social Security Account" at: <https://www.ssa.gov/myaccount>.

#### Veterans Benefits

Have the applicant or tenant provide a copy of their most recent benefit letter. Applicants/Tenants can request their benefit letter by visiting <https://www.ebenefits.va.gov>.

#### Periodic Distributions from IRA, 401K, Self-Employment Retirement Accounts, and other Private Pension.

Periodic distributions from retirement accounts and pension can be verified using the [Pension Verification](#) form, Pension Verification Form – ADFA Form 519, or other documentation with demonstrates that amount and frequency of the periodic distribution.

#### Divorce Decrees

For divorced household members, all divorce decrees are required to be included in the tenant file.

## Chapter 5: Verification of LIHTC Eligibility

### Section B: Verification of Income, cont.

#### Public Assistance

A copy of applicant's/resident's most recent award or benefits letter prepared and signed by the authorizing agency can be used to verify the amount of public assistance received, or benefits can be documented by having the authorizing agency complete a third-party verification form.

#### Cash & Non-Cash Contributions (Recurring Gift Income)

Cash and Non-Cash contributions can be documented utilizing the [Gift Income Verification](#). Gift Income Verification Form – ADFA Form 511. Bank statements can be used to support the Gift Income Verification.

#### Child Support/Alimony

[Custody and Child Support Affidavit](#), Custody and Child Support Affidavit – ADFA Form 526, or similar affidavit must be completed for each minor child in the household that is not living with both parents.

- Court Ordered Support:
  - o Court ordered support can be documented by either:
    1. Obtaining a printout from child support enforcement that documents the court ordered amount and the actual amounts received in the last twelve months.
    2. Completion of the [Court Verification of Child Support or Alimony](#)., Court Verification of CS or Alimony – ADFA Form 520
- Support that is NOT court ordered can be documented by having the payor complete the [Child Support/Alimony Verification](#), utilizing the Child Support or Alimony Income Verification – ADFA Form 509.

#### Unemployment Benefits

Unemployment benefits can be verified using the [Unemployment Benefit Income Verification](#) utilizing the Unemployed Benefit Income Verification – ADFA Form 514 or gross benefit amount can be documented by obtaining a Unemployment Benefit letter.

#### Student Financial Assistance

Student Financial Assistance can be documented using the [Student Status and Financial Aid Verification form](#), utilizing ADFA Form 510.

### Section C: Verification of Assets

#### Self-Certification of Assets

If the combined **net family asset value of ALL household assets is \$51,600\*\* or less**, the [Asset Certification Form, ADAF Form 507](#) can be completed by the household declaring value of all assets and the income from such assets.

Note: Net Family Assets include Non-Necessary Personal Property + Equity in Real Property. If the household's net family assets exceed \$51,600 all assets must be third-party verified or documented with the use of financial statements. **If the unit is also assisted with HOME or NTF, self-certification of assets is not allowed; self-certification is not permitted.**

\*\* The asset threshold is subject to change on an annual basis. HUD typically updates asset thresholds, annually, with the changes becoming effective on January 1st of each year, as part of the annual inflationary adjustments required by the Housing Opportunity Through Modernization Act (HOTMA).

#### Checking, Savings, CD, Money Markets, etc.

When assets must be verified, the ADFA Form 528, [Bank Account Verification](#) can be utilized, or a current statement can be obtained from the applicant/tenant.

## Chapter 5: Verification of LIHTC Eligibility

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### Section C: Verification of Assets, cont.

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#### **Other Financial Investment Accounts**

Other financial investment accounts can be verified using the ADFA Form 1004, [Investment Account Verification](#) form, or a current statement can be obtained from the applicant/tenant.

#### **Trust Funds**

Trust funds can be verified using the ADFA Form 1000, [Trust Account Verification](#).

#### **Real Estate**

The equity in Real Estate can be determined and documented utilizing the [Real Estate Asset Worksheet, ADFA Form 1001](#), and [Real Estate Verification](#) form, ADFA Form 1002.

#### **Whole Life Insurance**

Whole Life Insurance can be documented using the ADFA Form 1003 [Life Insurance Verification](#) form or other documentation that demonstrates the surrender value and interest income earned.

## Chapter 6: Determining Household Size

### Determining Household Size

Income limits vary based on household size, as they are published based on the number of persons in the household (i.e., 1 person, 2 persons, 3 persons) with increasingly higher income limits for households with more members.

#### Household Size **MUST** Include

In general, all persons living in the unit, or who will be living in the unit during the certification year, including:

##### Children who:

- Reside in the unit 50% of the time; - Household must certify that all minor household members will reside in the unit at least 50% of the time
- Are away at school, but who live in the household during school recesses - Student status must be verified.
- Are in the process of being adopted; - Documentation stating that the adoption is in progress must be obtained.
- Are the unborn child of a pregnant woman. - A self-affidavit is the only acceptable method of verifying pregnancy.)

##### Temporarily Absent who are:

- Temporarily absent due to hospitalization - Self-Certification is acceptable documentation, do not inquire about why the member is hospitalized.
- Temporarily absent due to work – Employment must be verified and included in income.

#### Household Size **MAY** Need to Include

##### Military Household Members:

Include those individuals who are temporarily absent from the household due to active military duty, only if the individual:

- Is the head, co-head, or spouse of the head; or
- Has a dependent or a spouse in the unit.



##### **Example – Military Household Members – Member Included**

*Travis is applying for a unit. Travis informs the manager that his spouse, Tara, is in the Army and will be out of the country on active military duty for the next 14 months.*

*In this example, as Tara is the spouse of the head, she must be included as a household member.*

##### **Example – Military Household Members – Member Excluded**

*Aaron and Debbie (head and co-head) and their 19-year-old son, Benji, move into a unit. A year later, when completing their recertification paperwork, Aaron and Debbie, inform the manager that Benji was recently deployed on active military duty for the next 24 months.*

*In this example, Benji would be excluded as a household member when completing the recertification paperwork as he is not the head, co-head, or spouse of the head, nor does he have a spouse or dependent*

HUD encourages owners and management agents to be as lenient as responsibly possible to support affected military households with children. This includes a variety of situations when persons are called to active duty in the Armed Forces.

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. The income of the guardian temporarily living in the unit for this purpose is not counted in determining household income or the amount of rent the household pays based on 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. The income of the child (e.g., SSI benefits, military benefits) would not be counted as income of the person providing the care.

## Chapter 6: Determining Household Size

### Determining Household Size, cont.

#### Household Size MAY Need to Include, cont.

##### Persons Permanently Confined to a Hospital or Nursing Home:

The household decides if such persons are included as household members.

If such persons are included, they must not be listed as the head, co-head, or spouse on the Tenant Income Certification form (TIC) ADFA Form 500.

**Note:** If the person is included as a household member, then any income received by the permanently confined member **must also be included** when determining household income.



#### Household Size DOES NOT Include

- Guests
- Foster child(ren)/Foster adult(s)
- Live-in Aides/Resident Assistants

When a household requests a live-in aide due to a disability, the household is requesting a reasonable accommodation under the Fair Housing Act. Housing providers must adhere to the Fair housing Act when verifying the need for a live-in aide, as well as approving or denying a live-in aide. Live-in Aides must not be listed on the Tenant Income Certification Form.

*“A person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:*

- 1. Is determined to be essential to the care and well-being of the persons;*
- 2. Is not obligated for the support of the persons; and*
- 3. Would not be living in the unit except to provide the necessary supportive services.”*

NOTE: Live-in Aides are exempt from credit checks; however, they must undergo the same criminal screening process as applicants.

A family member/relative may be a live-in aide, however, ADFA reminds owners/agents that in order for a family member/relative to be deemed a live-in aide, the owner/agent must ensure that such member meets the definition of a live-in aide.

ADFA requires that the housing provider execute a live-in aide self-affidavit with the live-in aide and the resident. This affidavit should clearly state that the live-in aide has no tenancy rights to the unit and should specify the time-frame within which the live-in aide must vacate the unit once the tenant they are assisting no longer occupies the unit. This document must be maintained in the tenant file. Housing providers may utilize Live-In Aides Self Certification Form—ADFA Form 525 for this purpose.

ADFA cannot provide legal advice to housing providers regarding the approval or denial of Live-In Aides.

## Chapter 6: Determining Household Size

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### Determining Household Size, cont.

#### Changes in Household Size

Housing Providers must address any changes in the household size that occur after the initial certification.

ADFA prohibits any adult from being added to the household during the first 6 months of occupancy, unless such anticipated members were disclosed at the time of application.

#### Adding Household Members

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- **Mixed-Income Projects (Not all units are LIHTC)**

When adding a household member, the owner must verify the added member's annual income and student eligibility. The new member's income must then be added to the household's most recent Tenant Income Certification. If the new member's income results in the household's income exceeding 140% of the applicable federal income limit, the owner must apply the Next Available Unit Rule.

- **100% LIHTC Projects (All units are LIHTC)**

When adding a household member, the owner must verify the added member's annual income and student eligibility. The added member's income must then be added to the household's original Tenant Income Certification.

#### Removing Household Members

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When a member of the household moves out of the unit, a new tenant certification is not required to be completed. The member will be removed from the household composition when conducting the household's next annual recertification.

#### Original Household

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New members may be added to the household if at least one original household member still resides in the unit. In situations where all the original household members have vacated the unit, the remaining members must be certified as a new, income-qualified household unless the remaining members were income-qualified the date that the new member was added to the unit.

- **Mixed-Income Projects (Not all units are LIHTC)**

A new member is considered to be income-qualified at the time of move-in, if:

- The entire household was income-qualified under the income limits based on the new household size using the income limits in effect at the time the new member was added; OR,
- The added member was independently income-qualified under the one-person income limit in effect at the time the new member was added.

- **100% LIHTC Projects (All units are LIHTC)**

The added member was independently income-qualified under the one-person income limit in effect at the time the new member was added.

## Chapter 7: Calculating Annual Income

### Section A: Method of Determining Income

In order for a household to qualify for affordable housing, certain eligibility requirements must be met, including being income eligible. For a household to be income eligible, a household must have an annual gross income at or below the applicable income limit.

Per IRS Notice 88-80, the Low-Income Housing Tax Credit (LIHTC) program utilizes the Housing and Urban Development's (HUD) method of determining annual household income for HUD's Section 8 program.

The rules are based on the 24 CFR § 5.609.

NOTE: ADFA is not allowing the use of HUD's Safe Harbor Income Determination Method for purposes of determining income eligibility. ADFA will reevaluate this policy once/if guidance is issued by the IRS allowing this method of income determination to be used for the Low-Income Housing Tax Credit Program.

#### Projecting Income for a 12-Month Period

Current income and household circumstances can be used to project the household's income over the next 12 months unless there is a verifiable change in circumstances that are expected to occur in that period of time.

Historical information (going back 12 months) may be used to project income that is anticipated to be received for less than 12 months.



### Section B: Income of Dependents

There are nine categorical sources of income inclusions that can be divided into two very distinct categories, earned income and unearned income.

Understanding the distinction between the two categories is critical as it directly relates to the amount of income included for each household member when determining a household's annual income.

#### Earned Income

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

Earned income includes:

1. Wages
2. Self-Employment
3. Military Pay

**For Minors (under 18):**

**EXCLUDE ALL EARNINGS**

**For Adult Dependent Full-time Students (not head, co-head, or spouse of head):**

**EXCLUDE ALL EARNINGS IN EXCESS OF \$480**

#### Unearned Income

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

Unearned income includes:

4. Income from Assets
5. Social Security, Pensions, etc.
6. Welfare Assistance
7. Periodic Allowances (Cash & Non-Cash Contributions, Child Support, etc.)
8. Unemployment Compensation
9. Student Financial Assistance

**Include for ALL household members!**

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Overview of Income Inclusions

**Annual income includes**, with respect to the family:

24 CFR § 5.609(a)

(1) All amounts, not specifically excluded in paragraph (b) of the 24 CFR § 5.609, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (*which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers*) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

Nine common income sources include:

- Wages
- Self-Employment
- Military Pay
- Income from Assets
- Social Security, Pensions, etc.
- Welfare Assistance
- Periodic Allowances (Cash & Non-Cash Contributions, Child Support, etc.)
- Unemployment Compensation
- Student Financial Assistance

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Wages

Income from wages refers to the earnings that individuals receive in exchange for their labor or services performed as employees for a company or organization.

Verified wages must be converted into an annual figure. The annualization of income begins with the **effective date of the certification** and is projected forward 12 months.

#### Converting Wages into An Annual Figure

The formula used to calculate income from wages will depend on how frequently the applicant/tenant is being paid.

Refer to the chart below:

Pay Rate	Formula	Examples
Hourly	Hourly Rate × # Hours Worked × 52 Weeks	\$8 (per hour) × 35 (hours) × 52 (weeks) = \$14,560
Weekly	Weekly Rate × 52 Weeks	\$500 (per week) × 52 (weeks) = \$26,000
Bi-Weekly	Bi-Weekly Rate × 26 Pay Periods	\$1,000 (per pay period) × 26 (pay periods) = \$26,000
Semi-Monthly	Semi-Monthly Rate × 24 Pay Periods	\$1,000 (per pay period) × 24 (pay periods) = \$24,000
Monthly	Monthly Rate × 12 Months	\$2,000 (per month) × 12 (months) = \$24,000

#### Range of Hours

When a range of hours is provided by the employer, ADFA requires the highest of the range to be used to calculate income. (i.e. if the verification states tenant works 35-40 hour per week, use 40 hours). In the event, using the highest of the range results in the household not being income eligible, ADFA requires the owner/agent to either obtain documented clarification from the employer indicating average hours worked per week, or obtain 2 months' worth of paystubs and determine an average hour worked per week based on the paystubs.

#### Year to Date Earnings

Annualizing Year to Date Earnings is a helpful tool in evaluating if there is any compensation received by the applicant/tenant that the employer may have forgotten to disclose. Owner/Agents must utilize ADFA "[Year to Date Clarification form](#)" to annualize YTD earnings and compare to anticipated wage information based on the Employment Verification form. If the annualized YTD earnings are greater than anticipated wage information, clarification must be obtained from the employer regarding the difference. If the employer states that the YTD is due to over-time pay, increased hours, etc, and the circumstances that resulted in the employee working overtime are not anticipated to recur in the next twelve months, YTD earnings should not be used to determine income from wages.

**Note:** It is important to collect the start date of the YTD earnings from the employer. Do not assume that the YTD period always starts on January 1<sup>st</sup>. Often the start period of the YTD earnings can be as early as December 4<sup>th</sup> of the prior calendar year.



## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Wages, cont.

##### **Raises**

If the third-party reports that the employee will receive an increase in the rate of pay in the next 12 months, the amount of the increase must be included when determining annual income.

##### **Example – Change in the Rate of Pay**

*Certification Date:* February 1<sup>st</sup>  
*Current Rate of Pay:* \$12.50 per hour, working 40 regular hours per week

*Raise Effective:* March 1<sup>st</sup>  
*Increase in Pay:* \$13.25 per hour, working 40 regular hours per week  
(February 1<sup>st</sup> – February 28<sup>th</sup> is 4 weeks)

*Anticipated Income:* \$12.50 (an hour) x 40 (hours) x 4 (weeks) = \$2,000  
\$13.25 (an hour) x 40 (hours) x 48 (weeks) = \$25,440

**Total: \$27,440** (\$2,000 + \$25,440 = \$27,440)

There are two additional areas related to an increase in wages that we need to pay close attention to:

1. Raises and Overtime Pay
2. Raises within Pay Stubs

##### **Raises and Overtime Pay**

If an employee is getting a raise and they are also earning overtime, the overtime rate will need to be increased based on the new hourly rate.

If an employer is paying overtime as time and a half, overtime can be calculated by multiplying the hourly rate of pay by 1.5.

**Note:** It is important to always verify the overtime rate of pay with the third-party and never assume that overtime is paid out as time and a half.

##### **Example – Change in the Rate of Pay (with Overtime)**

*Certification Date:* February 1<sup>st</sup>  
*Current Rate of Pay:* \$11 per hour, working 40 regular hours per week  
*Current OT Pay:* \$16.50 per hour, working 5 hours per week

*Raise Effective:* March 1<sup>st</sup>  
*Increase in Pay:* \$12 per hour, working 40 regular hours per week  
*Increase in OT Pay:* \$18 (\$12 x 1.5 = \$18) per hour, working 5 hours per week  
(February 1<sup>st</sup> – February 28<sup>th</sup> is 4 weeks)

*Anticipated Income:* \$11 (an hour) x 40 (hours) x 4 (weeks) = \$1,760  
\$16.50 (an hour) x 5 (hours) x 4 (weeks) = \$330  
\$12 (an hour) x 40 (hours) x 48 (weeks) = \$23,040  
\$18 (an hour) x 5 (hours) x 48 (weeks) = \$4,320

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Wages, cont.

##### **Raises, cont.**

##### **Raises within Pay Stubs**

Pay stubs are often used to verify and calculate annual income. If pay stubs are being used, it is important to look for any changes in the rate of pay within those pay stubs.

In addition to reviewing income figures reported on the pay stubs, it is important to take note of other items of importance that may be reflected on the pay stub, such as:

- Marital Status
- Additional Assets (i.e., 401(k), Checking/Savings Accounts, etc.)

##### **Example – Change in the Rate of Pay Within Pay Stubs**

*An applicant is moving in on July 1<sup>st</sup>. The applicant provides the manager four (4) of their most recent bi-weekly pay stubs which provides the following information:*

*Pay Stub #1: \$14 Per Hour; 75 Hours Worked; Gross Pay: \$1,050*

*Pay Stub #2: \$14 Per Hour; 80 Hours Worked; Gross Pay: \$1,120*

*Pay Stub #3: \$14 Per Hour; 78 Hours Worked; Gross Pay: \$1,092*

*Pay Stub #4: \$15 Per Hour; 76 Hours Worked; Gross Pay: \$1,140*

*Since there is a change in the rate of pay within the pay stubs, instead of averaging the gross pay, we would instead determine the average number of hours worked and then multiply the average number of hours worked by the higher pay.*

*75 + 80 + 78 + 76 = 309 (Hours Worked)*

*309(Hours Worked) ÷ 4 (Bi-weekly Pay Stubs) = 77.25 (Average Hours Per Pay Period)*

*\$15 (an hour) × 77.25 (hours) × 26 (Pay periods) = **\$30,127.50***

#### **AFDA Form 504 Employment Verification**

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Self-Employment

Self-employment income refers to the earnings generated by individuals who work for themselves rather than for an employer. This type of income is derived from entrepreneurial activities such as freelancing, consulting, owning a business, or providing services independently.

When calculating income from a business or self-employment, only include the **net income** from the business, not the gross income.

$$\text{Net Income} = \text{Gross Income} - \text{Business Expenses}$$

In addition to the net income, make sure to **INCLUDE** the following:

- Any wages, contract labor, or other amounts dispersed to household members
- Cash or assets withdrawn by household members
  - Exception: If the withdrawal is a reimbursement of cash or assets invested in the business, then the withdrawals **are not** included in income.



When calculating net income **DO NOT DEDUCT** the following:

- Principal payments on loans
- Depreciation computed on an accelerated basis
- Interest on loans for business expansion or capital improvements
- Other expenses for business expansion or outlays for capital improvements



#### **Example #1 – Determining Income from Self-Employment**

*Sterling is self-employed and his business has been in operation since 2010.*

*Sterling's annual gross income from his business is \$48,000, and the annual net income is \$22,000.*

*Sterling also pays himself \$10,000 annually in wages. He has no other income.*

*In this example, \$22,000 would be counted as the net income from the business, and \$10,000 would be counted as wages, resulting in an annual income of **\$32,000**.*

#### **Example #2 – Determining Income from Self-Employment**

*Myra is self-employed and her business has been in operation since 2012.*

*Myra's annual gross income from her business is \$28,000, and the annual net income is \$12,000.*

*Each month Myra withdraws \$1,000 in cash from the business (\$12,000 annually). She clarifies that the withdrawals are not a reimbursement of cash invested in the business.*

*In this example, \$12,000 would be counted as net income from the business, and \$12,000 would be counted as other income, resulting in an annual income of **\$24,000**.*

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Self-Employment, cont.

##### Negative Income from a Business

If the net income from the business is a negative amount, then the income from the business will be counted as **zero**. The negative income from the business cannot be used to offset other household income.

In these circumstances, even though no income will be counted from this source, documentation of the negative income must be maintained in the file.

##### **Example #1 – Determining Income from Self-Employment (Negative Income)**

*Quinton is self-employed and her business has been in operation since 2015. Quinton's annual gross income from her business is \$15,000 and the net income is \$-5,000.*

*Quinton's husband, Eli, is employed and earns \$36,000 annually. The household has no other income.*

*In this example, \$0 would be counted as the net income from the business and \$36,000 would be counted for Eli's wages, resulting in an annual income of **\$36,000**.*

##### **Example #2 – Determining Income from Self-Employment (Negative Income)**

*Jaxon is self-employed and his business has been in operation since 2016. Jaxon's annual gross income from his business is \$58,000 and the net income is \$-15,000.*

*A review of documentation provided by Jaxon indicates that Jaxon is paying himself wages in the amount of \$10,000 annually.*

*In this example, \$0 would be counted as net income from the business and \$10,000 would be included from Jaxon's salary, resulting in an annual income of **\$10,000**.*

##### Historical Information

We can look to the past to help us predict the future when determining self-employment income. This can be accomplished by evaluating past tax returns, financial statements, etc., and consulting with the applicant/tenant to project income for the next 12 months.

It is important to ensure that the documents provided, such as tax returns, encompass a full year of income. If the documentation provided does not encompass a full year, the income must be annualized to reflect an entire year's worth of income.

It is also important to have the applicant/tenant certify whether they expect the business to produce the same amount of income, or more, in the next 12 months.

##### **Example – Determining Income from Self-Employment (Annualizing Income)**

*Sue is applying to move into a unit on February 1<sup>st</sup>. Sue is self-employed, and her business began operations on July 1<sup>st</sup> (of the prior year).*

*Sue provided the manager her prior year tax returns which reflected a gross annual income of \$30,000 and an annual net income of \$20,000.*

*In this example, **\$40,000** would be counted as the net income from the business, as the prior year tax returns only reflected 6 months of income earned. The income needs to be annualized to encompass an entire year. ( $\$20,000 \div 6 \text{ (months)} \times 12 \text{ (months)} = \$40,000$ )*



## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Self-Employment, cont.

Below are highlighted items to be aware of when reviewing an **IRS 1040 (Page 2)**.

**Form 1040 (2023) Page 2**

**Tax and Credits**

16 Tax (see instructions). Check if any from Form(s): 1  8814 2  4972 3  . . . . . 16

17 Amount from Schedule 2, line 3 . . . . . 17

18 Add lines 16 and 17 . . . . . 18

19 Child tax credit or credit for other dependents from Schedule 8812 . . . . . 19

20 Amount from Schedule 3, line 8 . . . . . 20

21 Add lines 19 and 20 . . . . . 21

22 Subtract line 21 from line 18. If zero or less, enter -0- . . . . . 22

23 Other taxes, including self-employment tax, from Schedule 2, line 21 . . . . . 23

24 Add lines 22 and 23. This is your **total tax** . . . . . 24

**Payments**

25 Federal income tax withheld from:

a Form(s) W-2 . . . . . 25a

b Form(s) 1099 . . . . . 25b

c Other forms (see instructions) . . . . . 25c

d Add lines 25a through 25c . . . . . 25d

26 2023 estimated tax payments and amount applied from 2022 return . . . . . 26

27 Earned income credit (EIC) . . . . . 27

28 Additional child tax credit from Schedule 8812 . . . . . 28

29 American opportunity credit from Form 8863, line 8 . . . . . 29

30 Reserved for future use . . . . . 30

31 Amount from Schedule 3, line 15 . . . . . 31

32 Add lines 27, 28, 29, and 31. These are your **total other payments and refundable credits** . . . . . 32

33 Add lines 25d, 26, and 32. These are your **total payments** . . . . . 33

**Refund**

34 If line 33 is more than line 24, subtract line 24 from line 33. This is the amount you **overpaid** . . . . . 34

35a Amount of line 34 you want **refunded to you**. If Form 8888 is attached, check here . . . . . 35a

b Routing number . . . . . c Type:  Checking  Savings

d Account number . . . . .

36 Amount of line 34 you want **applied to your 2024 estimated tax** . . . . . 36

**Amount You Owe**

37 Subtract line 33 from line 24. This is the **amount you owe**. For details on how to pay, go to [www.irs.gov/Payments](http://www.irs.gov/Payments) or see instructions . . . . . 37

38 Estimated tax penalty (see instructions) . . . . . 38

**Third Party Designee**

Do you want to allow another person to discuss this return with the IRS? See instructions . . . . .  Yes. Complete below.  No

Designee's name . . . . . Phone no. . . . . Personal identification number (PIN) . . . . .

**Sign Here**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature . . . . . Date . . . . . Your occupation . . . . . If the IRS sent you an Identity Protection PIN, enter it here (see inst.) . . . . .

Joint return? See instructions. Keep a copy for your records.

Spouse's signature. If a joint return, **both** must sign. . . . . Date . . . . . Spouse's occupation . . . . . If the IRS sent your spouse an Identity Protection PIN, enter it here (see inst.) . . . . .

Phone no. . . . . Email address . . . . .

**Paid Preparer Use Only**

Preparer's name . . . . . Preparer's signature . . . . . Date . . . . . PTIN . . . . . Check if:  Self-employed

Firm's name . . . . . Phone no. . . . .

Firm's address . . . . . Firm's EIN . . . . .

Go to [www.irs.gov/Form1040](http://www.irs.gov/Form1040) for instructions and the latest information. Form **1040** (2023)

If the tax refund is being direct deposited into a checking or savings account, make sure this asset was also disclosed by the applicant/tenant and clarify any discrepancies.

Income tax returns must include third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.)

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Self-Employment, cont.

##### Gig Income

Gig income is income earned from people providing on-demand work, services, or goods, referred to as “gig work.” Typically, this type of work can be documented through a digital platform such as an app or website.

Some examples of gig income include, but are not limited to:

- Ridesharing services (e.g., Lyft and Uber)
- Delivery services (e.g., Postmates, Grubhub, and DoorDash)
- Running errands or performing tasks (e.g., Task Rabbit and Upwork)
- Selling goods online (e.g., eBay and Poshmark)
- Providing creative services online (e.g., Twitch and OnlyFans)
- Property and space rentals (e.g., Airbnb)

Gig work is performed by independent contractors.

An independent contractor is defined as being “An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.”

As gig workers are independent contractors, they are considered self-employed, and their income must be calculated and documented as such.



##### Upwork

Upwork is a platform that allows “freelancers” to apply for contract work.

- Freelancers, including those who earned more than \$600, will not receive a Form 1099-MISC from Upwork.



##### IMPORTANT

The IRS has delayed their requirement for third party settlement organizations such as Upwork to report transactions of at least \$600. You will still receive a Form 1099-K if you are a U.S. Person and receive at least \$20,000 in payments from your clients on Upwork in 2022 that included 200 or more transactions. If you reach this amount, you will receive a Form 1099-K from Upwork in 2023 for your 2022 transactions.

- For income verification purposes, freelancers can access the following reports (which contains hour-based information in a weekly summary):
  - Transaction History – An itemized history of all earnings and payments
  - Earnings and Billings – View a total of all earnings or the ability to see earnings, by client, for up to the past 3 years
  - Certificate of Earnings – A downloadable PDF of the last 12 months earnings

Note: Freelancer Plus members have the ability to customize the reports using filters and date range options.

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Self-Employment, cont.

##### Gig Income, cont.

###### TaskRabbit

TaskRabbit is an application platform that allows “Taskers” (aka contractors) to perform tasks for a fee.

Tasks can include moving assistance, furniture assembly, yard work, minor home repairs, house cleaning, and running errands. Each task pays a different rate depending on the type of task. Taskers can also receive tips.



Taskers are paid from the client via credit card or debit card as TaskRabbit is a cashless platform.

Taskers will receive a 1099-K if the individual earns more than \$5,000, and performs more than 200 tasks in the calendar year.

Taskers can access their earnings histories, by logging into their account and viewing their transactions. The Tasker can export their transactions to a PDF report which can be emailed.

###### OnlyFans

OnlyFans is a subscription-based social media platform that allows followers or “fans” or “users” to pay for access of restricted content by a “Creator”.

##### How do Creators make money?

1. Fans will pay a monthly subscription (e.g., \$4.99 to \$50). Creators can also create bundles where fans can buy a subscription for 2 or more months at once (maximum bundle price is \$250).
2. Pay-Per-View (PPV) content (up to \$50 per user access)
3. Private Messages/Media (up to \$100 per private message/media)
4. Tips (no minimum or maximum)



Creators receive 80% of the revenue on their earnings from their subscriptions, paid messages, and from their tips. The remaining 20% goes to cover referral payments, payment processing, hosting, support, and all other services provided by the platform.

##### How is income documented?

Creators will receive an IRS Form 1099 if they have earned and withdrawn more than \$600 in the previous year.

Proof of income from OnlyFans can be located on the Creator’s Earning Statistics page.

###### Twitch

Twitch is an online platform for live streaming.

Twitch allows users to pay to watch an “Affiliate” play video games, chat, interact, and make their own entertainment together (e.g., perform music, share food and drink recipes, provide podcasts and talk shows, etc.).

The income received by the Twitch Affiliate (the streamer) is included as income. As the amount can vary each month, the best approach would be to look at the Affiliate’s streaming revenue for the last 12 months or from the date they began streaming, whichever is shorter, as well as collect the prior year’s 1099 if they have been streaming long enough to file income taxes.



Below is a link that provides information to the Affiliate on accessing their payout screen:

[https://help.twitch.tv/s/article/payout-history-dashboard-guide?language=en\\_US](https://help.twitch.tv/s/article/payout-history-dashboard-guide?language=en_US)

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Self-Employment, cont.

##### Gig Drivers



One very common source of gig income is from gig driving. This could be a drive-partner for Uber and Lyft, but also could include food delivery and other delivery drivers such as UberEats, Grubhub, DoorDash, Postmates, and so on.

Gig drivers (or cyclists) are considered self-employed and their income must be calculated and documented as such.

Many drivers will drive for more than one ride-share service, so it is critical to ensure that an applicant or tenant discloses all driving gigs so that income can be projected as accurately as possible.

##### Common Expenses for Drivers

- Driver Partner fees
  - Refreshments for passengers
  - Toll and parking fees
  - Chargers and cell phone mounts
  - Cell phone (only portion used for business purposes)
  - Business use of car (either actual expense or standard IRS mileage rate)
- Note: Actual expenses include gas, repairs, maintenance, insurance, etc.



The following pages will outline some ways to document information from the common gig driving/ridesharing services.

#### Uber & Uber Eats



- 📄 Drivers can access their 1099 and a tax summary through their online driver accounts. The driver can access their tax summaries by logging in to [drivers.uber.com](https://drivers.uber.com) and clicking on "Tax Summary".
  - The tax summary will provide information on expenses, such as driver fees and mileage. The annual Tax Summary will be released in February for the previous year.
- 📄 Drivers can always access their monthly tax statements through their online account. Each tax statement is available a week after the month ends. The driver can also access these monthly tax statements by signing in to [drivers.uber.com](https://drivers.uber.com) and clicking on "Tax Information".

##### Uber Tax Information Webpages:

<https://www.uber.com/us/en/drive/tax-information>

<https://help.uber.com/driving-and-delivering/article/monthly-tax-statement?nodeId=04d7218e-383a-442e-bb6b-d0cc98994826>

<https://www.uber.com/us/en/drive/tax-information/faq-and-resources/#:~:text=All%20drivers%20and%20delivery%20people%20will%20receive%20a%20tax%20summary,of%20drivers.uber.com>

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Self-Employment, cont.

##### Gig Drivers, cont.

###### DoorDash

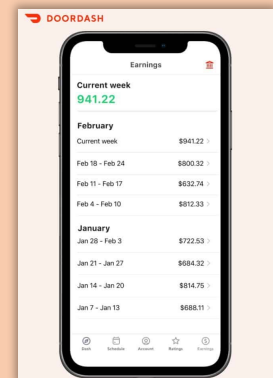
- In the United States, all Dashers that earn \$600 or more within a calendar year will receive a 1099-MISC from Payable.com.
- Dashers can access earnings statements on their user account. Instructions can be found here: [https://help.doordash.com/dashers/s/article/Dasher-Earnings-Statements?language=en\\_US](https://help.doordash.com/dashers/s/article/Dasher-Earnings-Statements?language=en_US)



###### DoorDash Information Webpages:

[https://help.doordash.com/dashers/s/article/Common-Dasher-Tax-Questions?language=en\\_US&topicId=0TO1a0000007fAvGAI&topicName=Earn%20and%20Get%20Paid](https://help.doordash.com/dashers/s/article/Common-Dasher-Tax-Questions?language=en_US&topicId=0TO1a0000007fAvGAI&topicName=Earn%20and%20Get%20Paid)

<https://support.stripe.com/express/questions/guide-to-1099-tax-forms-for-doordash-dashers>



###### GrubHub



- Drivers can access the last eight (8) pay summaries in the GrubHub drivers app or in their email every Tuesday morning. It should be noted that the pay summaries do not have the driver's name listed. It is recommended that management also acquire bank statements to match the summary amounts to deposit amounts in the driver's bank account.
- For more information on accessing this information direct drivers to visit the following website: <https://driver-support.grubhub.com/hc/en-us/articles/360035686912-Can-you-provide-proof-of-Grubhub-employment->

###### Amazon Flex

- Amazon Flex drivers can access their weekly earnings summaries through the Flex driver app.
- For more information on Amazon Flex, Earnings and other topics, drivers can visit <https://flex.amazon.com/faq>.



## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Military Pay

An applicant or tenant receives military pay when they are enlisted in the following military branches:



- Army
- Navy
- Air Force
- Coast Guard
- Marine Corps
- National Guard
- Space Force
- Reserves



#### Types of Military Pay and Allowances

##### Allowances:

All allowances must be included in determining income. This includes, but is not limited to:

- Basic Allowance for Sustenance (BAS)
- Family Separation Allowance (FSA)
- Overseas Cost-of-Living Allowances (COLA)
- Basic Allowance for Housing (BAH)
- Clothing Allowance

##### Example – Leave and Earnings Statement Shows Clothing Allowance

*On the Leave and Earnings Statement (LES) the total monthly amount showed \$2,398 but that included \$637 for a Clothing Allowance which is paid out once a year for the military branch.*

*To anticipate the annual income the manager must do the following:*

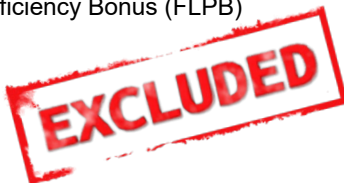
*\$2,398 (Monthly Amount) - \$637 (Clothing Allowance) = \$1,761 (Adjusted Monthly Amount)*

*\$1,761 (Adjusted Monthly Amount) × 12 (Months) = \$21,132 (Annual Amount without the Clothing Allowance)*

##### Regular & Special Pay:

In general, all regular and special pay must be included in determining income. This includes but is not limited to:

- Basic Pay
- Career Sea Premium Pay (CSPP)
- Hardship Duty Pay (HDP)
- Entitlement to Foreign Language Proficiency Bonus (FLPB)
- Career Sea Pay (CSP)
- Imminent Danger Pay (IDP)
- Hazardous Duty Incentive Pay (HDIP)



The only type of military pay that is **EXCLUDED** from the determination of annual income is **HOSTILE FIRE PAY (HFP)**.

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Earned Income: Military Pay

Below is an example of a Leave and Earnings Statement, with highlighted key items to be aware of when reviewing the statement.

#### Leave & Earnings Statement

This is the date the member entered active duty.

This is the period covered by the individual LES. Normally it will be for one calendar month. If this is a separation LES, the separation date will appear in this field.

DEFENSE FINANCE AND ACCOUNTING SERVICE MILITARY LEAVE AND EARNINGS STATEMENT																													
ID	NAME (Last, First, MI)	SOC. SEC. NO.	GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADSN/DSSN	PERIOD COVERED																				
			E3	120123	00		NAVY		1-31 DEC 12																				
ENTITLEMENTS			DEDUCTIONS			ALLOTMENTS			SUMMARY																				
Type	Amount	Type	Amount	Type	Amount																								
A	BASE PAY		1757.40	FICA-SOC SECURITY	69.61	BANK ACCT ALLOT		1203.00																					
B	BAS		348.44	FICA-MEDICARE	24.03																								
C	BAH		1050.00	SGLI	27.00																								
D	FSH		250.00	AFRH	.50																								
E				SGLI FAM/SPOUSE	5.00																								
F				MGIB	100.00																								
G				MEAL DEDUCTION	306.90																								
H				TSP	527.22																								
I				MID-MONTH-PAY	576.50																								
J																													
K																													
L																													
M																													
N																													
O																													
<b>TOTAL</b>			3405.81				1636.76				1203.00																		
<b>LEAVE</b>		BF Bal	8.0	Ernd	7.5	Used	0	Cr Bal	15.5	ETS Bal	107.5	Lv Lost	.0	Lv Paid	.0	Use/Lose	.0	FED TAXES	1130.18	Wage Period	15976.07	M/S	M	Ex	04	Add'l Tax	.00	Tax YTD	.00
<b>FICA TAXES</b>		Wage Period	1657.00	Soc Wage YTD	18700.04	Soc Tax YTD	785.40	Med Wage YTD	18700.04	Med Tax YTD	271.15	STATE TAXES	TX	Wage Period	.00	Wage YTD	.00	M/S	S	Ex	01	Tax YTD	.00						
<b>PAY DATA</b>		BAQ Type	WIDE	BAQ Deprn		VHA Zip		Rent Amt		Share	1	Stat	R	JFTR	Depns	0	2D JFTR		BAS Type		Charity YTD	.00	TPC		PACIDN				
<b>C SAVINGS PLAN (TSP)</b>		Base Pay Rate	30	Base Pay Current	.00	Spec Pay Rate	0	Spec Pay Current	.00	Inc Pay Rate	0	Inc Pay Current	.00	Bonus Pay Rate	0	Bonus Pay Current	.00												
				TSP YTD Deductions		2723.97		Deferred		2723.97		Exempt		00															

Entitlements and allowances being paid are listed here. All regular pay, special pay and allowances must be included when determining income, except for Hostile Fire Pay (HFP)

A code that indicates the type of dependent.

Deductions are listed here. Look for "TSP" This stands for Thrift Savings Plan which is a government-sponsored retirement savings and investment plan. This could be an asset depending on access and may need to be included as an asset when determining annual income

Allotments being deducted are listed here. This includes discretionary and non-discretionary allotments for savings and/or checking accounts, insurance, bonds, etc.

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Social Security

##### Gross Benefits

For an individual receiving Social Security benefits, count the **full benefit amount** before any deductions for Medicare.

The full benefit includes any cents!



##### Garnishments

If the Social Security recipient is having a portion of their monthly benefit garnished due to unpaid child support, alimony, or student loans, the garnished amount must be **included** when determining annual income.

##### **Example – Social Security Garnishments**

*Curtis receives Social Security benefits. He provides a benefit letter to the manager which indicates that gross monthly benefit amount is \$550. The benefit letter goes on to state that, “This is after we withheld \$200 for your obligation for alimony”.*

*In this example, \$750 per month, would be included for Curtis when determining annual income from this source as the garnished amount must be **included** as income.*

##### Delayed Benefits

Often, when an individual is denied Social Security, the individual will appeal the decision with the Social Security Administration (SSA). If the individual wins their appeal, generally, the SSA will award the individual benefits retroactively to the date of the individual's application for benefits. These delayed amounts must be **excluded** when determining annual income.

##### **Example – Social Security Delayed Benefits**

*Annie receives Social Security benefits. Each month she receives a gross benefit amount of \$874; \$674 is her regular benefit amount and \$200 is due to delayed benefits.*

*In this example, only \$674 per month would be included for Annie when determining income from this source as the \$200 amount is due to a delay in benefits and must be **excluded**.*

##### Adjustment for Past Overpayments

If a Social Security recipient has their benefit amount reduced each month to adjust for a prior overpayment, only the amount that is actually provided after the adjustment for the overpayment is **included** when determining annual income.

##### **Example – Adjustment for Prior Overpayment of Benefits**

*Lee Park's social security payment of \$250 per month is being reduced by \$25 per month for a period of six months to make up for a prior overpayment.*

*Count his social security income as \$225 per month for the next six months and as \$250 per month for the remaining six months.*

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

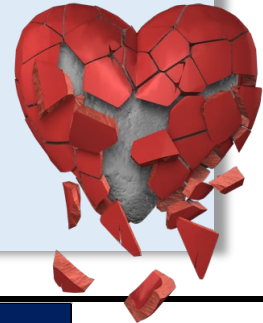
#### Unearned Income: Social Security, cont.

##### Federal, State, Local Government, Social Security, or Private Pensions Being Paid Directly to a Former Spouse

In some cases, due to a divorce, annulment, or legal separation, an applicant/tenant may have a government or private pension that is required to be paid directly to an applicant's/tenant's former spouse.

In such instances, only the amount that the applicant/tenant receives is included; the amount paid directly to the former spouse is not counted as annual income.

**Note:** This is different than an individual having their benefit amount garnished due to back alimony or child support.



#### Cost-of-Living Adjustment (COLA)

Each October, the Social Security Administration (SSA) publishes a news release announcing the amount of a COLA that will apply to benefits, beginning the next calendar year.

Once the information is published by the SSA, it is considered “verifiable,” and the COLA must be **included** when determining annual income. (Exceptions apply for HUD Project Based Section 8 (PBS8).)

Make sure to include a copy of the SSA COLA press release in any applicant/tenant file, where the COLA has been imputed when calculating income from this source.

To determine the benefit amount after the increase, either:

1. Multiply the benefit amount by the COLA % to get the amount of increase. Then add the amount of increase to the current benefit to determine the new benefit amount, **OR**
2. Multiply the benefit amount by 1 plus the COLA % expressed as a decimal (i.e., 3.2% = 1.032)

Year	COLA Percentage
2010	0.00%
2011	0.00%
2012	3.60%
2013	1.70%
2014	1.50%
2015	1.70%
2016	0.00%
2017	0.30%
2018	2.00%
2019	2.80%
2020	1.60%
2021	1.30%
2022	5.90%
2023	8.70%
2024	3.20%
2025	2.50%

##### Example – Social Security COLA Increase

On October 12, 2023, Social Security Administration (SSA) announced an 3.2% COLA increase for benefit recipients for the next calendar year.

Paul, who is applying for housing, has a current Social Security benefit in the amount of \$1,256 a month and he wants to move-in on December 1st.

In this example, management would count one month at \$1,256 and 11 months at \$1,296.19 ( $\$1,256 \times 3.2\% = \$40.19$ ;  $\$1,256 + \$40.19 = \$1,296.19$ ).

#### Interpreting Social Security Letters

##### Include the following:

- Gross Benefits
- Garnishments
- Cost-of-Living Adjustments (COLA)

##### Exclude the following:

- Delayed Benefits
- Adjustments for Prior Overpayments

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Social Security, cont.

##### Benefit Letter Examples

The following pages include examples of excerpts from Social Security Benefit Letters

##### SSA Letter Excerpt: **Gross Benefit Amount & Medicare Premium**

Use the **FULL GROSS** benefit amount before Medicare Deduction. **This includes the cents!**

Beginning January 2024, the full monthly Social Security Benefit before any deductions is .....\$604.20

We Deduct **\$134.00** for medical insurance premiums each month.

The regular monthly Social Security payment is ..... \$470.00  
(We must round down to the whole dollar.)

Social Security benefits for a given month are paid on the following month. (For example, Social Security Benefits for March are paid in April.)

Your Social Security benefits are paid on or about the third of each

##### **For RD, HUD and HOME (if applicable) only:**

If the head, co-head, or spouse of the head is 62 years of age or disabled, the amount of the medical premium is included as a medical expense when determining adjusted income.

##### SSA Letter Excerpt: **Garnishment – Example 1**

Beginning January 2024, the full monthly Social Security Benefit before any deductions is .....\$450.20

This is after we withheld **\$200.00** for your obligation for child support

We Deduct 0.00 for medical insurance premiums each month.

The regular monthly Social Security payment is ..... \$450.00  
(We must round down to the whole dollar.)

Social Security benefits for a given month are paid on the following month. (For example, Social Security Benefits for March are paid in April.)

Your Social Security benefits are paid on or about the third of each

The amount of garnished benefits must be added to the gross benefit amount (i.e.,  $\$450.20 + \$200 = \$650.20$ ).

**\$650.20** is the monthly income that will be used to determine annual income.

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Social Security, cont.

#### Benefit Letter Examples, cont.

##### SSA Letter Excerpt: Garnishment – Example 2

More recently, we are seeing information regarding garnishments provided in separate letters and not reflected in the monthly benefit amount stated on the benefit letters.

We are writing to you about court order number XXXXXXXXXXXXXXXX concerning your responsibility for child support, alimony or court ordered victim restitution.

#### What We Plan To Do

We have been ordered to take \$502.50 from each monthly payment you are due to pay your obligation for child support, alimony or court ordered victim restitution. We withheld \$502.50 from the payment you will receive around December 31, 2020. After that we will withhold \$502.50 each month. You will receive another letter showing the payment amount you will receive.

#### Information About Current Social Security Benefits

Beginning December 2020, the full monthly Social Security benefit before any deductions is \$1,471.60.

We deduct \$0.00 for medical insurance premiums each month.

The regular monthly Social Security payment is \$1,471.00.  
(We must round down to the whole dollar.)

In such instances, obtain documentation, such as a bank account statement to determine whether or not the amount listed as the benefit amount listed on the benefit letter is before or after the garnishment.

In this example, we can see that the garnished amount (\$502.50) is taken from the benefit amount of \$1,471.60 reflected on the benefit letter excerpt provided above; meaning, the benefit amount reflected of \$1,471.60 is the benefit amount before the garnishments are applied. ( $\$1,471.00 - \$502.50 = \$968.50$ )

Amount	\$968.50
Transaction Date	12/31/2020
Type	Deposit
Merchant Name	SSA

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Social Security, cont.

##### Benefit Letter Examples, cont.

###### SSA Letter Excerpt: Delayed Benefits

Beginning January 2024, the full monthly Social Security Benefit before any deductions is .....\$578.20

We Deduct \$0.00 for medical insurance premiums each month.

The regular monthly Social Security payment is ..... \$578.00  
(We must round down to the whole dollar.)

Social Security benefits for a given month are paid on the following month. (For example, Social Security Benefits for March are paid in April.)

Your Social Security benefits are paid on or about the third of each month.

Information about current SSI payments

Beginning January 2024, the full monthly Social Security Disability Benefit before any deductions is ..... \$ 265.80

Of this amount, \$100 represents periodic payments until the remainder of the delayed benefits are paid. This is estimated to end on May 1st, 2029.

The amount that represents delayed benefits must not be included when determining income from this source. Since it states, "Of this amount (referencing the above SSD amount of \$265.80) \$100 represents periodic payments until the remainder of delayed benefits are paid," this means that we would subtract the amount of the delayed benefit (\$100) from the SSD amount of \$265.80. **\$165.80** is the monthly income that would be counted from SSD (\$265.80 – \$100 = \$165.80).

###### SSA Letter Excerpt: Overpayments Example

Beginning January 2024, the full monthly Social Security Benefit before any deductions is .....\$649.20

We Deduct \$0.00 for medical insurance premiums each month.

The regular monthly Social Security payment is ..... \$649.00  
(We must round down to the whole dollar.)

Social Security benefits for a given month are paid on the following month. (For example, Social Security Benefits for March are paid in April.)

Your Social Security benefits are paid on or about the third of each month.

Information about current SSI payments

Beginning January 2024, the full monthly Social Security Disability Benefit before any deductions is ..... \$ 265.80

This is after we withheld \$100.00 to make up for a prior over-payment. We will continue to withhold \$100.00 each month until the total amount is repaid. This is estimated to end on July 1st, 2029.

Only count the benefit amount **AFTER** the adjustment for a past overpayment has been made. Since it states, "This is after we withheld \$100 to make up for a prior over- payment," this means that the adjustment has already been made and is reflected in the \$265.80. In this scenario, **\$265.80** would be counted from SSD.

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

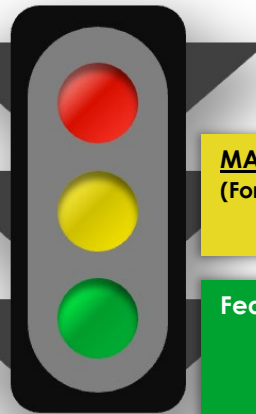
#### Unearned Income: Welfare/Public Assistance

The type of assistance that a household receives will determine whether or not the assistance will need to be included when determining income.

**Federal welfare programs are generally lumped into 13 categories.**

#### **Federally EXCLUDED**

1. Earned Income Tax Credit (EITC), and the Child Tax Credit
2. SNAP Supplemental Nutrition Assistance Program (Food Stamps)
3. Federal Housing Assistance
4. Child Nutrition Food Programs
5. Head Start
6. Job Training Programs
7. WIC (Women, Infants, and Children)
8. Child Care
9. Low-Income Home Energy Assistance Program (LIHEAP)
10. Lifeline Cell Phone



#### **MAY Need to Include (For Section 8 Recipients Only)**

11. Pell Grants

#### **Federally INCLUDED**

12. Supplemental Security Income (SSI)
13. Temporary Assistance for Needy Families (TANF)

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Cash and Non-Cash Contributions

When determining annual income, include **ALL recurring cash and non-cash contributions** provided to the household, from someone outside of the household, unless the contribution is:

- In the form of groceries (not in cash for groceries)
- Paid directly to the childcare provider on behalf of a household
- In-Kind donations from a food bank or similar organization



#### Example – Cash Contributions

Norma receives the following monthly cash contributions from her adult daughter, Leah, who does not live in the unit:



- \$80 for her cell phone bill
- \$100 for groceries and toiletries
- \$100 to pay for her car insurance
- \$20 for gas money

In this example all of the above contributions, a total of **\$300** monthly, would be **included** when determining the annual income for Norma.

#### Example – Non-Cash Contributions

Shane receives monthly non-cash contributions from his mom, Deidre, who does not live in the unit:

- \$75 worth of toiletries
- \$80 worth of clothing
- \$30 worth of comic books
- \$10 worth of lottery tickets

In this example, all of the above contributions, a total of **\$195** monthly, would be **included** when determining annual income for Shane.



#### Example – Cash & Non-Cash Contributions Exclusions

Tennessee is applying for a unit with her 2-year-old daughter, Elle, and advises she receives the following contributions each month from her father, Sam, who does not reside in the unit.

- \$200 worth of groceries
- \$275 for daycare cost, which Sam pays directly to the daycare provider

In this example, all of the above contributions would be **excluded** when determining the annual income for Tennessee.



#### Example – Non-Cash Contributions

Bessie receives the following monthly non-cash contributions.

- \$75 worth of food from the local food bank
- \$50 worth of toiletries from the local food bank
- \$50 worth of toiletries from her mother (who does not live in the unit)

In this example, the two non-cash contributions received from the food bank are **excluded** as income; however, the non-cash contribution received from her mother must be **included** as income.

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Cash and Non-Cash Contributions, cont.

##### **Nonrecurring Income Defined**

“Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income.” – 24 CFR 5.609(b)(24)

##### **Example – Nonrecurring Income**

*Tracy’s mother is providing Tracy \$1000 in cash to assist Tracy with moving expenses. As this is a one-time contribution that is not expected to recur beyond the coming year, this contribution is excluded when determining income*

##### **Example – Recurring Income**

*Donald reports that he solicits donations online through GoFundMe. Over the past six months, he has conducted three fundraising campaigns, receiving a total of \$15,000. Because a clear pattern of solicitations has been established, these donations must be considered recurring income*

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Child Support & Alimony

##### Court Ordered Support

HOTMA has revised the treatment of child support and alimony, making Paragraph 5-6 F of the HUD Handbook 4350.3 no longer applicable.

Under the new regulations, if a household is not receiving child support, no income from this source will be counted. This applies **regardless** of whether the household has taken reasonable legal action, such as filing with appropriate courts or enforcement agencies, to collect the amounts owed to them.

The court ordered amount has no bearing on the amount of income counted from child support.



##### **Example – Court-Ordered Support – No Support Received**

*Anna is court ordered to receive child support in the amount of \$983 per month. Anna certifies that she has not received any payments to-date; however, she has not taken all reasonable legal actions to collect the money that is due to her.*

*In this example, management **would not** include any child support when anticipating income for this source for Anna's household.*

##### **Example – Court-Ordered Support – Some Support Received**

*Avery is court-ordered to receive child support in the amount of \$700 per month; however, he is only receiving \$350 per month in child support even though he has not taken all legal action to collect the money due to him.*

*In this example, management **would not** count the \$700 per month when determining annual income since Avery is only receiving \$350. We would use the **\$350** actually received each month when determining annual income.*

##### **Example – Court-Ordered Support – Some Support Received**

*Molly is court-ordered to receive child support in the amount of \$300 per month; however, she is only receiving \$100 per month in child support even though she has taken all legal action to collect the money due to her.*

*In this example, management **would not** count the \$300 per month when determining annual income since Avery is only receiving \$100. We would use the **\$100** actually received each month when determining annual income.*

##### Non-Court-Ordered Support

Some individuals may receive child support that is not court-ordered. Therefore, it is essential to ensure that the application/questionnaire not only inquires about court-ordered support but also asks if the applicant/tenant receives support that is not court-ordered.

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Child Support & Alimony

##### **Varied Court-Ordered Payments**

When a 12-month history is obtained from Child Support Enforcement, and the amount of the monthly payments varies, determine annual income by averaging the monthly payments. If using the 12-month average puts the household over the income limit, additional clarification can be obtained from the applicant or tenant as to why the 12-month average is not representative of what they anticipate receiving for child support over the next 12 months.

##### **Example – Child Support – Varied Amounts**

*Stevie wants to move in on January 1<sup>st</sup>. Stevie has a court order for child support in the amount of \$475 monthly, which began in March of the previous year. Stevie certifies that she is not receiving the full amount of court-ordered support but does have an active case with Child Support Enforcement. She provides a printout from Child Support Enforcement which reports the amounts actually received by Stevie for the previous year.*

March	\$290	August	\$175
April	\$300	September	\$250
May	\$425	October	\$190
June	\$0	November	\$300
July	\$320	December	\$100

*In this example, divide the total amount of support received by the number of months that the support was received in order to determine a monthly average. Multiply the monthly average by 12 months to determine the annual income.*

*Total amount of support received in the last 12 months: \$2,350*

*$\$2,350 \div 10$  (months – March through December) = \$235*

*$\$235 \times 12$  (months) = \$2,820 (annual income from child support)*

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Child Support & Alimony

##### Alimony

The treatment of alimony mirrors the requirements for child support.

All states have statutes allowing for alimony or spousal support; however, these statutes differ state-to-state regarding the type of alimony allowed, as well as the requirements that must be met in order to receive alimony.

In general, there are five types of alimony:

Alimony Type	Brief Description
Temporary Alimony ( <i>alimony pendente lite</i> )	This is an ongoing payment that is made when a couple is separated or in divorce proceedings, but not yet divorced. It can also include payment for divorce costs and daily expenses, and it continues until the court determines permanent alimony.
Permanent Alimony	This is what most people typically think of when they refer to alimony. It is the amount awarded after the conclusion of divorce proceedings, paid on a regular, recurring basis. Permanent alimony is usually due indefinitely but is subject to change under certain circumstances such as remarriage or cohabitation.
Rehabilitative Alimony	In situations in which one ex-spouse is not self-sufficient, the judge may order payment of rehabilitative alimony to provide financial support to the ex-spouse while job-searching or receiving instruction to expand employment skills. This is usually ordered for a fixed period of time.
Reimbursement Alimony	This type of alimony was intended to “balance the scales” on any support provided for higher education or work training by one ex-spouse. It requires a regular payment to reimburse the sponsoring ex-spouse the tuition costs paid or a portion of those costs.
Lump-Sum Alimony ( <i>alimony in gross</i> )	If one ex-spouse does not want any property or items of value from the marriage, the judge may order a one-time lump-sum payment in lieu of the property.

**Note:** The majority of the states have reformed the law regarding “Permanent Alimony,” which historically meant the “paying” spouse pays the “receiving” spouse alimony for the rest of the payor’s life or until the death of the receiver. Most states will now terminate alimony if the receiver remarries.

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Unemployment Benefits

If an individual is receiving unemployment benefits, annualize the weekly benefit amount by **52 weeks**, even if the unemployment benefit letter states that benefits will not be paid out for that length of time. The exception to this rule is if the applicant/tenant receiving the unemployment benefits has **verifiable** employment occurring in the certification year.

##### **Example – Unemployment Benefits**

*Kerry is moving in on June 1<sup>st</sup> and provides the manager with an unemployment benefit letter which verifies that Kerry's weekly benefit amount is \$225, and the benefits will end on December 31<sup>st</sup>.*

*In this example, management would annualize Kerry's benefit amount for the entire year even though the documentation provided states that the benefits will end during the certification year.*

*Management anticipates the unemployment as being **\$11,700** ( $\$225 \times 52 = \$11,700$ ).*

##### **Example – Unemployment Benefits with Verifiable Wages**

*Shae is moving in on June 1<sup>st</sup> and provides the manager with an unemployment benefit letter which verifies her weekly benefit amount is \$175.*

*Shae also provides a letter from her future employer which indicates that Shae's start date is June 15<sup>th</sup>, and she will be earning \$12 an hour, working 40 hours a week with no overtime, shift differentials, tips, or bonuses, and indicates that Shae will not receive a raise in the next 12 months.*

*In this example, as Shae has a verifiable start date of employment, her income would be calculated as follows:*

##### Unemployment:

$\$175$  (weekly benefit amount)  $\times$  2 (weeks (June 1<sup>st</sup> – June 14<sup>th</sup>)) = \$350

##### Employment:

$\$12$  (hour)  $\times$  40 (hours per week)  $\times$  50 (weeks remaining in certification year) = \$24,000

**Total Income from Unemployment and Wages: \$24,350** ( $\$350 + \$24,000 = \$24,350$ )

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

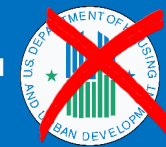
#### Unearned Income: Student Financial Assistance

##### Section 8 Recipients

The determination of how student financial assistance is calculated is dependent on whether the household is receiving Section 8 Assistance and if the student meets an exception or not.

For Applicants/Tenants **NOT RECEIVING** Section 8:

Refer to the **HOTMA** regulations for determining student financial assistance.



For Applicants/Tenants **RECEIVING** Section 8:

**INCLUDE** the amount of student financial assistance in excess of tuition and required fees, **UNLESS**:

1. The student is over the age of 23, with a dependent child, **OR**
2. The student is living with their parent who receives the Section 8 assistance.

Note: If the student meets **either** of the above exceptions, their income must be calculated as if the household does not receive Section 8. (Refer to the HOTMA Regulations for determining student financial assistance.)



##### Section 8 Recipients

###### Example – Household **RECEIVES** Section 8 Assistance

*Ella is 32, lives alone in a unit and receives Section 8 assistance. Ella reports that she is attending college where her annual tuition is \$17,500. Ella also receives the following student financial assistance:*

- Pell Grant - \$9,000 a year
- Scholarship - \$4,000 a year
- Assistance from her parents - \$5,000 a year

*In this example, only **\$500** (\$18,000 (total financial assistance) - \$17,500 (tuition) = \$500) from the financial assistance would be **included** as income as Ella receives Section 8 assistance but is not over the age of 23 with a dependent child nor does she live with her parents who receives the Section 8 assistance.*

###### Example – Household **RECEIVES** Section 8 Assistance

*Tabitha is 24, lives alone in a unit and receives Section 8 assistance. Tabitha reports that she is attending college where her annual tuition is \$22,000. Tabitha also receives the following student financial assistance:*

- Pell Grant - \$12,000 a year
- Scholarship - \$8,000 a year

*In this example, **\$0** (\$20,000 (total financial assistance) - \$22,000 (tuition) = -\$2,000) would be counted for student financial assistance as Tabitha receives Section 8 assistance but is not over the age of 23 with a dependent child nor does she live with her parents who receives the Section 8 assistance.*

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Student Financial Assistance, cont.

#### Section 8 Recipients, cont. .

##### Defining Student Financial Assistance

HUD defines student financial assistance as:

- Assistance received under the Higher Education Act of 1965, such as:
  - Pell Grants
  - Federal Supplemental Education Opportunity Grants
  - Academic Achievement Incentive Scholarships
  - State Assistance Partnership Program
  - Robert G. Byrd Honors Scholarship Program
  - Federal Work-Study Programs
- Private Sources (non-governmental sources) such as:
  - Assistance from a parent, guardian, or another family member
- An Institution of Higher Education such as:
  - Scholarships

**Student loans are not considered to be financial assistance!**

##### Defining Tuition and Required Fees (A.K.A Actual Covered Costs)

Actual covered costs to attend school includes the cost of:

- ✓ Tuition
- ✓ Books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities)
- ✓ Room and board, or other fees required and charged to a student by the education institution, and for a student who is not the head of household or spouse
- ✓ The reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit (i.e., the student is living in off-campus/non-college owned housing while away at school instead of a dorm or college owned housing)



## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Student Financial Assistance, cont

For households not receiving Section 8 assistance, the Section 8 component was removed from the 24 § CFR 5.609; meaning, any household receiving student financial assistance, regardless of whether or not subsidy is being received, may need to have student financial assistance included in the household's annual income determination.

Under the new regulation, HUD changed its definition of student financial assistance for the purpose of determining annual income.

The reason behind this change stems from the provision in Section 479B of the Higher Education Act (HEA). This particular section prohibits the consideration of student financial assistance covered by the HEA when assessing eligibility for any other programs funded by the federal government.

Note: The new regulation does not include an exception for students who are over the age of 23 with a dependent child or students who are living with their parents.

#### Non-Section 8 Recipients

##### Higher Education Act



✗ **All assistance** under the 479B of Higher Education Act (HEA) or the Bureau of Indian Affairs Student assistance program (BIA), **even amounts in excess** of actual covered costs of the student, is **excluded** from income.

Examples:

- ✗ Federal Pell Grants;
- ✗ Teach Grants;
- ✗ Federal Work Study Programs;
- ✗ Federal Perkins Loans;
- ✗ Student financial assistance received under the Bureau of Indian Education;
- ✗ Higher Education Tribal Grant;
- ✗ Tribally Controlled Colleges or Universities Grant Program;
- ✗ Employment training program under section 134 of the Workforce Innovation and Opportunity Act (WIOA).

##### Other Assistance (Non-HEA Assistance)

✓ **Other assistance**, such as scholarships or grants **not covered under HEA or BIA**; the amount of assistance **that is in excess** of actual covered costs of the student are **included** in annual income.

This can include grants or scholarships received from the following sources:

- ✓ The Federal government;
- ✓ A state (including U.S. territories), Tribe, or local government;
- ✓ A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- ✓ A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- ✓ An institution of higher education.

The following is **NO longer considered** student financial assistance:

- Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- Gifts, including gifts from family or friends.



## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Student Financial Assistance, cont

##### Non-Section 8 Recipients, cont.

##### Combined Assistance

In the event a student has student financial assistance that includes assistance that is covered under the HEA (HEA Assistance), as well as assistance that is not covered under the HEA (Non-HEA Assistance), HUD states the following formula must be used in order to determine how much may be excluded when determining income.

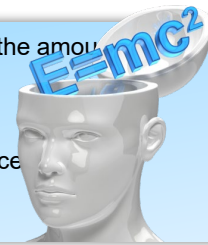
To determine the amount to include in annual income (Step 2), the amount permitted to be excluded must be determined first (Step 1).

**Step 1:** Subtract the amount of HEA Assistance from the actual covered costs to arrive at the amount of actual covered costs exceeding the HEA Assistance.

**(Actual Covered Costs – HEA Assistance = “x”)**

**Step 2:** Subtract the amount determined in Step 1 from the amount of Non-HEA Assistance to arrive at the amount of student financial.

**(Non-HEA Assistance – “x” = Income)**



##### Example 1 – Combined Assistance (HEA Assistance & Non-HEA Assistance)

A student, who does not receive Section 8 assistance, receives the following in student financial assistance:

- \$15,000 – Scholarship under the HEA
- \$5,000 – Private Scholarship not covered under HEA

Student’s actual covered costs: **\$22,000**

**Step 1: Subtract the amount HEA Assistance from the actual covered costs.**

$\$22,000$  (Actual Covered Cost) –  $\$15,000$  (HEA Assistance) =  **$\$7,000$**

**Step 2: Subtract the amount determined in Step 1 from the Non-HEA Assistance.**

$\$5,000$  (Non-HEA Assistance) –  $\$7,000$  (Step 1 Amount) =  **$\$0$**

→ As the amount of the scholarship combined with the assistance excluded under HEA ( $\$20,000$ ) is less than the student’s actual covered costs ( $\$22,000$ ), **no financial assistance will be included in income.**

##### Example 2 – Combined Assistance (HEA Assistance & Non-HEA Assistance)

A student, who does not receive Section 8 assistance, receives the following in student financial assistance:

- \$15,000 – Scholarship under the HEA
- \$5,000 – Private Scholarship not covered under HEA

Student’s actual covered costs: **\$18,000**

**Step 1: Subtract the amount HEA Assistance from the actual covered costs.**

$\$18,000$  (Actual Covered Costs) –  $\$15,000$  (HEA Assistance) =  **$\$3,000$**

**Step 2: Subtract the amount determined in Step 1 from the Non-HEA Assistance.**

$\$5,000$  (Non-HEA Assistance) –  $\$3,000$  (Step 1 Amount) =  **$\$2,000$**

→ As the student’s assistance is more than actual covered costs, **the excess of \$2,000 must be included when determining income.**

## Chapter 7: Calculating Annual Income

### Section C: Income Inclusions

#### Unearned Income: Student Financial Assistance, cont

##### Non-Section 8 Recipients, cont.

###### Example 3 – ONLY HEA Assistance

A student, who does not receive Section 8 assistance, receives the following in student financial assistance:

- ❑ \$25,000 – Scholarship under the HEA

Student's actual covered costs: **\$18,000**

→ Since the only form of student financial assistance received is covered under the HEA, **the entire amount of the above scholarship is excluded from income**, even though the assistance exceeds actual covered costs.

###### Example 4 – ONLY Non-HEA Assistance

A student, who does not receive Section 8 assistance, receives the following in student financial assistance:

- ❑ \$28,000 – Private Scholarship not covered under the HEA
- ❑ \$5,000 – Private Grant not covered under the HEA

Student's actual covered costs: **\$22,000**

→ Since none of the financial assistance received is covered under the HEA, the amount of the student financial assistance that **exceeds actual covered costs**, in this case, **\$11,000**, must be included in income. ( $\$33,000 - \$22,000 = \$11,000$ ).

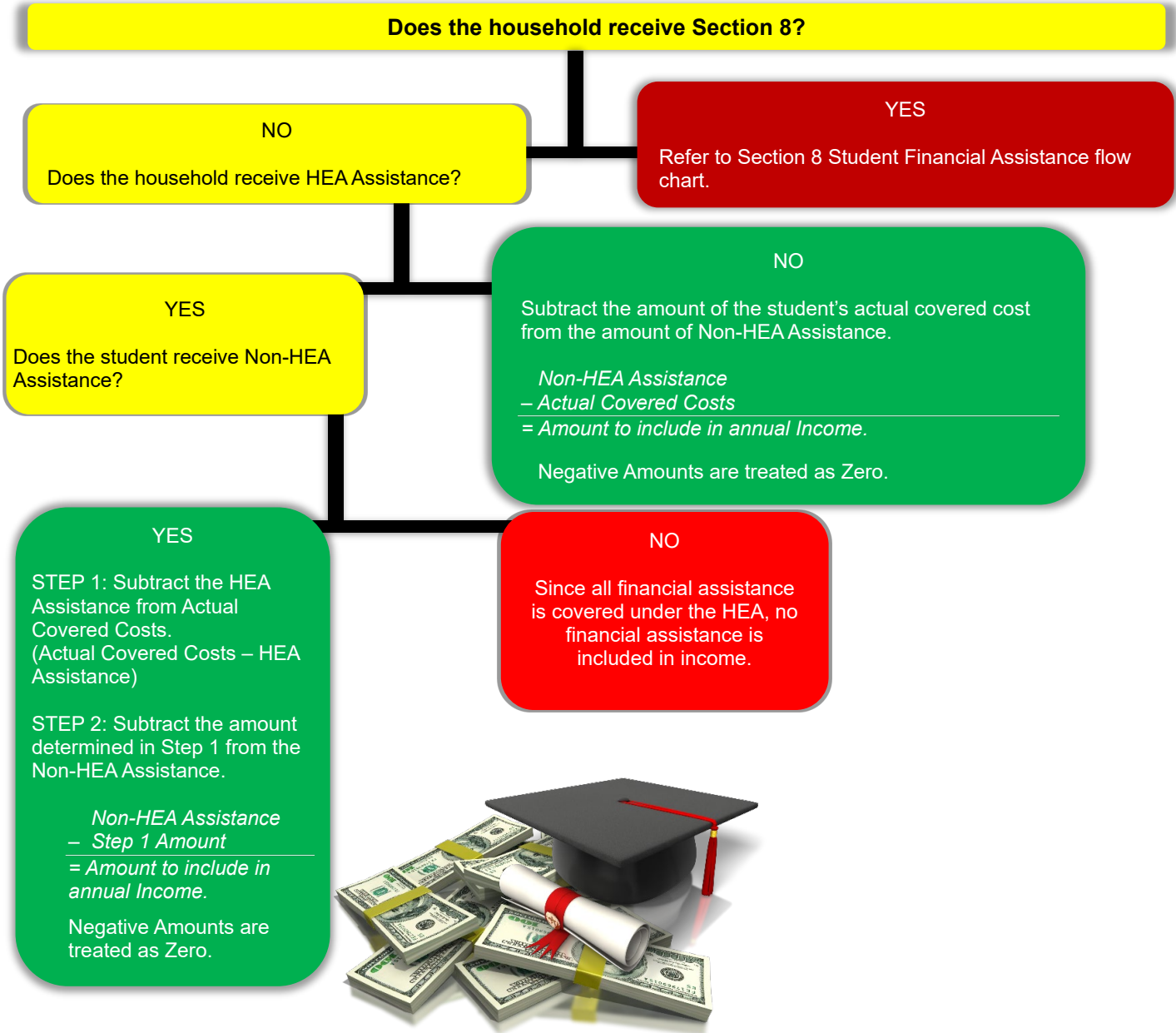
#### Actual Covered Costs

Actual covered costs to attend school includes the cost of:

- ✓ Tuition
- ✓ Books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities)
- ✓ Room and board, or other fees required and charged to a student by the education institution, and for a student who is not the head of household or spouse
- ✓ The reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit (i.e., the student is living in off-campus/non-college owned housing while away at school instead of a dorm or college owned housing)



## Non-Section 8 Student Financial Assistance Flow Chart



## Chapter 7: Calculating Annual Income

### Section D: Income Exclusions

While it is crucial to be aware of all of the sources of income that are included in annual income, it is equally important to understand what sources of income are federally excluded from income by law.

**Annual income does not include** the following:

- (1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- (2) The following types of trust distributions:
  - (i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):
    - (A) Distributions of the principal or corpus of the trust; and
    - (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
  - (ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- (3) Earned income of children under the 18 years of age.
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- (8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.
- (9)
  - (i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and
  - (ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.
    - (A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—
      - (1) The Federal government;
      - (2) A State, Tribe, or local government;
      - (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
      - (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
      - (5) An institution of higher education.

*Continued...*

## Chapter 7: Calculating Annual Income

### Section D: Income Exclusions, cont.

(9), cont.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
- (3) Gifts, including gifts from family or friends; or
- (4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

- (1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).
- (2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:
  - (i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or
  - (ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

*Continued...*

## Chapter 7: Calculating Annual Income

### Section D: Income Exclusions, cont.

- (10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.
- (11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- (12)
  - (i) 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);
  - (ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
  - (iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount 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.
  - (iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, 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 unless those amounts are excluded under paragraph (b)(9)(i) of this section.
- (13) 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.
- (14) Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611.
- (15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.
- (16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- (17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.
- (18) 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.
- (19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
- (20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
- (21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

*Continued...*

## Chapter 7: Calculating Annual Income

### Section D: Income Exclusions, cont.

(22) Amounts that HUD is required by Federal statute to exclude 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 paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing “gap” payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies.

Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) 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; and

(ii) 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.

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section A: Introduction to Assets

#### What Is an Asset?

An asset is an item of value that can be turned into cash.

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



#### Common Asset Terms

##### Market Value

The value of the asset on the open market.

**Example** – Jose owns a home that is valued at \$125,000. The Market Value is **\$125,000**.

##### Cash Value

The Market Value of the asset **less the cost** to turn the asset into cash. Also referred to as the “net asset value”.

**Example** – Jose wants to sell the home he owns. The home’s Market Value is \$125,000 and the realtor/legal fees to sell the home would be \$7,500. The Cash Value is **\$117,500** ( $\$125,000 - \$7,500 = \$117,500$ ).

##### Actual Asset Income

The actual income from the asset, generally is calculated by multiplying the Market Value by the interest rate.

**Example** – Jose has a savings account where his current balance is \$2,800. The savings account has a 1% interest rate. The actual asset income is **\$28** ( $\$2,800 \times 1\% = \$28$ ).

##### Imputed Asset Income

Imputing asset income on an asset is only required when the net family assets exceed \$51,600\*, and the actual income from any given asset cannot be calculated. \* This amount is adjusted annually by HUD. For 2025, the threshold is \$51,600.

##### Example –

Jose’s total net assets are \$120,300 (Home’s Cash Value of \$117,500 and the savings account balance of \$2,800). The owner can calculate the actual income of the savings account as \$28. The owner is unable to calculate the actual income earned for the property owned by Jose, because the property neither generates any income for him nor could an income amount be computed as a matter of interest or dividend earnings. Therefore, imputed asset income for the real property must be calculated. The passbook savings rate in effect is 0.40%. The imputed income is **\$470**. ( $\$117,500 \times .40\% = \$470$ ). Total asset income (must be included in the calculation of annual income) for Jose is **\$498**. ( $\$28 + \$470 = \$498$ )

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section B: Overview of Asset Inclusions & Exclusions

All household assets will fall under one of two categories:

1. **Personal Property**
  - Includes both physical items such as a boat, and non-physical items such as financial assets (checking accounts, stocks, bonds, etc.)
2. **Real Property**
  - Includes houses and land.

#### Common Household Assets

- **Personal Property**
  - Cash held in savings and checking accounts, safe deposit boxes, homes, etc.
  - Revocable trusts
  - Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts
  - Retirement and pension funds not recognized by the IRS
  - Cash value of life insurance policies available to the individual before death
  - Lump-sum receipts or one-time receipts
  - A mortgage or deed of trust held by an applicant
- **Real Property**
  - House/Condo
  - Land

#### Assets Owned Jointly

If assets are held by the household and by another individual(s) outside of the household, the total value of the asset is included toward the household's assets. It **is not pro-rated** amongst the owners of the account.

#### Exceptions...

The entire value of the asset **is not required** to be counted if:

- The household cannot access the asset.
- The household cannot dispose of the asset without permission from other owners.
- In situations where the above exceptions apply, the amount of the asset that can be accessed by the household is included in the household's net family assets.

#### Asset Owned by Business Entity

*"If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets.*

*However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant)." - HOTMA Implementation Notice*

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section B: Overview of Asset Inclusions & Exclusions, cont.

#### Federally Excluded Assets

While it is crucial to be aware of all the different types of assets that must be included in annual income, it is equally important to be knowledgeable of the types of assets that are federally excluded from being treated as household assets.

(3) Excluded from the calculation of net family assets are:

- i. The value of necessary items of personal property;
- ii. The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers);
- iii. The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals;
- iv. The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located;
- v. Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability;
- vi. The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government.
- vii. Interests in Indian trust land;
- viii. Equity in a manufactured home where the family receives assistance under 24 CFR part 982;
- ix. Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982;
- x. Family Self-Sufficiency Accounts;
- xi. Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.\*\*

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section B: Overview of Asset Inclusions & Exclusions, cont.

#### Federally Excluded Assets

On January 31, 2024, the Department of Housing and Urban Development (HUD) announced updates to the income and asset exclusion criteria in the Federal Register. These changes, crucial for determining household eligibility across HUD housing programs, align with federal statutes to ensure more accurate income determinations.

These exclusions will apply to any housing program that utilizes HUD regulations found in 24 CFR § 5.609.

#### Asset Exclusions:

One notable change is that 17 of the income exclusion were modified to add text that explicitly states that these income sources are also excluded as assets.

The following 17 income exclusions were modified to clarify that the income exclusion is also excluded as an asset.

1. Food stamps
3. Alaska Native Claims Settlement Act Payments
4. Income from Certain Submarginal Land
5. LIHEAP Payments
6. Grand River Band of Ottawa Indians Income Distributions
7. Per Capita Shares from Judgement Funds
10. Agent Orange Settlement Funds Payments
11. Maine Indian Claims Settlement Act
12. Earned Income Tax Credit (EITC)
15. Indian Claims Commission Payments
16. Vietnam Veteran Children Allowances
17. Crime Victim Compensation
19. School Lunch and Child Nutrition Act Benefits
20. Seneca Nation Settlement Payments
24. Cobell Settlement Payments
25. Individual Development Account
27. Federal Major Disaster or Emergency Assistance

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section C: Disposed Assets



If a household member has disposed of an asset, or a business, for \$1,000 less than the asset's Fair Market Value, the asset must still be included as a household asset for **two (2) years from the date of disposal**.

If a household member created an irrevocable trust for a beneficiary who is not part of the household, the creation of the trust is considered a disposed asset for a period of **two (2) years from the date of creation**.

Assets disposed of for less than Fair Market Value as a result of foreclosure or bankruptcy are not considered disposed assets.

#### Determining the Value of a Disposed Asset

The value of the disposed asset (disposed asset value) that is to be included on the household certification is the Cash Value of the asset less any amounts actually received for the asset.

##### Market Value

- Costs to Sell (if any)
  - Amount Received (if any)
- 
- = Disposed Asset Value

#### *Example – Disposed Asset Value*

*Tony sold his home worth \$90,000 to his best friend, Pilar, for \$20,000. Tony did not have an outstanding mortgage balance and the legal fees to sell the home totaled \$10,000.*

*In this example, management would calculate the information as follows:*

- \$90,000 (Market Value)*
  - \$10,000 (Costs to Sell)*
  - \$20,000 (Amount Received)*
- 
- = \$60,000 (Disposed Asset Value)*

*\$60,000 is the Disposed Asset Value that must be counted as a household asset for a period of 2 years from the date of disposal.*

*While there is no actual income derived from the asset, the asset value must be included when determining the household's total net asset value.*

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section D: Determining Net Family Assets

**NET FAMILY ASSETS = Non-Necessary Personal Property + Equity in Real Property**

#### Non-Necessary Personal Property

Necessary personal property is **excluded** from the determination of net family assets.

In addition, when the combined value of all non-necessary personal property **does not exceed \$51,600\***, as adjusted by inflation, all non-necessary personal property is **excluded** from the determination of net family assets, however, the actual income derived from such assets must still be included when determining the household's gross annual income. *(\*This value is adjusted annually by HUD)*

Non-necessary personal property with a combined value **greater than \$51,600\***, as adjusted by inflation, is considered part of net family assets and is **included**. *(\*This value is adjusted annually by HUD)*

Personal property encompasses both physical items, like boats, and non-physical items, such as bank accounts.



#### **Necessary Personal Property**

Necessary personal property are items:

- That are essential to the family for the maintenance, use, and occupancy of the premises as a home; or
- That are necessary for employment, education, or health and wellness.

##### **Includes:**

- Personal effects (such as items that are ordinarily worn or utilized by the individual),
- Items that are convenient or useful to a reasonable existence,
- Items that support and facilitate daily life within the home.
- Items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability.

#### **Non-Necessary Personal Property**

Non-Necessary personal property are items:

- Bank Accounts
- Financial Investments
- Luxury Items
- Items of personal property that do not qualify as necessary personal property.

#### **Who Decides if Personal Property is Necessary or Not?**

HUD stipulates that owners/management agents are to gather enough facts to qualify whether an asset is deemed as necessary or non-necessary personal property.

When reviewing information, items of personal property that do not qualify as necessary personal property will be classified as non-necessary personal property.

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section D: Determining Net Family Assets, cont.

#### Non-Necessary Personal Property, cont.

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



#### Example – Necessary & Non-Necessary Personal Property

Jack and Jill own three items of personal property. They have a checking account (non-necessary personal property) valued at \$5,000, a \$15,000 recreational boat (non-necessary personal property), and Jill's engagement ring (necessary personal property) valued at \$3,000.

Item	Estimated Value	Type of Property	Amount to be Considered as Non-Necessary Personal Property
Checking Account	\$5,000	Non-Necessary Personal Property	\$5,000
Ring (engagement ring)	\$3,000	Necessary Personal Property	\$0
Recreational Boat	\$15,000	Non-Necessary Personal Property	\$15,000
<b>Total Non-Necessary Personal Property:</b>			<b>\$20,000</b>

Calculation of Total Net Assets	
Asset	Total to be Considered in Net Family Assets
Non-Necessary Personal Property	\$0
Real Property	\$0
<b>Total</b>	<b>\$0</b>

Jack and Jill's total net family assets is \$0.

## Chapter 8: Determining Net Family Assets & Income from Assets



### Section E: Determining Income From Assets

#### Cash, Checking & Savings Accounts – Non-Necessary Personal Property

##### Cash Held in Safe Deposit Boxes or Homes (Non-Necessary Personal)

The current amount of any cash that is held in a safe deposit box, coffee can, or even stuffed in a mattress, is considered to be an asset for the purpose of determining annual income.

Asset Type	Market Value	Cash Value	Income Determination
Cash Held in Safe Deposit Boxes or Homes	Current Balance	Current Balance <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Actual Income cannot be determined <i>*If the household's net family assets is 51,600* or less, no income will be counted for this asset when determining household income.</i> <i>*If the household's net family assets exceed 51,600, imputed asset income must be included when determining household income.</i>

*(\*This value is adjusted annually by HUD)*

**Note:** While there is no actual income derived from the asset, the asset value must be included when determining the net family assets for purposes of determining whether imputing asset income is required.

##### Checking Accounts



A checking account is a deposit account held by a financial institution that will allow account holders the opportunity to make deposits and withdrawals.

Asset Type	Market Value	Cash Value	Income Determination
Checking Accounts	Current Balance	Current Balance <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Actual income = Market Value x Interest Rate <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

##### Checking Account Statements

When a checking account statement is obtained to determine the current account balance, there are some key items to look for when reviewing the account statement.

- **Total Monthly Deposits.** Compare the amount of the monthly deposits into the account to the amount of income reported by the household member. Clarify any discrepancies and verify additional income sources, if needed.
- **Automatic Deposits.** Compare any Automated Clearing House (ACH) deposits made into the account to the income reported by the household member. Clarify any discrepancies and verify any additional income sources, if needed.
- **Account Transfers.** Compare any transfer of funds made into the account from another account held by the household member with the accounts disclosed by the household member. Clarify any discrepancies and verify additional asset sources, if needed.
- **Automatic Withdrawals.** Compare any automatic withdrawals for mortgage payments to the assets disclosed by the household member. Clarify any discrepancies and verify any additional assets, such as real estate, if needed.

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Cash, Checking & Savings Accounts – Non-Necessary Personal Property (NNPP)

##### Savings Accounts

A savings account is an interest-bearing account held at a bank or other financial institution where the account holder can make deposits of funds that are not needed right away.

Asset Type	Market Value	Cash Value	Income Determination
Savings Account	Current Balance	Current Balance <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Actual income = Market Value x Interest Rate <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

##### Express Debit Cards



A Direct Express Debit Card is a payment option for benefit recipients who do not have a bank or credit union.

The balance on the Direct Express Debit Card is considered an asset and must be verified, consistent with existing savings account verification requirements.

Asset Type	Market Value	Cash Value	Income Determination
Express Debit Cards	Current Balance	Current Balance <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Zero Actual Income <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

## Chapter 8: Determining Net Family Assets & Income from Assets


### Section E: Determining Income From Assets

#### Trust Funds – Non-Necessary Personal Property (NNPP)

A trust is a fund which may contain cash or a variety of assets and is generally created to provide financial security to an individual.

The treatment of a trust as an asset or periodic income for a household member is dependent on information about **who has access** to either the **principal** in the account or the **income** from the account. How this is structured can vary greatly depending on the type of trust account.

When determining the asset value and income contributions of a trust fund, the first step is to determine the type of trust that is being held. In order to do this, there are some key terms we need to be familiar with.



**Grantor of Creator** – This is the individual that establishes the trust.

**Beneficiary** – This is the individual who is entitled to the benefit of the trust.

**Revocable Trust** – A trust where provisions can be amended or revoked at any time by the grantor. Any income earned is distributed to the grantor, and only after the grantor's death does the asset transfer to the beneficiary or beneficiaries.

**Irrevocable Trust** – A trust that cannot be amended or revoked without the permission of the beneficiary. After the establishment of such a trust, the grantor no longer has access to the asset contained within the trust.

**Special Needs Trust** – A special needs trust is a trust created by family members for a person with disabilities. Generally, assets within the trust are not accessible to the beneficiary.

#### Types of Trust Accounts

In this section, we will review the following types of trust accounts:

- Revocable Trusts
- Irrevocable Trusts/Special Needs Trusts

#### Revocable Trust

- A. **Grantor IS NOT** part of the household (and the household is not otherwise in control of the trust)
1. The Trust is **NOT** considered a **household Asset**
  2. **Actual interest earned** by the trust is **NOT** considered **Asset income**
  3. **Distributions** of trust **principal** are **NOT** considered **household income**
  4. **Distributions of interest** earned on the trust principal **IS** considered **household income** (unless the distributions are used to pay for the health and medical expenses for a minor)
- B. Grantor **IS** part of the household (or the trust is otherwise under the control of the household)
1. The trust **IS** a **household asset**
  2. The **actual interest** earned by the trust **IS** considered **Asset Income**
  3. **Distributions** of trust **principal** are **NOT** considered **household income**
  4. **Distributions** of **interest earned** on the trust principal are NOT considered household income

#### Example – Trust Accessible to Household Member

Temple lives alone and she placed \$75,000 into a revocable trust for her nephew, Sam, to be available to Sam upon her death. The trust is revocable meaning that Temple has control of the principal and the interest in the account and can amend the trust or remove funds at any time. The trust produces \$1,750 annually in interest.

In this example include the current value of the trust, **\$75,000** when determining net family assets, and include the interest income (**\$1,750**) when determining annual household income.

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Trust Funds – Non-Necessary Personal Property (NNPP), cont.

##### Irrevocable Trust/Special Needs Trust

1. The trust is **NOT** a **household asset**
2. The actual interest earned by the trust is **NOT** considered **Asset income**
3. Distributions of trust principal considered are **NOT household income**
4. **Distributions of interest** earned on the trust principal **IS** considered **household income** (unless the distributions are used to pay for the health and medical expenses for a minor)

##### **Example – Trust Not Accessible to Household Member, but Income Is Received**

*Trixie is a 16-year-old household member. Her grandmother (who does not live in the unit) established an irrevocable trust in the amount of \$100,000 for her. Although Trixie cannot access the trust until her 21<sup>st</sup> birthday, she does receive periodic distributions from the trust in the amount of \$1,000 each month. Of the \$1,000, \$600 is principal and \$400 is interest income.*

*In this example, the trust **WOULD NOT** be considered an asset to Trixie; however, the \$400 monthly distribution of interest income would be included when determining household income.*

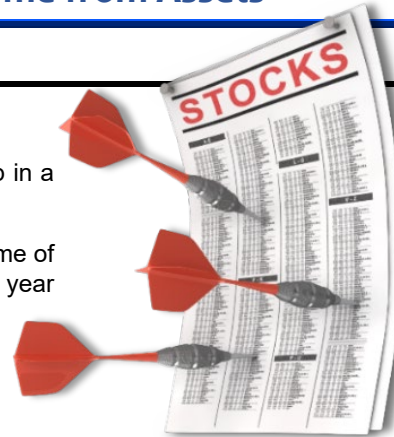
## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Stocks – Non-Necessary Personal Property

Stocks are a type of security that gives stockholders a share of ownership in a corporation.

Stockholders receive dividend payments when the company distributes some of its earnings to stockholders. The amount of dividends earned may fluctuate year to year based on the stock's performance.



Asset Type	Market Value	Cash Value	Income Determination
Stocks	# of Shares Owned x Price Per Share	Market Value less the Cost to Sell <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Actual Income = # of Shares Owned x Dividends Earned Per Share <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

#### Example – Determining Asset Value & Income

##### Stock Information

# of Shares Owned:	100	Dividend Earned Per Share:	\$15
Price Per Share:	\$225	Commission to Sell:	\$2,500

*In this example, management would calculate the information as follows:*

**Market Value:** \$22,500 (# of Shares Owned x Price Per Share)

**Cash Value:** \$20,000 (Market Value – Commissions & Fees)

#### Example – Determining Asset Value & Income – Individual Financial Statement

*An applicant owns stocks and provides a monthly statement that reflects the following information:*

*Ending Balance: \$43,234*

*Dividends Earned for the Period: \$27.90*

*In this example, management would calculate information as follows:*

**Market Value:** \$43,234 (Ending Balance)

**Income:** \$334.80 (Dividends Earned for the Period x 12 months)

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Savings Bonds– Non-Necessary Personal Property



US Savings Bonds are bonds that are issued by the government and sold to the general public.

Over a period of time (up to 30 years), the savings bond earns interest. After 12 months, the savings bond can be cashed in for its face value plus the interest it has earned.

Asset Type	Market Value	Cash Value	Income Determination
Savings Bonds	Redeemable Value	Redeemable Value <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Actual Income: Market Value x Applicable Interest Rate <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

Note: The Redeemable Value is simply the value of the bond if the holder redeemed the bond.

#### Example – Determining Income from a Savings Bonds

Phillip has the following 2 Series EE Bonds:

<u>Bond #1</u>		<u>Bond #2</u>	
Face Value:	\$1,500	Face Value:	\$3,500
Redeemable Value:	\$1,000	Redeemable Value:	\$2,000
Current Interest Rate:	2.8%	Current Interest Rate:	3.1%

In this example, management would calculate the information as follows:

#### Bond #1

**Market Value:** \$1,000 (Redeemable Value)  
**Cash Value:** \$1,000 (Redeemable Value)  
**Income:** \$28 (Market Value x Applicable Interest Rate)

#### Bond #2

**Market Value:** \$2,000 (Redeemable Value)  
**Cash Value:** \$2,000 (Redeemable Value)  
**Income:** \$62 (Market Value x Applicable Interest Rate)

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Treasury Bills– Non-Necessary Personal Property

Treasury Bills, or T-Bills, are short term government security that does not yield any interest but is instead sold at a discount from the face value.

Note: Interest is collected at bill maturity and the interest earned is the difference between the purchase price and the face value of the bill.

There are four different types of maturity terms:

1. 4-Week Bill
2. 13-Week Bill
3. 26-Week Bill
4. 52-Week Bill



Asset Type	Market Value	Cash Value	Income Determination
Treasury Bills	Purchase Price	Market Value less the Cost to Sell <i>*If total household NNPP is \$51,600 or less, cash value is 0.00</i>	Actual Income: Face Value less the Purchase Price <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

#### Example – Determining Income from a Treasury Bill

Diego owns a treasury bill with a purchase price of \$900 and a face value of \$1,000. If Diego were to sell the bill prior to its maturity, he would have to pay a fee of \$25.

In this example, management would calculate the information as follows:

**Market Value:** \$900 (Purchase Price)

**Cash Value:** \$875 (Market Value – Fee to Sell)

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Certificate of Deposits– Non-Necessary Personal Property

A Certificate of Deposit (CD) is a savings certificate with a set maturity date.

Generally, CDs have a fixed interest rate; however, some financial institutions may offer a CD with variable rates.

An early withdrawal penalty will often be incurred when withdrawing money from the CD occurs prior to the CD's maturity. This early withdrawal penalty depends on the term length of the CD, the interest rate, and how much is withdrawn.



Asset Type	Market Value	Cash Value	Income Determination
Certificates of Deposit	Current Value	Market Value less the Cost to Sell <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Actual Income = Market Value x Interest Rate <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

#### Example – Determining Income from a Certificate of Deposit (CD)

Martina has a Certificate of Deposit through her bank. The term length of her CD is 12 months. The bank verified the following:

Current Value: \$7,000

Current Interest Rate: 1.05%

Penalty for Early Withdrawal: 3 months of interest or a minimum penalty of \$25

In this example, management would calculate the information as follows:

**Market Value:** \$7,000 (Amount of CD)

**Cash Value:** \$6,975 (Market Value – Penalties)  
 $(\text{Market Value} \times \text{Interest Rate} \div 12 \text{ Months} \times 3 \text{ Months} = \$18.38 - -$   
 In this example, \$25, the minimum penalty, would be used)

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Mutual Funds– Non-Necessary Personal Property

A mutual fund is a company that pools money from investors and invests the money securities such as stocks and bonds.

*“A mutual fund is a type of financial vehicle made up of a pool of money collected from many investors to invest in securities like stocks, bonds, money market instruments, and other assets. Mutual funds are operated by professional money managers, who allocate the fund's assets and attempt to produce capital gains or income for the fund's investors. A mutual fund's portfolio is structured and maintained to match the investment objectives stated in its prospectus.*

*Mutual funds give small or individual investors access to professionally managed portfolios of equities, bonds, and other securities. Each shareholder, therefore, participates proportionally in the gains or losses of the fund. Mutual funds invest in a vast number of securities, and performance is usually tracked as the change in the total market cap of the fund—derived by the aggregating performance of the underlying investments.”*



Asset Type	Market Value	Cash Value	Income Determination
Mutual Funds	Current Value	Market Value less the Cost to Sell <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Actual Income = Annual Dividends Earned (Note: Can be based on past performance) <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

**Note:** The Cash Value is the Market Value less the cost involved in selling or “redemption” of the funds. These costs are often referred to as the “Sales Charge (Load),” “Deferred Sales Charge (Load),” or “Redemption Fees.” Financial Industrial Regulatory Authority (FINRA) does not allow mutual funds sale loads to exceed 8.5%.

Mutual funds make dividend distributions when the underlying securities pay dividends or interest. Also, income is distributed by the sale of assets within the mutual fund’s portfolio. Since interest rates and dividends are not a set rate, we may rely on the asset’s past performance to determine future income distributions to determine income from the mutual funds.

#### Example – Determining Income from Mutual Funds

*Nora provides her most recent quarterly mutual fund statement which discloses the following information:*

*Market Value: \$12,503*

*Dividends Earned for the Current Period: \$85*

*In this example, management would calculate the information as follows:*

**Market Value:** **\$12,503** (Amount of Mutual Fund)

**Income:** **\$340** (Dividends Earned for the Current Period x 4 Quarters)

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Money Market– Non-Necessary Personal Property

A money market account (MMA) is a deposit vehicle that pays interest based on the financial institution’s current interest rates for MMAs.

MMAs offer a **higher annual percentage yield** than a typical savings account, and the account holder can write a limited number of checks from this account.

While an MMA holder may be assessed fees for making excessive withdrawals, meaning that the account holder may be charged a fee after the sixth (6<sup>th</sup>) withdrawal in their accounting cycle, there is not a withdrawal fee to access their funds.

Money market accounts should not be confused with money market funds, which are mutual funds, and should be treated accordingly.

Asset Type	Market Value	Cash Value	Income Determination
Money Market Accounts	Current Value	Current Value <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Actual Income = Market Value x Current Interest Rate <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

#### Example – Determining Income from a Money Market Account

Neil has a Money Market Account. His financial institution provides verification of the following amounts:

Current Value: \$18,500  
Current Interest Rate: 1.11%

In this example, management would calculate the information as follows:

**Market Value:** \$18,500 (Current Value)  
**Cash Value:** \$18,500 (Current Value)  
**Income:** \$205.35 (Market Value x Interest Rate)

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Whole Life Insurance – Non-Necessary Personal Property (NNPP)

Whole life insurance is an insurance product that pays a predetermined benefit on the death of the person insured as well as accumulates a cash value that the insured can withdraw from or borrow against.

For whole life insurance, we disregard the policy value and only use the cash **surrender value** when determining income from this asset.

Asset Type	Market Value	Cash Value	Income Determination
Whole Life Insurance	Surrender Value	Surrender Value <i>*If total household NNPP is 50K or less, cash value is 0.00</i>	Actual Income: Market Value x Interest Rate  <i>*Imputing income is never required</i>

*(\*This value is adjusted annually by HUD)*

#### Example – Determining Asset Value & Income from Whole Life Insurance

##### Whole Life Insurance Policy

Policy Amount: \$100,000      Annual Interest Rate: 4%  
Surrender Value: \$53,000

*In this example, management would calculate the information as follows:*

**Cash Value:** \$53,000 (Surrender Value)

**Income:** \$2,120 (Market Value x Interest Rate)



#### Term Life Insurance

Term life insurance is not considered an asset if it provides no cash value or cash benefit to the policyholder until their death.

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Lump Sum Receipts – Non-Necessary Personal Property (NNPP)

A lump-sum receipt is a **single payment** of money, as opposed to periodic payments.

If periodic payments are received, the payments are considered periodic income and not a lump-sum.

Lump-Sum Receipts include:

- Lottery Winnings
- Insurance Settlements
- Inheritances
- Delay in Benefit Income



Asset Type	Market Value	Cash Value	Income Determination
Lump-Sum Receipts	Current Amount of Sum	Current Amount of Sum <i>*If total household NNPP is \$51,600* or less, cash value is 0.00</i>	Depends on whether amounts was made part of another asset or is kept as cash on hand.

*(\*This value is adjusted annually by HUD)*

#### Example – Determining Value of a Lump-Sum Receipt

*Four months prior to applying for an apartment, Henry won \$100,000 playing the lottery at the local convenience store. He received the entire amount of his winnings in one payment.*

*Immediately after winning the lottery, Henry buys himself a new Dodge truck and gets pectoral implants. At the time of his application Henry certifies that he has \$15,000 left of his winnings, which he stores in the glove compartment in his new truck.*

*In this example, the lump-sum value would be the value of the sum at the time of certification, **\$15,000**.*

#### Example – Determining Value of a Lump-Sum Receipt – Deposited into an Asset

*Two weeks prior to applying for an apartment, Beatrice received an inheritance from her great grandmother in the amount of \$50,000. When Beatrice received the inheritance, she deposited the sum into her savings account, which is her only asset.*

*Management verified the savings account during the application process and the bank verified that the current balance was \$51,770.*

*In this example, as the lump-sum was deposited into another account, only the current value of the savings account, **\$51,770**, will be included as the asset value when determining annual income. We would not count the asset twice!*

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section E: Determining Income From Assets

#### Real Estate - Real Property

Any real estate owned by a household member is considered to be an asset and the Cash Value of the real estate must be determined and included as an asset when determining the Cash Value of all household assets.

If the household does not have effective legal authority to sell in the jurisdiction in which the property is located, the real estate is not counted as an asset.

Asset Type	Market Value	Cash Value	Income Determination
Real Estate	Value on Open Market	Market Value less the Cost to Sell (Mortgage Balance, Legal fees, Realtor Fees)	<p>Actual Income Cannot Be Determined (Note: If the home is being rented out, then the net rental income becomes the actual income for this asset.)</p> <p><i>*If the household's net family assets \$51,600* or less, no income will be counted for this asset when determining household income.</i></p> <p><i>*If the household's net family assets exceed \$51,600*, imputed asset income must be included when determining household income.</i></p>

(\*This value is adjusted annually by HUD)



#### Net Rental Income

To determine the net rental income earned on a home:

1. Determine the **annual gross rental income** (Monthly Rent x 12 Months)
2. Subtract from the annual gross rental income **annual mortgage interest payments**
3. Subtract **other allowable costs for the maintenance and upkeep of the home**

#### Example – Determining Cash Value of Real Estate & Net Rental Income

Isabella owns a home that is worth \$190,000. She has an outstanding mortgage balance of \$52,000 and if she were to sell the home, it is estimated that she will pay \$11,400 in realtor and legal fees.

In this example, management would calculate the information as follows:

**Market Value:** \$190,000

**Cash Value:** \$126,600  
(Market Value – Unpaid Mortgage Balance – Realtor & Legal Fees)

Isabella is renting out the home. Each month she receives \$1,000 in rent (\$12,000 a year). The cost to maintain the home is \$400 per month (\$4,800 a year) and in the certification year, it is anticipated that she will pay a total of \$5,000 in mortgage interest payments and \$3,000 in principal payments.

In this example, management would calculate the information as follows:

**Income:** \$2,200  
(Annual Gross Rent – Annual Upkeep – Mortgage Interest Payments)

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section F: Actual & Imputing Asset Income

#### Actual Income v. Imputing Income

When the value of net family assets exceeds \$51,600 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual income from a given asset **cannot be calculated**, imputing asset income utilizing the current passbook savings rate is **required**.



$$\text{NET FAMILY ASSETS} = \text{Non-Necessary Personal Property} + \text{Equity in Real Property}$$

#### Actual Asset Income

In general, actual asset income is the actual income generated by the asset, typically produced from interest or dividends earned on the asset. The imputing asset income **will not** be required when the actual asset income can be determined.

#### When Actual Asset Income CANNOT Be Calculated

In HUD Notice H 2023-10, Example F8, page 57, HUD clarified the meaning of “cannot be calculated.”

**Real Property and Non-Financial Items of Non-Necessary Personal Property:**

If the property does not generate any income, or if income from the property cannot be computed based on interest or dividends, then actual income cannot be calculated.

#### **Example – Actual Asset Income Cannot Be Calculated**

*A household owns an RV with a value of \$58,000. They do not rent the RV out. Since the unnecessary personal property does not generate any income and since income cannot be determined based on interest or dividends earned, actual income cannot be calculated, therefore imputed income for the RV **must** be determined and used when determining household income.*

#### When Actual Income IS Zero

In HUD Notice H 2023-10, page 57, HUD clarified when an asset produces \$0 in actual income.

**For Financial Assets Held:**

If the financial asset does not generate income, the actual income from the asset is considered to be zero, and income on the asset is not imputed. **Essentially, income is never imputed on financial assets.**

#### **Example – Actual Income is Zero**

*A household has a checking account with a current value of \$62,000 and 0% interest rate. The actual income from this asset is \$0.00 and income on the asset **is not imputed**.*

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section F: Actual & Imputing Asset Income , cont.

#### Actual Income v. Imputing Income, cont.

##### Imputing Asset Income

**Imputing Asset Income IS NOT Required**

- If a household's net family assets exceed \$51,600\*, but actual income from **ALL** assets can be determined, imputing income is not required.
- If a household's net family assets are less than \$51,600\*, even if actual income cannot be determined for all assets, imputing asset income is not required.

*(\*This value is adjusted annually by HUD)*



**Imputing Asset Income IS Required**

- If a household's net family assets exceed \$51,600\*, and if the actual income can be computed for some assets, but not all assets, determine the actual income for those assets, then calculate the imputed income for all remaining assets where the actual income cannot be determined, and **COMBINE** both amounts to account for assets of a combined value of over \$51,600\*.

*(\*This value is adjusted annually by HUD)*



	Actual Income	Imputed Income	Income to Include in Annual Income
Total Assets ≤ \$51,600*	Include	(N/A)	Actual Income
Total Assets > \$51,600* & Actual Income can be calculated for ALL assets	Include	(N/A)	Actual Income
Total Assets > \$51,600* & Actual Income can be calculated on SOME assets	Calculate the Actual Income for the assets which actual income can be calculated	Calculate the Imputed Income for remaining assets	Actual Income + Imputed Income
Total Assets > \$51,600* & Actual Income cannot be calculated on ANY assets	(N/A)	Calculate asset income using total Cash Value of ALL assets × HUD passbook rate	Imputed Income

*(\*This value is adjusted annually by HUD)*

#### Passbook Savings Rate

The passbook savings rate for **2025** is **.45%\***. *(\*This value is adjusted annually by HUD)*

For more information on the passbook savings rate, please visit: <https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html>

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section F: Actual & Imputing Asset Income , cont.

#### Actual Income v. Imputing Income, cont.

##### Imputing Asset Income, cont.

###### **Example – Imputing Asset Income IS Required**

Kenny and Denny are twins who are applying for a unit.

Denny has the following asset:

- ❑ Savings account with a cash value of \$14,500 and an interest rate of .05%, generating \$7.25 in annual interest income.

Kenny has the following assets:

- ❑ A CD with a current value of \$30,000 and a cash value of \$26,000, and an interest rate of 0.1% generating \$30.00 in annual interest income.
- ❑ A recreational boat with a cash value of \$10,000

In this scenario, since the **Cash Value exceeds \$51,600\***, and actual income from all assets cannot be determined, imputing asset income **is** required for the asset where the actual income cannot be determined (i.e., Actual Income cannot be determined for the boat.). (\*This value is adjusted annually by HUD)

**Cash Value** of all assets is **\$50,500**.

**Imputed Income: \$40.00** ( $\$10,000 \times .40\% = \$40$  (Cash Value of boat X current passbook rate))

**Actual Income: \$37.25** ( $\$7.25 + \$30.00 = \$37.25$ )

**Total Income from Assets: \$77.25** ( $\$40.00 + \$37.25$ )

###### **Example – Imputing Asset Income IS NOT Required**

Destiny and Sam are cousins who are applying for a unit.

Destiny has the following assets:

- ❑ Savings account with a cash value of \$37,000 and an interest rate of .05%, generating \$18.50 in annual interest income.
- ❑ Savings Bond with a cash value of \$15,000 and an interest rate of 2.3%, generating \$345.00 in annual interest income.

Sam has the following assets:

- ❑ Savings account with a cash value of \$4,000 and an interest rate of .05%, generating \$2.00 in annual interest income.
- ❑ A CD with a current value of \$10,000 and a cash value of \$8,000. The CD has an interest rate of .5%, generating \$50.00 in annual interest income.

In this scenario, even though the **Cash Value exceeds \$51,600\*** since actual income from all assets can be determined, imputing asset income **is not** required. (\*This value is adjusted annually by HUD)

###### **Example – Imputing Asset Income IS NOT Required**

Remington and Eli Leroy are cousins who are applying for a unit.

Remington has the following assets:

- ❑ Savings account with a cash value of \$7,000 and an interest rate of .05%, generating \$3.50 in annual interest income.

Eli Leroy has the following assets:

- ❑ Savings account with a cash value of \$4,000 and an interest rate of .05%, generating \$2.00 in annual interest income.
- ❑ A jet ski with a cash value of \$10,000.

In this scenario, since the **Cash Value does not exceed \$51,600**, imputing asset income on the jet ski **is not** required. (\*This value is adjusted annually by HUD)

## Chapter 8: Determining Net Family Assets & Income from Assets

### Section G: Asset Verification

#### Self-Certification of Assets

Self-Certification of assets is permitted when the cash value (net family assets) is \$51,600\*\* or less. In the event the cash value (net family assets) is in excess of \$51,600\*\*, all assets must be verified.

*[\(\\*This value is adjusted annually by HUD\)](#)*

#### NET FAMILY ASSETS =

Non-Necessary Personal Property (NNPP) + Equity in Real Property

#### **Example – Self Certification of Assets Allowed**

A household has the following in assets:

- Checking account with a net value of 10K
- Savings account with a net value of 15K.

*As the checking account and savings account are considered NNPP, and as the value of the NNPP is less than \$51,600\*, the total net value of all household assets is \$51,600\* or less and therefore self-certification of assets is permitted. [\(\\*This value is adjusted annually by HUD\)](#)*

#### **Example – Self Certification of Assets NOT Allowed**

A household has the following in assets:

- Checking account with a net value of 10K
- Savings account with a net value of 15K.
- Real Property with a cash value of \$90K, for which they have the legal authority to sell

*As the checking account and savings account are considered NNPP, and as the value of the total NNPP is less than \$51,600\*, the net value of the checking account and saving account would be 0.00, but the equity in the real property must be included in the net family assets.*

*The value of NNPP (0,00) plus the Real Property (90K) totals a net family assets of 90K. As the household has combined net family assets that exceed \$51,600\*, ALL assets (NNPP and Real Property) must be verified. [\(\\*This value is adjusted annually by HUD\)](#)*

## Chapter 9: Certification & Lease Requirements

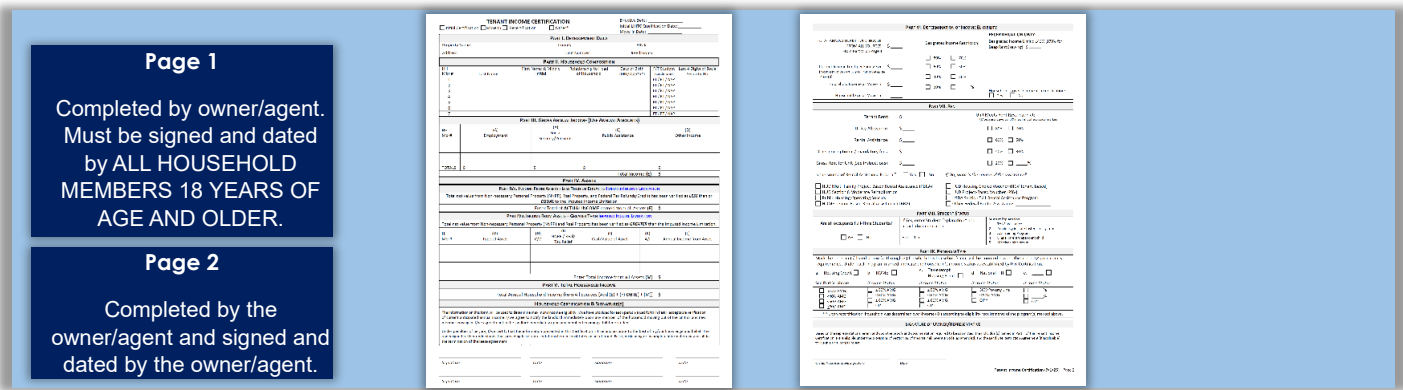
### Section A: Tenant Income Certification form

Once all income and eligibility characteristics are verified, the Tenant Income Certification (TIC) must be completed. A TIC must be executed at:

- Initial Certification
- Annual Recertification
- Unit Transfer

### Certification Form

Below is an image of the standard practices Tenant Income Certification form.



### ADFA Acceptance of RD Recertifications

This policy aims to reduce duplicate efforts between Rural Housing Service (RHS) and Low-Income Housing Tax Credit (LIHTC) requirements for Tenant Recertifications.

Under Treasury Regulation §1.42-5(c)(4), ADFA may exempt buildings financed under the RHS Section 515 program from LIHTC-specific annual income recertifications. ADFA can rely on the information provided by RHS without further verification.

Key Points:

1. **No LIHTC-Specific Annual Recertifications:** Owners are not required to perform annual income recertifications for LIHTC purposes, if management uses ONLY the RD Certifications after initial LIHTC Certification. However, they must document student status annually using the ADFA-approved Student Status Affidavit. **NOTE: ADFA requires that the Move-In/Initial Certification be completed following ADFA policies and procedures and the ADFA Tenant Income Certification Form must be used for move-in/initial certification. ADFA will accept all RD Form 3560.8 These certifications will all require data entry into MITAS. If management continues to complete the LIHTC TIC the certification must be completed on the LIHTC anniversary and TIC must reflect LIHTC program limits.**
2. **ADFA's Review Responsibility:** ADFA must review RHS-provided information to ensure compliance with income limits and rent restrictions under IRC §42(g)(1) and (2). If RHS information is insufficient, ADFA will request additional details from the owner.
3. **Timing of Recertifications:** RHS recertifications are accepted after the initial ADFA Tenant Income Certification is completed. The first recertification post-move-in can use the RHS process. ADFA allows the recertification effective date to align with the RHS date.
4. **Updating ADFA's System:** Owners must update ADFA's web-based tenant software annually to reflect that the recertification occurred within 12 months of the previous one. Owners can decide how to upload tenant data to ensure LIHTC compliance, whether through interim updates or annual recertifications within the required timeframe.

ADFA will accept either all interim updates or an annual recertification that meets LIHTC program requirements.

## Chapter 9: Certification & Lease Requirements

### Section A: Tenant Income Certification form, cont.

#### Certification Effective Dates

##### Initial Certification

##### Move-In Certification

The effective date of the initial certification is the date the tenant has or will take occupancy. This should match the start date of the lease.

- For the household that initially qualifies a unit in Year One, the Tenant Income Certification Form must be marked “Initial Certification.” For all subsequent households moving into the unit, the form must be marked “Move-In.”

##### Acquisition/Rehab Certification

There are special rules that affect the effective date for initial certifications for existing tenants at acquisition/rehab projects.

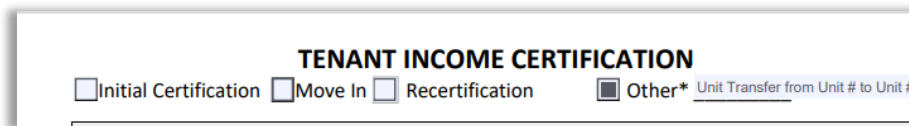
If an **existing household** is certified within **120 days prior to the date of acquisition or 120 days after acquisition**, the effective date of the tenant’s initial certification is the date of acquisition. Existing tenants’ initial certification must be marked as “initial certification” on the Tenant Income Certification form. A new move-in at an Acq/Rehab property, must be marked on the Tenant Income Certification as “move-in”.

**Note:** If an existing household is certified after this timeline, the effective date of their initial certification will be the date the last household member signs the Tenant Income Certification form. See also Chapter 2 of this compliance manual which addresses Acquisition/Rehab.

- For the household that initially qualifies a unit in Year One, the Tenant Income Certification Form must be marked “Initial Certification.” For all subsequent households moving into the unit, the form must be marked “Move-In.”

#### Unit Transfers

The effective date of the TIC will be the date of the transfer. A new Tenant Income Certification must be completed for Unit Transfer. On the Tenant Income Certification form, the “Other” box should be checked, and in the space provided, it should be noted which unit the tenant is transfer out of and the unit # they are transferring into. See Chapter 10 of this compliance manual for more information on conducting transfers.



**TENANT INCOME CERTIFICATION**

Initial Certification    Move In    Recertification    Other\* Unit Transfer from Unit # to Unit #

#### Annual Recertification

The effective date of an annual recertification is the anniversary date of the last LIHTC certification. ADFA does not allow early recertification. **HUD Interim certifications are not required to be entered into the Property Management Portal.**

#### TIC Signature Date

For initial certifications (move-in) If signatures are obtained more than 5 days in advance of the effective date, managers are responsible for determining that the information is true and correct.

#### Electronic Signatures

Electronic Signatures will always require the proof of authentication documentation. See section C of this chapter.

## Chapter 9: Certification & Lease Requirements

### Section B: Lease Agreements

#### Lease Agreement

The IRS, nor ADFA, does not provide a model lease for use in the LIHTC program; instead, owner/agents are expected to develop their own lease agreement.

#### Length of Lease Term

In general, the initial lease agreement must be at least six (6) months long. After the expiration of the initial lease term, the lease can turn into a month-to-month agreement or be renewed for any term.



#### Exceptions to Initial Lease Term Rule

##### 1. Transitional Housing Programs

Certain transitional housing for the homeless may be considered as being used other than on a transient basis provided the residential rental unit:

- contains sleeping accommodations and kitchen and bathroom facilities, and
- is located in a building, which:
  - is used exclusively to facilitate the transition of homeless individuals to independent living within 24 months, and
  - a government entity or qualified nonprofit organization provided such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

##### 2. Single-Room Occupancy (SRO) Units

SRO units which permit the sharing of kitchen, bathroom, and dining facilities, are not treated as used on a transient basis merely because it is rented on a month-by-month basis.

#### **Example – Lease Term – Correct Length**

*Lyle moved in on June 15<sup>th</sup>. The manager executed the lease with a start date of June 15<sup>th</sup> and a lease end date of December 31<sup>st</sup>.*

*In this example, the lease is in compliance as the initial lease for the tenant was for at least six months.*

#### **Example – Lease Term – Incorrect Length**

*Winnafred moved in on June 17<sup>th</sup>. The manager executed the lease with a start date of June 17<sup>th</sup> and a lease end date of November 30<sup>th</sup>.*

*In this example, the lease is out of compliance as the initial lease for the tenant was only for five months and two weeks long.*

#### Required Lease Addendums

- All LIHTC Household's must have the Section 42 Lease Addendum (Form 608), and the VAWA Lease Addendum, (Form 508) executed and attached to the lease, at initial lease signing and each annual renewal.
- All HOME assisted Household's must have the HOME/HTF Addendum (Form 601) and the VAWA Lease Addendum, (Form 508) executed and attached to the lease, at initial lease signing and each annual renewal.

#### Prohibited Lease Clauses

- A lease for a low-income unit may not contain a clause that permits the owner/agent to terminate tenancy for reasons other than good cause, as low-income tenants may only be evicted for good cause.

## Chapter 9: Certification & Lease Requirements

### Section C: Electronic Signatures

ADFA permits the use of electronic signatures on required compliance documents, including but not limited to **Leases** and **Tenant Income Certifications (TICs)**. This policy is consistent with the Electronic Signatures in Global and National Commerce Act (ESIGN) and HUD Notice H 20-4.

#### Legal Validity

Under ESIGN and HUD guidance, electronic signatures are legally valid and enforceable when:

- All parties to the transaction have **consented** to use electronic methods,
- The electronic system used meets **authentication, integrity, and recordkeeping standards**.



#### System Requirements

To be acceptable for use under ADFA policy, electronic signature systems must meet the following criteria:

1. **Authentication of Signer Identity**
  - The platform must verify the identity of the individual signing.
  - Acceptable methods include secure login credentials, email verification, or multi-factor authentication.
2. **Document Integrity**
  - The signed document must be protected from alteration.
  - Tamper-evident seals or locking mechanisms must be applied once the document is executed.
3. **Audit Trail**
  - The system must generate a detailed audit log showing:
    - Date and time of each signature
    - Method of signer authentication
    - Sequence of actions taken by each party
4. **Secure Access**
  - Electronic documents must be transmitted and accessed through secure, encrypted portals that protect sensitive data.
5. **Retention and Reproducibility**
  - Signed documents must be stored in a format that allows for reliable retrieval and accurate reproduction.
  - Systems must allow long-term access for review, compliance monitoring, and audits.

#### Approved Systems

ADFA recommends the use of trusted platforms such as **Adobe Sign** and **DocuSign**, as they meet all required compliance criteria, including signer authentication, document security, audit trails, and long-term secure storage.

#### Applicability

This policy applies to all electronic signatures used in connection with ADFA-funded or monitored housing programs, including Low-Income Housing Tax Credit (LIHTC), HOME, Section 8, and other federally or state-assisted programs.

## Chapter 9: Certification & Lease Requirements

### Section D: Annual Recertifications

#### Applicability

##### 100% LIHTC Projects

In reference to the recertification exception for 100% LIHTC properties, ADFA requires the following:

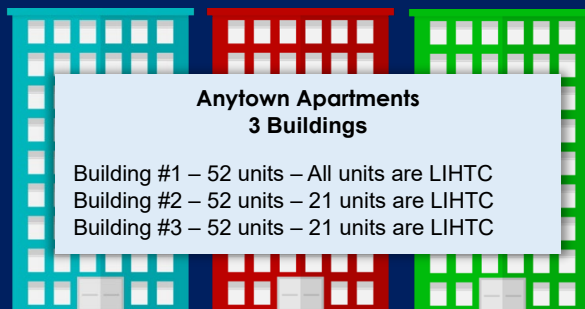
1. Properties must have completed the first year in service or initial credit year, whichever is later.
2. ADFA must have completed its first compliance monitoring review at the property;
3. ADFA requires a complete recertification at first anniversary of the household's move-in, (Move-in and next complete recertification);
4. Self-Certification of Income, ADFA Form 501, is required to be utilized in lieu of the standard Tenant Income Certification. Source documentation of income and assets is not required, however other documentation is still required, i.e. household verification, VAWA Lease Addendum, and Student Status.
5. If a project has any deeper state set-asides (30% 40%, 50%), full recertification must be completed on an annual basis.

##### Mixed-Income LIHTC Projects

Full annual recertification must be completed within 120 days before the anniversary of the effective date of the initial tenant income certification.

The recertification process is identical to the initial certification as it relates to documenting student status, household composition, income, and assets.

A project is defined based on the owner's election to Line 8b on the IRS Form 8609.



b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?  Yes  No

**Example – If the Owner Checks “No” to Line 8b on IRS Form 8609**

If the owner checked “No” on the 8609 line 8b, it means that **each building is considered its own project**. Therefore, full annual recertifications would need to be conducted for the LIHTC units in buildings 2 and 3, but full recertification is not required to be completed for Building 1, as all units in the “project” are tax credit. **Self-certifications would still need to be completed for building 1.**

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?  Yes  No

**Example – If the Owner Checks “Yes” to Line 8b on IRS Form 8609**

If the owner checked “Yes” on the 8609 line 8b, it means that all three buildings are considered **one project**. Therefore, full annual recertifications would need to be conducted for the LIHTC units in all three buildings.

## Chapter 9: Certification & Lease Requirements

### Section D: Annual Recertifications, cont.

#### Effective Dates

Recertifications are effective on the anniversary date of their last LIHTC certification. ADFA does not permit early recertification, and does not permit modifying the effective dates to align with other programs (HUD, RD, etc.)

#### **Example – Annual Recertification Effective Date**

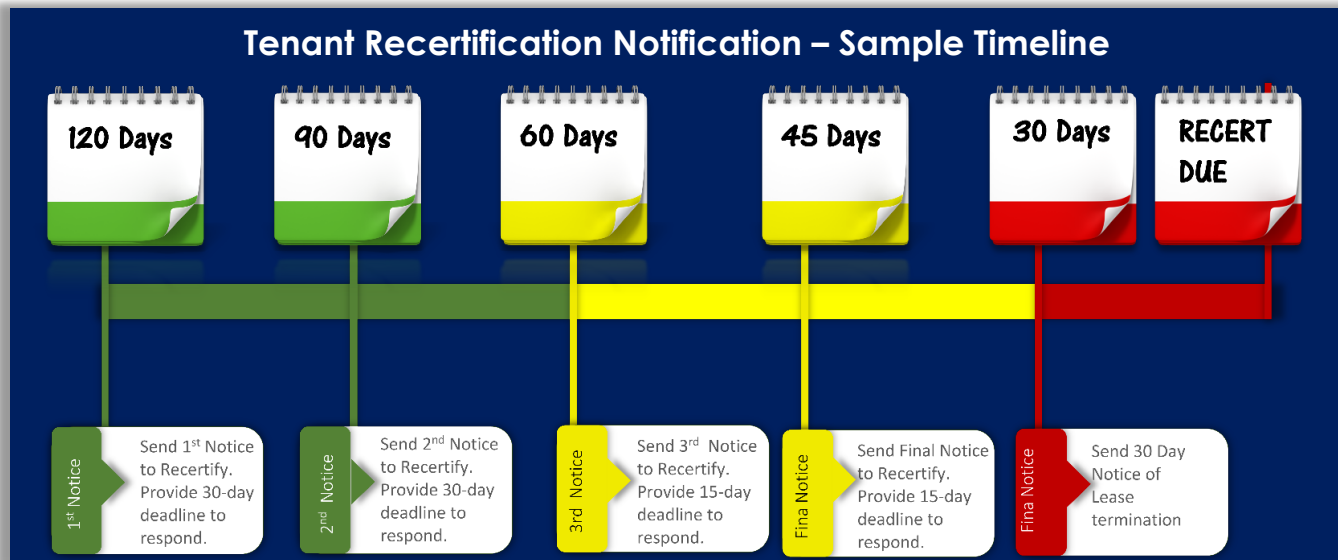
*Sami moved in an LIHTC unit on 10/15/2022. Her recertification will need to be completed within 120 days of 10/15/2023. The effective date that will be listed on the Tenant Income Certification will be 10/15/2023.*

#### Timely Recertifications

A recertification is considered complete and timely if all verifications are dated within **120 days of the effective date**, and the Tenant Income Certification is signed and dated by all adult household members.

To ensure that recertifications are completed timely, timelines for tenant notification, as well as deadlines for tenant response, must be clearly defined and adhered to.

Below is a general guideline that is commonly used; however, modification of these guidelines may be needed to meet requirements imposed by tenant-landlord law and/or other funding program requirements.



#### Increases in Income

A household is not required to vacate an LIHTC unit when they experience an increase in income, as long as the household was initially qualified.

To stay in compliance with the LIHTC requirements, in instances where a household income increases above 140% of the applicable income limit at recertification, the owner must follow the "Next Available Unit Rule". See Chapter 9 for more information on this rule.

## Chapter 10: Ongoing Compliance Requirements

### Section A: Next Available Unit Rule

A household is considered over-income (OI) when a household's **annual income exceeds 140% of the applicable federal income limit** at the following times:

- ✓ Upon annual recertification,
- ✓ Adding a new household member, or
- ✓ Testing income at credit deferral

#### Deferred Credits

Credits must be claimed the year the building is placed in service, or the owner may defer claiming credits to the following year, which then defers the start of the credit period to the following year.

**Credits may only be deferred once.**

Credits are generally deferred to meet the required Minimum Set-Aside or to meet the building's target Applicable Fraction.

**Credits must be claimed no later than the end of the year following the date placed in service.**

#### Income Test

When credits are deferred to the following year, any existing tenant who was certified more than 120 days prior to the start of the credit period must have an "Income Test" conducted.

If a household's income test demonstrates that their income has increased over 140% of the applicable income limit, the Next Available Unit Rule must be applied.



The Next Available Unit Rule (NAUR) must be followed in order for the over-income unit to continue to be treated as a low-income unit, and thereby still be included as a low-income unit when determining the Applicable Fraction.

The **next available unit(s) of comparable size or smaller, in the same building**, must be rented to an LIHTC **eligible household(s)**, until the **Applicable Fraction is restored, not including the OI units**. In the event a household is determined to have an income in excess of 140% of the applicable limit, the unit that the OI household occupies may still be treated as a low-income unit as long as the following criteria are met:

- The household was income-qualified at the time of initial occupancy.
- The next available unit(s) of comparable size or smaller, in the same building, are occupied by LIHTC eligible household(s), until the applicable fraction is restored, not including the OI units.
- The OI unit remains rent-restricted until the applicable fraction, and the minimum set-aside is restored.

**If the Next Available Unit Rule is not complied with, all over-income units (comparable or smaller) must not be included as LIHTC units when determining the: building's applicable fraction or the project's minimum set-aside.**

#### 100% Projects and the NAUR

Generally, the NAUR does not apply to projects with an Applicable Fraction of 100% (aka, 100% projects), as the next available unit must always be rented to an LIHTC eligible household since all units are LIHTC units.

If an over-income household is accidentally moved into a unit at a 100% project, this is not automatically assumed to be a violation of the NAUR, if the owner can demonstrate that due diligence was practiced when completing the tenant's initial certification. However, it should be noted that IRS guidance states that the Next Available Unit Rule is considered to be violated if the owner deliberately rents a unit as a market-rate unit. In such cases of egregious noncompliance, the IRS concludes that the *"buildings Qualified Basis is zero; i.e., the building is not part of a qualified low-income project at all times during the 15-year Compliance Period under IRS 42(c)(2). No credit is allowable until such time as the owner can establish compliance with the Available Unit Rule."*

## Chapter 10: Ongoing Compliance Requirements

### Section A: Next Available Unit Rule, cont.

#### **Example – NAUR – Following the Rule**

*20-Unit Building – All units are the same size – MSA is 40/60*

*Out of the 20 units, 10 units are LIHTC, and 10 units are Market Rate, resulting in an Applicable Fraction of 50%.*

- *On March 1<sup>st</sup>, it is determined that two (2) LIHTC units, Units 101 and 102, are over-income at recertification. Even though the building has two (2) OI units, the units are treated as LIHTC until a market unit becomes available. For the months of March and April, the Applicable Fraction for the building is still 50%.*
- *On May 25<sup>th</sup>, a market unit, Unit 111, becomes vacant. The owner must rent Unit 111 to an LIHTC eligible household in order to comply with the NAUR.*
- *On June 1<sup>st</sup>, the owner occupies Unit 111 with an LIHTC qualified household.*

*Even though the owner-occupied the next available unit with an LIHTC household, the Applicable Fraction has not been restored (not including the OI units). As of June 1<sup>st</sup>, the building only has 9 LIHTC units out of 20. Furthermore, the rent cannot be increased for the households in Unit 101 or 102, until the Applicable Fraction is restored.*

- *On June 8<sup>th</sup>, a market-rate unit, Unit 112, becomes vacant. The owner must rent Unit 112 to an LIHTC eligible household in order to comply with the NAUR.*
- *On June 17<sup>th</sup>, the owner occupies Unit 112 with an LIHTC qualified household. The owner has now satisfied the NAUR, as the applicable fraction has been restored to 50%. The owner may now increase the rents for the OI units in accordance with their lease and tenant-landlord law.*

#### **Deep Rent Skewed Projects**

For Deep Rent Skewed projects, the Next Available Unit Rule is triggered when a household exceeds 170% of the federal income limit, and the next available unit must be rented to an LIHTC eligible household, regardless of the unit size.

## Chapter 10: Ongoing Compliance Requirements

### Section B: Vacant Unit Rule



*“If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income.”*

Vacant units previously occupied by an LIHTC eligible household may continue to be treated as LIHTC units, as long as the following

requirements are met:

- Reasonable attempts are made to rent the vacant LIHTC unit before any market units in the project are rented to non-qualifying tenants.
- Unit is made suitable for occupancy (aka rent ready) as soon as possible

**If the Vacant Unit Rule is violated, all vacant units previously occupied by qualified households lose their low-income status and are not considered qualified units.**



#### What Defines Reasonable Attempts?

A question and an answer found in Rev. Rul. 2004-82 regarding vacant units can be found below.

#### Q-9.

Ten units previously occupied by income-qualified tenants in a 200-unit mixed-use housing project are vacant. None of the low-income units in the project had been over-income units. The project owner displayed a banner and for rent signs at the entrance to the project, placed classified advertisements in two local newspapers, and contacted prospective low-income tenants on a waiting list for the project and on a local public housing authority list of section 8 voucher holders about the low-income unit vacancies. These are customary methods of advertising apartment vacancies in the area of the project for identifying prospective tenants. Subsequent to the low-income unit vacancies, a market-rate unit of comparable size to the low-income units became vacant. Will the owner violate the vacant unit rule if the owner rents the market-rate unit before any of the low-income units?

#### A-9.

No. In accordance with §1.42-5(c)(1)(ix), the owner of a qualified low-income housing project has to use reasonable attempts to rent a vacant low-income unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project are rented to tenants not having a qualifying income. Thus, if the project owner makes reasonable attempts to rent the vacant low-income units to income-qualified tenants, the owner may rent the newly vacated market-rate unit before renting the low-income units and continue to characterize the vacant low-income units as low-income units for purposes of the minimum set-aside requirements in §42(g)(1) and calculation of the applicable fraction under §42(c)(1)(B).

What constitutes reasonable attempts to rent a vacant unit is based on facts and circumstances and may differ from project to project depending on factors such as the size and location of the project, tenant turnover rates, and market conditions. Also, the different advertising methods that are accessible to owners and prospective tenants would affect what is considered reasonable. Under the facts in this situation, the owner used reasonable methods of advertising an apartment vacancy in the area of the project before the owner rented the market-rate unit. Thus, the owner made reasonable attempts to rent the vacant low-income units.

In addition, the available unit rule is not violated by rental of the market-rate unit before the low-income units because there are no over-income units in the building.

## Chapter 10: Ongoing Compliance Requirements

### Section C: Transferring Units

When a household transfers from one unit to another unit, the unit being transferred into adopts the status of the unit being transferred out of. The unit being transferred out of adopts the status of the unit being transferred into so that essentially the units swap statuses.

Some of the requirements regarding transfers will depend on whether the transfer is within the same building or a different building within the project (as defined by the Form 8609).

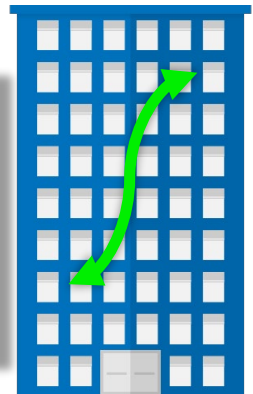
#### Transfers Within Same BIN

A household may transfer to a unit within the same building (BIN) without needing to complete a new recertification, even if the household's income is over 140% of the applicable federal income limit.

##### Example – Household in Over-Income Unit Transfers Within the Same Building

*A household was income-qualified when they moved into unit 201, an LIHTC unit, in a mixed-income project. The household was determined to have income in excess of 140% of the current federal income limit at the time of their last annual income recertification.*

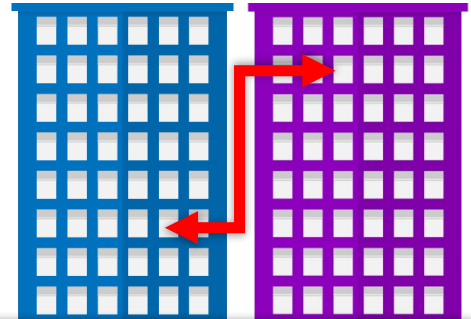
*The household subsequently moved from Unit 201, a 2-bedroom unit to Unit 302, a vacant 3-bedroom LIHTC unit. Even though the units are not comparably sized, Unit 201 is now an LIHTC unit, and Unit 302 is an over-income LIHTC unit.*



#### Transfers to a Different BIN

A household may transfer to a unit in a different building (BIN) within a project (as defined by the Form 8609) without needing to complete a new recertification if the household's income did not exceed 140% of the applicable federal income limit as of the household's most recent recertification.

**If a household was over 140% of the federal applicable limit at their most recent recertification, the household cannot transfer to a unit in a different building. The transfer cannot be completed, even if the building is part of a multiple building project.**



##### Example – Household in Over-Income Unit Wants to Transfer to a Different Building

*A household was income-qualified when they moved into unit 402, an LIHTC unit, in a mixed-income project. The household was determined to have income in excess of 140% of the current federal income limit at the time of their last annual income recertification.*

*The household requested to transfer to unit 309, a vacant unit in another building.*

*In this example, the household cannot transfer to a unit in another building as their income exceeded 140% of the federal income limits during their last recertification.*

#### Effective Dates of Transfer

ADFA requires that a new Tenant Income Certification be completed to account for the Unit Transfer. The effective date of the TIC will be the date of the transfer. . On the Tenant Income Certification form, the "Other" box should be checked, and in the space provided, it should be noted which unit the tenant is transfer out of and the unit # they are transferring into. NOTE: The Unit Transfer does not change the recertification date.

TENANT INCOME CERTIFICATION			
<input type="checkbox"/> Initial Certification	<input type="checkbox"/> Move In	<input type="checkbox"/> Recertification	<input checked="" type="checkbox"/> Other* <u>Unit Transfer from Unit # to Unit #</u>

## Chapter 10: Ongoing Compliance Requirements

### Section C: Transferring Units, cont.

#### Transfers – Year One

Since the unit's status switches upon transfer, it is important to be aware that one household may only initially qualify one unit.

#### **Example – Household is First Occupant of Low-Income Unit**

*On May 15<sup>th</sup> of the first year of the Credit Period, an income-qualified household moved into Unit 102, a new, never-occupied (empty), LIHTC unit in BIN 1.*

*On October 30<sup>th</sup>, the household moved, and the lease was transferred to Unit 606, a new and never-occupied (empty) similar LIHTC unit in BIN 2. The resident continued to occupy Unit 606 until the end of the first credit year.*

*Unit 102 in Building 1 was not rented again until February of the next year, which is year 2 of the Credit Period.*

**Only the unit the household actually occupies qualifies as an LIHTC unit.**

- *Unit 102 in BIN 1 would qualify as LIHTC for May, June, July, August, and September.*
  - *The unit would not qualify as an LIHTC unit in October, November, or December for purposes of computing the pro-rated Applicable Fraction for Year One.*
  - *The unit will continue to be treated as a never-occupied (empty) unit until a qualified household moves in.*

*Note: As a qualified household does not occupy 102 until after the first year of the credit period, the owner will not receive the full value of the credit for the unit.*

- *Unit 606 in BIN 2, is a qualified LIHTC unit for October, November, and December.*

## Chapter 10: Ongoing Compliance Requirements

### Section D: Record Keeping and Retention Requirements

#### Record Keeping Requirements

Under the recordkeeping provision, owners are required to keep, for each qualified LIHTC building in the project, records that show for each year in the compliance period, the following:

- The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- The Applicable Fraction;
- The rent charged on each residential rental unit in the building (including any Utility Allowances);
- Security Deposit amounts
- The number of occupants in each low-income unit;
- The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented;
- The annual income recertification of each low-income tenant per unit. (Exception for a 100% LIHTC Buildings);
- Documentation to support each low-income tenant's income certification;
- The eligible basis and qualified basis of the building at the end of the first year of the credit period; and
- The character and use of the nonresidential portion of the building included in the building's eligible basis under section 42 (d) (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project).



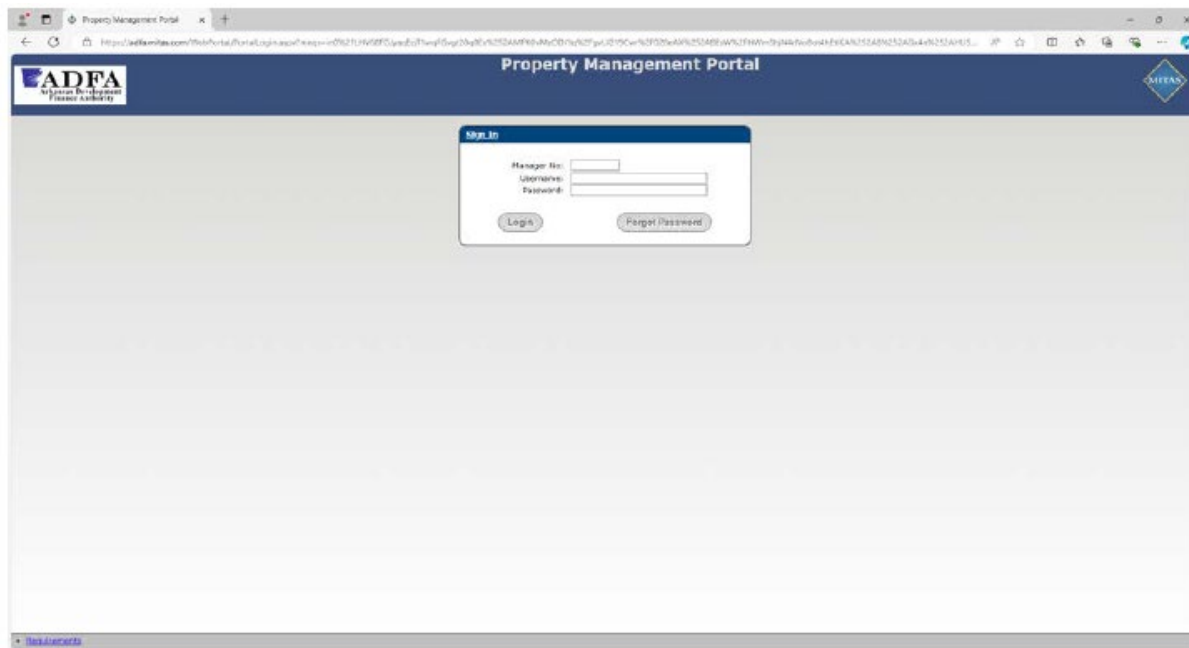
Additional Items may be added as necessary.

#### Property Management Portal

ADFA requires that each development owner or manager maintain the ADFA Property Management Portal with the documents and tenant data reference on the next page.

#### Property Management Portal Link:

<https://adfa.mitas.com/WebPortal/PortalLogin.aspx?meqs=in0%2FLHV68FGJyaqEqT1wqFGvqt20q0Ex%252AMPK0vMzODJYq%2FqvU219Cwr%2F028eAX%252ABEsW%2FHWmShjN4dVoBot4hEtIKa%252A8%252AGx4n%252AHU5zRs84PAVL%2FUgjpg48oAnyw%2Fmbr>



## Chapter 10: Ongoing Compliance Requirements

### Section D: Record Keeping and Retention Requirements, cont.

#### Property Management Portal, cont.

Below is a list of documents and data that must be uploaded into the portal at Project Inception

- Completed 8609 forms on each building with building identification numbers (signed by ADFA, Part II completed and signed by the development owner);
- Records that indicate the character and use of any nonresidential portion of the development included in eligible basis as defined under Section 42(d). For example, tenant facilities that are available on a comparable basis to all tenants for which no separate fee is charged for the use of the facilities or facilities reasonably required by the development;
- Certificates of Occupancy or Approval;
- The eligible basis and qualified basis of the building at the end of the first year of the credit period;
- Copy of Land Use Restriction Agreement ( LURA ) or other extended use agreement;
- List of the first year qualifying tenants, (date entered and unit qualified);
- Total number of units in the property (this information must be retained on a building-by- building basis including the number of bedrooms and the square footage of each unit);
- HUD income/rent tables and utility allowance calculations for all years the development has been placed in service;
- Rent increases and date new rent will be effective and notification to the tenants;
- Rent Specials when they started and when they ended;
- Rents charged on each type of unit, including applicable utility allowances for all years the development has been placed in service;
- Management Review Questionnaire with required project certifications;
- Non-residential use fee (i.e. additional fees charged for parking, etc.). Outline all non-optional and optional tenant fees;
- 20/50 Test, Section 42 of the Code, OR 40/60 Test, Section 42 of the Code (also known as the minimum set-aside);
- Partnership Agreement;
- Management Agreement;
- Evidence of Fair Housing Compliance and a copy of any complaints filed against the project;
- Copies of reports submitted to ADFA (such as occupancy status reports); and Annual Owners Certification Form and any Project Change Request Forms; if applicable.
- Bank statements to confirm amounts in operating reserve account and replacement reserve accounts. These bank accounts statement can be uploaded into the ADFA Property Management Portal

Additional Items may be added as necessary.

## Chapter 10: Ongoing Compliance Requirements

### Section D: Record Keeping and Retention Requirements, cont.

#### Property Management Portal, cont.

##### Annual Owner Certification Required Document List

The following documents must be uploaded through the ADFA Property Management Portal. Each item listed will have a designated upload location in the Portal. This upload process will replace the traditional "Required Project Binders" and will provide ADFA and Management Users with access to up-to-date project documents.

Items marked with (A) indicate your Annual Upload Requirement, which must be submitted each year by February 1st or the anniversary of your last upload.

##### Required Management Document Uploads

- Affirmative Fair Housing Marketing Plan**
- Advertisements January through December** Copies of all advertisements as one single PDF document.
- Accessible Units** List of all accessible units – requires upload only if additional units converted to accessible units.
- Building Certifications** - Inspections required by third party such as: fire extinguishers, pool, sprinkler systems, etc.
- First Year Qualifying Tenant List** - Low Income Housing Tax Credit Projects Only
- Property Hazard Insurance Policy (Current)** - Declaration Page only with effective dates and coverage amount
- Property Paid Tax Receipt** - Current receipt paid
- Property Lease, Tenant Agreements and Lease Addendums (Blank Forms)** - This includes documents such as the Lease Agreement, Addendums, Rules and Regulations, Maintenance Repair Fee List, Tenant Selection/Waitlist, and any other forms that the applicant would need to complete and sign. After the initial upload, these documents should only be provided when there are updates or changes to the existing versions.
- Project Based Rental Assistance Contract** - Copy of Project Based Rental Assistance Contract if the project has "Project Based Rental Assistance".
- Rent Schedules** - Approved rent schedules for Project Based Rental Assistance projects. All other projects will upload Rent Schedules from lease up and all changes.
- Rent Special Notices (January – December)** Rent special notices as one single PDF document, as applicable. Notice must provide start and end date of the rent special.
- Social Services Provided Annually** (Low Income Housing Tax Credit Projects Only) Documentation to support type and dates of service provided.
- Staff Units** Provide a list of any staff units. ADFA will compare the staff units identified in this report with the site rent rolls and the tenant data as reported in the ADFA Property Management Portal.
- Tenant Optional and Non-Optional Fees** - Listing of all fees for tenants: Insurance, Cable, Internet etc.
- Tenant Selection Policy**
- Utility Allowance Verification Documents** - Supporting documentation demonstrating the methodology use to determine the project's utility allowance.
- Waiting list Maintenance Procedures** - If the Tenant Selection Policy does not specify how the waiting list will be managed, you must provide this information separately.
- Waiting List January thru December**
- Management Agreement** - Update the portal whenever there is a change in the management company or if an amendment or modification is made to the agreement.
- Management Plan** - Upload the plan as it applies to the project. Update the portal whenever there is a change in the management company.
- Inspection Forms** - Upload a sample of the project's move-in inspection form, along with all other inspection forms used by management (e.g., monthly, quarterly, and/or annual inspections). These forms will be reviewed in relation to the inspection procedures outlined in the Management Agreement/Management Plan. ADFA will also review the inspection forms as needed, based on the results of ADFA's physical inspections.

! All documents uploaded to the portal must follow the naming convention [Year][Document Name][Project Name] i.e 2024 LIHTC AOC – Stone River Court

## Chapter 10: Ongoing Compliance Requirements

### Section D: Record Keeping and Retention Requirements, cont.

#### Retention Requirements



##### Year 1 Records

The records for the first year of the credit period must be retained for at least six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building, for a total of **21 years**.

##### Years 2-15 Records

Under the record retention provision, the owner must be required to retain the records described above for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year.



##### IRS Tax Forms

All IRS Forms 8586, 8609, 8609-A and the 8611, must be retained for three (3) years after the end of the compliance period.

**All Tenant Files must be uploaded into the ADFA Property Management Portal.**

## Chapter 10: Ongoing Compliance Requirements

### Section E: Agency Reporting Requirements

**Owners must report annually** to ADFA that their projects-maintained compliance with LIHTC requirements for the preceding 12-month period. The Owner's Certificate of Continuing Program Compliance must be submitted no later than February 1st of the year following the first credit year and every year thereafter during the extended use period.

ADFA will no longer provide copies of forms. The owner is responsible for downloading forms from the ADFA website- [www.arkansas.gov/adfa](http://www.arkansas.gov/adfa). This Owner's Certification can also be obtained in the in the Property Forms section of the ADFA Property Management Portal. The Owner's Certification, is an annual requirement for the duration of the compliance period.

To monitor the balances in the operating reserve account, replacement reserves, and security deposit accounts, ADFA requires the owner/manager to upload the corresponding bank statements to the appropriate section under Property Documents in the Property Management Portal.

#### Tenant Data Reporting Software -

##### “Effective January 1, 2018 ADFA changed to a new Tenant Data Reporting Software”

Rental Housing Projects funded with ADFA Housing Funds must report tenant data through ADFA's Tenant Data Reporting Software as monthly changes occur. Management agents will be given access to upload and maintain the tenant data. The Management Agent will provide ADFA contact information for one, (1) Staff Member that will be considered the Administrator for the Management Agent.

The Management Agent Administrator will be responsible for setting up and providing access to all Users, remove Users as applicable, assigning User security permissions, distribute Tenant Data Software Instruction Manual and forward all ADFA email updates and announcements to Users and/or management agent staff.

- If you are a new Management Agent and have never been set up in the software it will be necessary to contact ADFA Compliance Department for further instructions and required setup documentation.
- If you are a User and have already accessed the software and are having difficulties or questions with the Portal, ADFA requires you to contact your Management Administrator before contacting ADFA to assist with questions or resolution to any concerns. If a resolution cannot be resolved at that time please contact ADFA for assistance.
- If you receive a "locked out" message, click "Forgot Password" to request a new temporary password. Once you receive the email, use the temporary password to log in. On the next screen, you'll see a field for the old password (typically pre-filled with dots). Delete the dots, enter the temporary password from the email, then create and confirm your new desired password.

Please contact Tammy White at 501-682-5928 for inquiries regarding the ADFA Property Management Portal

<https://adfa.mitas.com/MitasWeb/WebPortal/PortalMain.aspx?meqs=in0%2FLHV68FGJyaqEqT1wqFGvgt20q0Ex%252AMPK0vMzODIKrvKZeU%252AYZ0NwIz8jBI8n>

The Link above will bring you to the Property Management Portal. Before you can login you must be setup by the Management Agent Administrator.

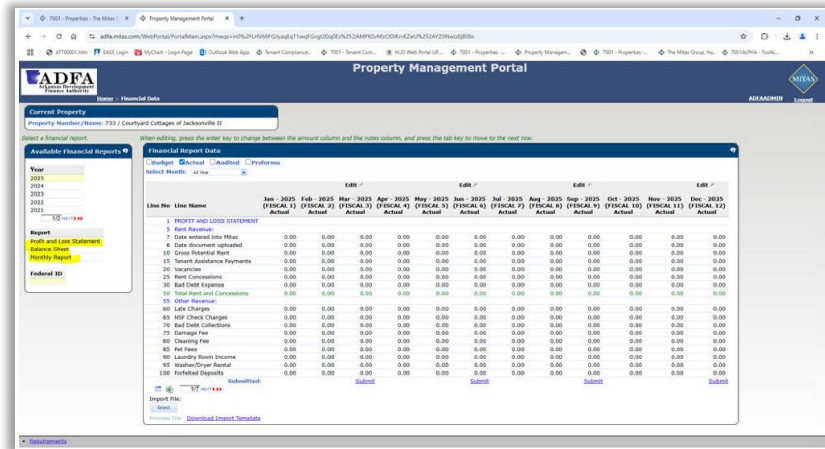
Data pertaining to move-ins, transfers, move-outs, recertifications, etc., **MUST be entered no later than the 15th day of the month following the event.** Failure to enter data will be reported to IRS as noncompliance. Online entry applies to all active projects, applicable foreclosed properties, and applicable projects that received a partial release of the terms of the LURA. A separate procedures manual is available.

## Chapter 10: Ongoing Compliance Requirements

### Section E: Agency Reporting Requirements, cont.

#### Property Management Portal, cont. TCAP/Exchange Projects

For TCAP/Exchange projects, asset management is required. Management must complete the necessary financial templates in the Property Management Portal. These templates are essential for tracking and reporting the financial status of the project.



#### ASSET MANAGEMENT PROCEDURES FOR TCAP FINANCED PROPERTIES

##### REQUIRED REPORTS

##### MONTHLY (Due by 25th of the following Month)

- Replacement Reserve Bank Account Statement
  - Minimum Balance Required per TCAP Agreement
  - Evidence of the monthly balance as required per the TCAP Agreement
  - Evidence of required yearly deposits to the account per the TCAP Agreement

All withdrawals must be approved by Asset Manager or the ADFA Underfunded accounts must be replenished per the TCAP Agreement

- Operating Reserve Bank Account Statement

- Minimum Balance Required per the TCAP Agreement

All withdrawals must be approved by the Asset Manager or the ADFA Underfunded balances must be replenished per the TCAP Agreement

##### QUARTERLY (Due by 30th of the following Month)

- Rent Roll
- Monitor the occupancy level of the property and compare with ADFA'S Electronically reporting using HDS software
  - \*IRS Section 42 compliance is monitored by the ADFA'S Compliance Department on a monthly basis. Asset Management relies on them to reduce oversight burden, minimize duplicate reporting saving manpower requirements and paper usage.
- Year- to-Date Profit and Loss Statement - due the 30th day of the month following the last month of the quarter Note: will be required monthly if the property is experiencing financial or Management difficulties
- End of quarter Balance Sheet - due the 30th day of the month following the last month of the quarter \*to determine the financial position, particularly current assets vs. current Liabilities

## Chapter 10: Ongoing Compliance Requirements

### Section E: Agency Reporting Requirements, cont.

#### TCAP/Exchange Projects, cont.

##### ANNUALY

- Audited financials - due May 1<sup>st</sup>
- Annual Owners Certification of Compliance - due February 1st
- Property Insurance - due ten days after expiration of current insurance
- Liability Insurance - due ten days after the expiration of the current policy
- Asset Management Fee- payment due January 10th
- Debt Coverage Ratio - calculated after receiving December year-to-date Profit/
- Loss Statement and Audited Financials in May
- Budget for the coming year - due November 15th of the current year

##### NON- COMPLIANCE

A property will be classified as "non-compliant" if it fails to timely submit all required reports as outlined in the TCAP Agreement and as requested by ADFA's Asset Manager.

Corrections and consequences of non-compliance will be determined on a case-by-case basis by the Asset Manager or ADFA.

The project owner is solely responsible for the costs associated with bringing the project into compliance with all applicable TCAP Agreement requirements.

Properties will be provided with a "correction period," if deemed necessary, with the length of this period determined by the Asset Manager.

## Chapter 10: Ongoing Compliance Requirements

### Section F: Development Budget & Reserve Account

#### Required Amounts

**Operating Deficit Reserve and Replacement Reserve Funds.** The total development budget must include:

- a) **Operating Deficit Reserve Fund** equal to the **greater** of:
  - Six (6) months of: projected annual operating expenses, annual debt service payments, and annual replacement reserve deposits;

OR

  - The amount of operating reserves required by the applicant's equity investor(s) or lender(s).
  
- b) **Replacement Reserve Fund** - The funding and maintenance of a Replacement Reserve Fund equal to the **greater** of:
  - \$300 per unit per year;

OR

  - The amount of replacement reserves required by the applicant's equity investor(s) or lender(s).

**The financial institutions must be identified, and account amounts must be evidenced in the final cost certification.**

- ! The Replacement Reserve shall be maintained, and yearly deposits shall be made equal to the above requirement, **for the entirety of the extended use period.**

#### Financial Statements

A copy of the account statement for the period of December, reflecting the year end summary of each calendar month's ending balance for must be submitted by the Owner/Agent to ADFA's Compliance Department by **February 1 of each year for the following accounts:**

- **Operating Reserve account**
- **Replacement Reserve account**

- ! If the December bank statements do not evidence a year-end summary of each month's balance, copies of bank statements for all twelve (12) months for the Operating Reserve and the Replacement Reserve must be submitted to ADFA's Compliance Department by February 1 of each year.
  
- ! The ending balance of each reserve account must total the amounts required under (a) and (b) above, whether the accounts are replenished from operating income or by the general partner of owner or member, shareholder or partner of general partner, as ADFA deems appropriate.



## Chapter 10: Ongoing Compliance Requirements

### Section F: Development Budget & Reserve Account, cont.

#### Withdrawals from Operating Deficit Reserve:

ADFA must approve all withdrawals from the operating deficit reserves, in writing, prior to withdrawal. Owner/Agent must submit, along with the withdrawal request, supporting documentation evidencing the following:

1. Need for the funds
2. Written evidence that insufficient funds exist in the primary operating account (i.e. documentation of the current balance of the primary operating account)
3. Written guaranty by the general partner of owner or member, shareholder or partner of general partner, as ADFA deems appropriate, will deposit sufficient funds so that at the end of the year the total in the Operating Deficit Reserve account is equal the required amount. ADFA will require notification from owner on any Replacement Reserve withdrawal and notice of approval from development's lender or investor as applicable.

#### Rural Development-funded developments:

In the event that Rural Development ("RD") requires initial operating capital in an amount less than ADFA's Operating Deficit Reserve, ADFA will credit the amount of reserves required by Rural Development to the total amount of reserves required under Section F, Required Amounts, of this chapter. but in no event shall the total amount of reserves be less than that required under Section F, Required Amounts (a) Operating Deficit Reserves;

For example, if \$50,000 for the Operating Reserve is required and \$10,000 for the Replacement Reserve, and Rural Development requires \$20,000 of initial operating capital, the owner must fund a separate Operating Deficit Reserve account, withdrawals from which must be approved by ADFA, in the amount of \$30,000. (\$50,000 - \$20,000 = \$30,000) Using the same amounts except that RD requires a \$70,000 initial operating capital, the owner must fund a separate \$50,000 Operating Deficit Reserve.)



#### Financial Statements

A copy of the account statement for the period of December, reflecting the year end summary of each calendar month's ending balance for must be submitted by the Owner/Agent to ADFA's Compliance Department by **February 1 of each year for the following accounts:**

- **Operating Reserve account**
- **Replacement Reserve account**

- ! If the December bank statements do not evidence a year-end summary of each month's balance, copies of bank statements for all twelve (12) months for the Operating Reserve and the Replacement Reserve must be submitted to ADFA's Compliance Department by February 1 of each year.
- ! The ending balance of the Operating Deficit Reserve account plus the development's ending cash balance per RD Form 3560-7, plus the balance of RD's initial operating capital reserve must total the amounts required under (a) and (b); thus, general partner of owner or member, shareholder, or partner of general partner of owner may have to deposit funds into the separate Operating Deficit Reserve account to total this amount.

#### Withdrawals from Operating Deficit Reserve:

Owner shall not make any withdrawals from the Operating Deficit Reserve account without providing the following items to ADFA:

1. supporting documentation evidencing the need for the funds,
2. written evidence from RD that the use of reserve funds is not an eligible expense from RD initial operating capital reserve account or that insufficient funds exist in the account, and
3. a written guaranty by the owner or general partner of owner, as ADFA deems appropriate, that sufficient funds will be deposited so that at the end of the year the total funds in the Operating Deficit Reserve account equal the amount required under (a) as modified herein for RD developments.

## Chapter 10: Ongoing Compliance Requirements

### Section G: Agency Monitoring Requirements

In order to ensure an owner’s continued compliance with LIHTC requirements, Housing Finance Agencies (ADFAs) are required to conduct monitoring reviews.

#### Timing of Monitoring Reviews

##### First Monitoring Review

The first monitoring review will occur **no later** than the **end of the 2<sup>nd</sup> calendar year** following the year in which the **last building** in the project is placed in service.

##### *Example – First Monitoring Review Deadline*

*For a 4-building project, the last building placed in service on 06/08/2022.*

*The first monitoring review must be completed no later than 12/31/2024.*

**Ongoing Reviews** These reviews will be conducted at least every 3 years during the first 15 years of the LIHTC period, after which they will occur every 5 years, subject to ADFA’s discretion. If the project has active HOME or NHTF funding after year 15, inspections will continue on a 3-year cycle. ADFA reserves the right to conduct inspections more frequently if deemed necessary.

#### Monitoring Fee

ADFA has established a two-tiered approach for collecting monitoring fees.

**Tier 1:** For developments allocated credits starting in 2009, ADFA will assess a one-time monitoring fee equal to 10% of the annual credit allocation for the development. Please note that this fee may be adjusted if the Qualified Allocation Plan is updated. The fee is due when credits are allocated, and no additional monitoring fees will be required.

**Tier 2:** For existing properties that were initially assessed a 6% monitoring fee at the time of allocation, the first 6% fee covers the first fifteen (15) years of monitoring. For properties in extended years (16 through 30+), a fee of \$50.00 per tax credit unit will be assessed. Rather than collecting this fee annually, ADFA will collect such fees for years when the ADFA conducts the physical inspection, which typically occurs every three (3) years, though this may be adjusted at ADFA’s discretion.

#### Sample Size

The minimum number of low-income units for which an Agency must conduct on-site inspections and low-income certification reviews is the lesser of:

- 20% of the units **or**
- The Minimum Unit Sample Size set forth in the following Low-Income Housing Credit Minimum Unit Sample Size Reference Chart.

NOTE: For the first monitoring review, **40%** of units will be used as the sample size to ensure that the minimum set aside has been met.

ADFA Compliance will increase the percentage of units to be monitored on the project, as scheduled, (no less than 20% as IRS suggested) based on the percentage of units previously out of compliance and compliance score.

Number of Low-Income Units in the Low-Income Housing Project	Number of Low-Income Units Selected for Inspection or Low-Income Certification Review (Minimum Unit Sample Size)
1	1
2	2
3	3
4	4
5-6	5
7	6
8-9	7
10-11	8
12-13	9
14-16	10
17-18	11
19-21	12
22-25	13
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## Chapter 10: Ongoing Compliance Requirements

### Section G: Agency Monitoring Requirements, cont.

#### Elements of Monitoring Reviews

Monitoring reviews contain two elements:

- A. File Reviews
- B. Physical Inspections
- C. Annual Owner's Certification
- D. Annual Document Upload Review

#### File Reviews

- ADFA may not provide more than 15 days advance notice to an owner of an upcoming inspection.
- The owner is not permitted to select the files that will be audited.
- ADFA may expand the file sample size, beyond the minimum sample size, if systemic issues of noncompliance are identified.
- File reviews will typically be conducted remotely by reviewing files uploaded into the Property Management Portal, under the "Property Documents – Tenant File Upload" section.



#### Physical Inspection

- ADFA may not provide more than 15 days advance notice to an owner of an upcoming inspection.
- Both occupied and vacant units should be included in the minimum sample size.
- All buildings within a project will be inspected, even if no units are being inspected in the building.
- Inspection can be conducted by ADFA or a contractor working on behalf of ADFA.
- All violations discovered during the inspection must be reported by ADFA, even if the deficiency is corrected during the inspection.
- The physical inspections may occur at the same time as the file review, or they may be conducted at separate times.



#### Document Reviews

- Annual Owner's Certification of Continued Compliance
- Annual Documents Upload Review

See section E of this chapter.

#### Inspection Standard

For purposes of determining compliance regarding the habitability and safety of a project, ADFA uses the NSPIRE Standard. NSPIRE replaced the UPCS Standard in 2023.

## Chapter 11: Noncompliance

### Section A: Noncompliance Identified in ADFA Review

#### File Reviews

If ADFA discovers any potential noncompliance findings during the review, ADFA will provide the owner with a summary report of the findings. All items identified in the summary report must be corrected as instructed by the compliance officer. All items must be completed and organized in the order outlined in the follow-up memo before being returned to ADFA for review. Submit the documents only after all items have been addressed. This ensures management staff has the opportunity to verify that all noncompliance issues have been corrected.

#### Physical Inspections

All violations, including Health & Safety (H&S), Life-Threatening, and Non-Life-Threatening findings, must be corrected. Reports must be submitted to ADFA, including work orders, photos, invoices, and other relevant documentation to demonstrate that all unit and project violations have been addressed. All correction items must be organized in the order of the inspection reports before being returned to ADFA. The Health & Safety (H&S) issue and its report should be submitted once all 24-hour corrections are complete. Retain a copy of these documents for the full inspection report, as they will also appear there. Once all items from the full report have been gathered, ensure they are arranged in order before sending them to ADFA. This process allows management staff to verify that all noncompliance issues have been corrected.

#### Correction Period

The standard timeframe for corrections is 30 days, and management must request an extension if they are unable to meet the deadline. All Health & Safety (H&S) 24-hour items must be submitted to ADFA within 24 hours of the inspection, along with proof of corrective action via email. Ensure all supporting documentation is attached and organized in the order of the inspection report.

**Board reports are prepared and presented to highlight projects that remain out of compliance after 90 days.**

#### Casualty Loss

The ADFA Form 700 – Casualty Loss Form must be completed and uploaded to the Property Management Portal under the "Property Documents" section on the LIHTC Tab. It must include all relevant information regarding any damage to a unit that requires the use of insurance coverage, including damages from fire, tenant-caused issues, weather-related events, etc. Additionally, insurance adjuster reports detailing the work to be completed, along with follow-up documentation confirming that the work has been completed, must also be uploaded to the appropriate section in the Property Management Portal.

#### Compliance Determination

Once the owner has provided a written response to ADFA, ADFA must then determine if:

- The owner has always been in compliance.
- The owner has corrected the noncompliance.
- The owner remains out of compliance.

If it is determined that the owner was always in compliance, an 8823 will not be filed.

#### Filing of the IRS Form 8823

The IRS Form 8823 is the form used by ADFA to report noncompliance for an LIHTC building. **All findings** of noncompliance must be reported on the 8823, even if corrected. However, it is only **uncorrected findings** that may trigger the recapture of credits.

#### HFA Notification to IRS

ADFA has **45 days** from the end of the 45 day correction period to file the 8823 with the IRS. ADFA sends a copy of the 8823 that was filed with the IRS to the owner.

#### IRS Notification to Owner

Once the IRS receives a report from ADFA that the owner is out of compliance, the IRS sends a letter to the owner that:

- Identifies the type of noncompliance reported on Form 8823
- States that the owner should not include any nonqualified low-income housing units when determining the Applicable Fraction
- Informs the owner that the noncompliance may result in the recapture of previously claimed credits
- Instructs the owner to contact the state agency to resolve the issue

## Chapter 11: Noncompliance

### Section A: Noncompliance Identified in ADFA Review, cont.

Once the owner resolves the issue of noncompliance, ADFA will file a “back in compliance” Form 8823.

#### IRS Analysis of Forms 8823



Uncorrected 8823s are regularly analyzed by the IRS. The IRS evaluates an owners’ 8823s, based on categories of noncompliance, to determine whether an audit of the owner’s tax return is warranted.

This evaluation includes a review of the owner’s tax returns, including all 8823s filed for the property.

If this evaluation determines that an audit is warranted, the complete file is sent to the appropriate IRS field office. The owner is then notified that an IRS audit has been scheduled.

### Section B: Noncompliance Penalties

#### ADFA Penalties

ADFA non-compliance penalties are based on the files/units reviewed. A penalty of \$50 per unit will be assessed for each unit found with non-compliance issues. If a file or unit has more than one item out of compliance, the penalty remains \$50 per unit. The management company will be billed for the non-compliance penalty, and payment is made on behalf of the owner.

#### IRS Penalties

If it is determined that a unit is out of compliance on the last day of the owner’s tax year, the owner must exclude the unit when calculating credits for the year that the noncompliance was discovered. Additionally, if the noncompliance event occurred in a prior year, the prior credits claimed are subject to **recapture**, to the extent that any accelerated credit is attributable to the units, plus interest.

#### Recapture

Recapture of credits is triggered by the following:

- Qualified Basis Violations
- Building Dispositions

#### Qualified Basis Violations

A Qualified Basis violation occurs when the qualified basis at the close of any year within the Compliance Period has decreased from the preceding year’s Qualified Basis.

Qualified Basis violations occur anytime there is a **decrease** in a building’s **Applicable Fraction** or the building’s **Eligible Basis**.

**Annual Credit Formula**

$$\text{Eligible Basis} \times \text{Applicable Fraction} = \text{Qualified Basis}$$

$$\text{Qualified Basis} \times \text{Applicable Credit \%} = \text{Annual Tax Credit}$$

#### Example – Decrease in Applicable Fraction

*A household was determined to be over-income at move-in. This unit ceases to be treated as an LIHTC unit, which decreases the Applicable Fraction, therefore decreasing the Qualified Basis and ultimately decreasing the annual credit amount.*

#### Example – Decrease in Eligible Basis

*A building has a swimming pool that was included in the Eligible Basis. In year 4 of the Compliance Period the owner decides to fill in the pool with concrete. The filling in of this pool decreases the buildings Eligible Basis, thereby reducing the Qualified Basis and ultimately reducing the credit amount.*

## Chapter 11: Noncompliance

### Section B: Noncompliance Penalties, cont.

#### Recapture, cont.

##### Building Disposition



Recapture of the accelerated portion of credits may be caused by either the sale or other disposition of an LIHTC building or the sale of an ownership interest in such a building if the building will not continue to be operated as an LIHTC building after the disposition.

There are four (4) categories of building disposition:

1. Sale
2. Foreclosure
3. Permanent Destruction
4. Other

#### Recapture Amount – Qualified Basis Violations

The recapture amount is based on the previously claimed **accelerated portion of the credit (1/3)**, multiplied by the decrease in Qualified Basis, plus interest.

When determining the accelerated credit amount subject to recapture, a credit recapture percentage is applied to the total amount of credits. The credit percentage used depends on the year in the Compliance Period in which the recapture event occurred. The credit recapture percentages are reflected on the **IRS Form 8611**.

IF the recapture event occurs in . . .	THEN enter on line 4 . . .
Years 2 through 11 . . . . .	.333
Year 12 . . . . .	.267
Year 13 . . . . .	.200
Year 14 . . . . .	.133
Year 15 . . . . .	.067

#### Recapture Amount – Building Disposition

Recapture amount is the **entire** accelerated portion of the credit. The percentage of decrease in basis is 100%.

#### ADFA Noncompliance Percentage and Negative Points

ADFA's Compliance Department will calculate the Non-Compliance Percentage for each applicant based upon all non-compliance by existing developments of which members, partners or shareholders of the applicant, General Partner of applicant and members, partners or shareholders of General Partner of applicant, or Members of applicant and members, partners or shareholders of Members of applicant were or are part of the development team or otherwise involved in the operation of the development as determined by ADFA.

#### Non-Compliance Percentage

A Non-Compliance Percentage will be used to determine owner performance, property performance and management performance. The non-compliance percentage is determined at the time of review as evidenced by the issuance of the IRS Form 8823, Report of Non-Compliance and NSPIRE inspection standards.

#### All percentages will be calculated as follows:

Total number of units non-compliant divided by the total units reviewed = Non-Compliance Percentage % . The Non-Compliance Percentage of all ADFA properties reviewed within a 3-year period of time will be averaged and given an Average Non Compliance Percentage. Owners are subject to point deductions, determined by ADFA allocation, based on the Average Non-Compliance percentage as follows:

Management companies will be given a GRADE based on the Average Non-Compliance Percentage of properties they manage. The overall management company grade will be updated annually. The grades will be considered during management change requests, in determining management compliance during the application process, to review management performance standards and used for public information.

<u>Owner</u>		<u>Management</u>	
Average Noncompliance Percentage	Negative Points	Average Noncompliance Percentage	Grade
> 50%	20	> 50%	F
41-50%	15	41-50%	D
31-40%	10	31-40%	C
16-30%	5	16-30%	B
> 0-15%	0	> 0-15%	A

Disclaimer: Grading is strictly based on IRS 8823 reports of non-compliance issuance and failed Uniform Inspection Standards for units cited during the monitoring visit. Projects in year 16 and after that trigger non-compliance will still be cited with an IRS 8823. The IRS 8823 will not be sent to the IRS but will remain in ADFA's records for non-compliance.

## Chapter 11: Noncompliance

### Section B: Noncompliance Penalties, cont.

#### ADFA Noncompliance Penalties

As of January 1, 2012, the units sampled or reviewed with non-compliance issues on the date the site is monitored will pay a non-compliance penalty of \$50 per unit. The fee, billed to the management agent on behalf of Limited Partnership entity, will be due no later than 30 days from the billing date.

#### Increased Monitoring

ADFA Compliance will increase the percentage of units to be monitored on the project, as scheduled, (no less than 20% as IRS suggested) based on the percentage of units previously out of compliance and compliance score.

### Section C: Correcting Noncompliance

Noncompliance issues that are identified and corrected by the owner prior to notification of an upcoming compliance review or inspection by a state agency will not be reported to the IRS.

The goal is to ensure that any issues of noncompliance are corrected:

- Prior to notification of an agency audit, or
- No later than the last day of the owner's tax year.

#### **Example – Correcting Noncompliance Prior to the Last Day of Tax Year**

*At an LIHTC building, where the owner's taxable year ends 12/31, during the fourth (4<sup>th</sup>) year of the Compliance Period, management moves in an ineligible household in error.*

*The ineligible household moved in on May 3<sup>rd</sup>. The issue of noncompliance was discovered September 12<sup>th</sup>. Management incentivized the household to move out on November 1<sup>st</sup>. A new, qualified household moved into the unit on November 30<sup>th</sup>.*

*Since the unit was back in compliance as of the last day of the owner's tax year, there is no decrease in the building's Applicable Fraction or Qualified Basis.*

#### **Rent Noncompliance**

If an owner overcharges a household rent, the unit is out of compliance for the entire taxable year, even if the owner reimburses the household the amount of rent over-charged. The unit must not be included as an LIHTC unit when determining the Applicable Fraction or whether the Minimum Set-Aside is met. The unit is considered back in compliance the next taxable year if the rent charged for the unit does not exceed the maximum rent.

#### **Example – Overcharging Rent**

*At Creekplace Apartments, a 60% 2-bedroom unit is restricted to a maximum rent of \$850.*

*Summer moves into Unit 322, a 60% 2-bedroom unit on January 15, 2022.*

*The manager charged Summer a gross rent of \$851 for the months of February and March. The error was discovered on March 15<sup>th</sup>, and the manager refunded Summer the \$2 in overcharged rent and began to charge a gross rent of \$850.*

*Even though the tenant was refunded the overcharged rent, **refunding the overcharged rent does not correct the noncompliance.** The unit will be considered out of compliance for the entire tax year.*

*Since the unit will be out of compliance as of the last day of the owner's tax year, this unit **must not** be included when determining the building's Applicable Fraction for the 2022.*

## Chapter 11: Noncompliance

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### Section C: Correcting Noncompliance, cont.

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#### Minimum Set-Aside Violation

**Initial Test:** If the Minimum Set-Aside test is not met by the deadline (by the end of the year placed in service, or the end of the next taxable year when credits are deferred), this violation results in a permanent loss of the entire credit. **This noncompliance event cannot be corrected.**

**Ongoing Test:** If the project meets the minimum set-aside by the end of the first year but fails to meet the minimum set-aside at the close of a subsequent taxable year in the Compliance Period, the entire credit is lost for that year.

## Chapter 12: Changes in Ownership & Management Agent.

### Section A: Changes in Ownership

An owner may sell an LIHTC project; however, the project must be sold to an entity that will continue to operate the project in accordance with LIHTC requirements and the project's regulatory agreement.

If the owner sells the property during the Compliance Period to an entity that does not continue to operate the project in accordance with LIHTC requirements, the disposition will result in the recapture of the accelerated portion of credits.

If a building is sold during any year for which credit is allowable under subsection, the credit will be allocated between the parties on the basis of the number of days during the year the building was held by each.

ADFA requires advance written notice and formal approval for any change in ownership of a project during the Compliance Period or the Extended Use Period. Ownership changes are considered material project changes and must be reviewed for potential compliance implications under Section 42 of the Internal Revenue Code and the Extended Use Agreement.

#### Defining Changes in Ownership

The following are considered ownership changes that require ADFA notification:

- Sale or transfer of the entire property
- Transfer of interest in the ownership entity (e.g., change in general partner, managing member, or controlling interest)
- Foreclosure or deed-in-lieu of foreclosure
- Reorganization or restructuring of the ownership entity
- Addition or removal of partners or members in the entity
- Assignment of ownership interest

#### Notification Requirements

- Owners must notify ADFA at least 30 days prior to the effective date of any change in ownership.
- Notification must be in writing and must include required supporting documentation (see below).
- A \$500 processing fee per project is required with the submission.
- **Note:** For changes that occur without ADFA notification or approval, an additional penalty of \$500 will be assessed to the project. And the project may be considered noncompliance and reported to the IRS on Form 8823 if they affect continued program obligations.

#### Required Documentation

All notifications of ownership change must include the following:

- ✓ A cover letter outlining the nature and expected effective date of the ownership change
- ✓ Completed ADFA form 920 (available on ADFA's website)
- ✓ A \$500 check payable to ADFA (non-refundable processing fee)
- ✓ Copy of the executed (or draft) purchase and sale agreement, assignment documents, or other legal transfer documents
- ✓ Updated ownership entity organizational chart
- ✓ Identification of new management company (if applicable)
- ✓ Updated contact information for the new owner
- ✓ Certification of understanding and agreement to comply with LIHTC program requirements, and other programs applicable to the project.
- ✓ Affirmation that the Extended Use Agreement will remain in effect and fully enforced

ADFA may request additional information as needed.

**ADFA reserves the right to deny ownership changes that jeopardize compliance.**

## Chapter 12: Changes in Ownership & Management Agent.

### Section B: Changes in Management

Any change in the management company requires prior approval from ADFA and must be supported with specific documentation. As management companies are directly responsible for compliance with LIHTC and other applicable funding program requirements, ADFA must ensure that qualified oversight remains in place.

#### Notification & Approval Requirements

- Housing Review Committee approval must be obtained prior to executing a new management contract.
- The project owner must submit the request at least 45 days before the anticipated effective date of the change.
- Owners should not enter into a formal contract with the new management company until written ADFA approval is received.

#### Required Documentation

##### Management Change Request will require all items referenced below:

- Proposed Management Agreement
- Formal written request from the Owner with explanation of the change
- A letter from the Syndicator/Lender (**Only if the property is within the LIHTC 15-Year Credit Period**)
- ADFA 920 – Project Change Request Checklist for Required Documents with boxes checked.
- Management Previous Participation ADFA Form 921 - **Must provide all required attachments as outlined on page 2.**
- Schedule (A) Attachment ADFA Form 922
- Staff Flow C – Flow chart must contain staff names and titles.
- ADFA Form 925 MITAS Tenant Data Management
- ADFA Form 926 Management Contact Information
- Attachment P Release ADFA 926 of information from the other State Housing Finance Agencies for the Management Company's compliance history. This form must be executed and sent by the Management company to the appropriate State Housing Finance Agency for completion. **ADFA will not send the form to the State Housing Finance Agency – New Management Companies will not be approved without the completed ADFA Form 926**
- Project Financial Statement for the existing management (if we have not received them already from the project owner with the submission of the current Annual Owner's Certification)
- Annual Owner's Certification – The existing management must complete a current AOC for period of which the existing management was managing the property. Example: New will beginning managing the property May 1, 2024 -The existing management company must submit an AOC effective Jan 1, 2024 – May 1, 2024 – The AOC must be signed and notarized
- MITAS Tenant Data – Tenant data in MITAS must be current as required and outline in the ADFA Policy Manual
- Submission of a \$500 change fee – An additional change \$500 fee will be required if the change was implemented prior to the ADFA's approval – **(The change fee only applies to Low Income Tax Credit Projects)**
- Low Income Housing Tax Credit Projects Only: Submission of a \$500 change fee (Additional \$500 change fee will be required if the change was implemented prior to ADFA's approval)
- Outstanding non- compliance and monitoring fees must be satisfied prior to ADFA's approval.
- Open file and physical reviews must be completed prior to ADFA's approval.

# Arkansas Development Finance Authority



## HOME Investment Partnership Program



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## Chapter 1: HOME Program Introduction

The HOME Investment Partnerships Program (HOME) was created through the passage of the Cranston Gonzalez National Affordable Housing Act in 1992.

The HOME Program is a type of United States federal assistance provided by the U.S. Department of Housing and Urban Development (HUD). This program is used to provide affordable housing. It is the largest Federal block grant to States and local governments designed exclusively to create affordable housing for low-income families, providing approximately \$2 billion each year.



### Housing Trust Fund (HTF)

ADFA HTF program follows the same guidelines as the HOME program, except different provisions apply to:

- Income & Rent Limits
- Student Eligibility

### Period of Affordability

#### Commitments After April 20,2025

The Period of Affordability in the HOME program refers to the timeframe during which HOME-assisted units must remain affordable and comply with program requirement

##### Minimum Affordability Periods:

- **Rehabilitation or acquisition of existing housing:**
  - Under **\$25,000** per unit: **5 years**
  - **\$25,000 to \$50,000** per unit: **10 years**
  - Over **\$50,000** per unit or rehabilitation involving refinancing: **15 years**
- **New construction of rental housing: 20 years**

#### Commitments Prior to April 20,2025

- **Rehabilitation or acquisition of existing housing:**
  - Under **\$15,000** per unit: **5 years**
  - **\$15,000 to \$40,000** per unit: **10 years**
  - Over **\$40,000** per unit or rehabilitation involving refinancing: **15 years**
- **New construction of rental housing: 20 years**

**!** Paying off the HOME loan does not terminate the required affordability period. Owners must continue to comply with all HOME program requirements, including income restrictions, rent limits, property standards, and tenant protections, for the full duration of the affordability period, regardless of whether the loan has been fully repaid.

## Chapter 1: HOME Program Introduction

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### **HOME ARP Program**

The HOME-American Rescue Plan (HOME-ARP) program provides funding to HOME Participating Jurisdictions (PJs) to help reduce homelessness and promote housing stability nationwide.

The primary focus of HOME-ARP is to serve "qualifying populations," which include people experiencing or at risk of homelessness, survivors of domestic violence, and other vulnerable groups, as defined in the HOME-ARP Notice.

HOME-ARP uses the same income limits as the regular HOME program, which are updated annually by HUD and based on area median income (AMI), adjusted for family size.

### **HOME-ARP Non-Congregate Shelter (NCS) Monitoring**

ADFA will monitor HOME-ARP assisted Non-Congregate Shelter (NCS) properties throughout the affordability period to ensure ongoing compliance with federal requirements and program goals. Monitoring efforts are focused on the following five key areas:

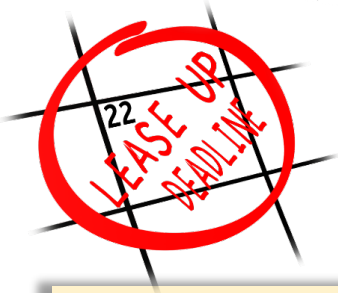
1. Compliance with the HOME-ARP Notice (HUD CPD-21-10)
2. Financial performance and long-term viability
3. Occupancy
4. Physical condition of the property
5. Physical condition of individual units

ADFA will monitor HOME-ARP NCS-assisted properties throughout the entirety of the period of affordability to ensure compliance with program requirements related to qualifying populations, income eligibility, marketing, participant protections, and the physical condition of the property.

## Chapter 2: HOME Leasing Deadlines

### Section A: HOME Initial Leasing Deadlines

There are two defined deadlines applicable to the initial leasing of HOME-assisted units.



Within **6 months** of the date of project completion, every HOME-assisted unit must be occupied by HOME-eligible households.

If a HOME-assisted unit is not occupied by a HOME-eligible household after 6 months, ADFA must submit marketing information to HUD and submit a new marketing plan.

Within **18 months** of the date of project completion, if any HOME-assisted unit is not yet occupied by a HOME-eligible household, ADFA is required repay HUD the amount of HOME funds invested in the unoccupied HOME-assisted unit(s).

#### Project Completion Defined

24 CFR § 92.2

*“Project completion means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of this part (including the property standards under § 92.251); the final drawdown of HOME funds has been disbursed for the project; and the project completion information has been entered into the disbursement and information system established by HUD, except that with respect to rental housing project completion, for the purposes of § 92.502(d) of this part, project completion occurs upon completion of construction and before occupancy. For tenant-based rental assistance, project completion means the final drawdown has been disbursed for the project.”*

For purposes of implementing this definition, HUD will track deadlines using the date that a project is completed in the Integrated Disbursement and Information System (IDIS).

**Failure to meet these deadlines will typically constitute a breach of the HOME agreement and as a result the developer/owner will need to repay the ADFA the amount of HOME funds invested into the unoccupied HOME-assisted units.**

ADFA recommends that developers/owners/agent incorporate the following:

- ✔ Create and Maintain a Marketing Binder – The marketing binder would include the project’s Affirmative Fair Housing Marketing Plan, as well as the marketing materials. It is strongly suggested that separate marketing materials be used than the materials being used for market-rate units.
- ✔ Create a written policy for unit offerings prioritizing the occupying of never-occupied HOME-assisted units before offering units that have been previously occupied.



## Chapter 3: HOME Marketing Requirements

### Section A: Affirmative Fair Housing Marketing

While it is important to market all HOME-assisted units regardless of the number of units in a project, there are some specific requirements that are only applicable when a project has **5 or more HOME-assisted units**.

Per 24 CFR § 92.351(a), ADFA must require owners of projects containing 5 or more HOME-assisted units to comply with the ADFA affirmative marketing procedures and requirements.

#### HUD Form 935.2A

ADFA requires owners to complete and submit the “HUD Form 935.2A Affirmative Fair Housing Marketing Plan (AFHMP).”

This form is used to:

- Identify any under-representation of certain demographic groups in terms of race, color, national origin, religion, sex, familial status, or disability present in the market area who are unlikely to apply for the housing at the project without targeted out-reach.
- Identify how the housing provider will market to these demographics.
- Specify how the marketing activities will be evaluated by the housing provider to determine if the marketing activities being utilized are successful and effective.
- Staff Training on Fair Housing

#### Updates to the HUD Form 935.2A

ADFA requires that the owner/agent update the AFHMP every 5 years. The AFHMP must be updated sooner if there are significant changes to the demographics of the housing market area, the population being served, or the marketing strategies outlined within the plan.

Note to all applicants/respondents: This form was developed with Nuance, the official HUD software for the creation of HUD forms. HUD has made available instructions for downloading a Free installation of a Nuance reader that allows the user to fill in and save this form in Nuance. Please see <http://portal.hud.gov/portal/documents/nuance?m=nuance/nuance.pdf> for the instructions. HUD Nuance software is the only means of completing this form.

**Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing** U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity HUD Approval No. 2528-00-3 (exp. 1/31/2021)

1a. Project Name & Address (including City, County, State & Zip Code) 1b. Project Contract Number 1c. No. of Units

1d. Census Tract

1e. Housing/Expanded Housing Market Area Housing Market Area: Expanded Housing Market Area:

1f. Managing Agent Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address

1g. Application/Owner/Developer Name, Address (including City, County, State & Zip Code), Telephone Number & Email Address

1h. Entity Responsible for Marketing (check all that apply)  Owner  Agent  Other (specify): Position, Name (if known), Address (including City, County, State & Zip Code), Telephone Number & Email Address

1i. To whom should approval and other correspondence concerning this AFHMP be sent? Indicate Name, Address (including City, State & Zip Code), Telephone Number & E-Mail Address.

2a. Affirmative Fair Housing Marketing Plan Plan Type (Please Select Plan Type) Date of the First Approved AFHMP: Reason(s) for current update:

2b. HUD-Approved Occupancy of the Project (check all that apply)  Elderly  Family  Mixed (Elderly/Disabled)  Disabled

2c. Date of Initial Occupancy 2d. Advertising Start Date Advertising must begin at least 30 days prior to initial or renewed occupancy for new construction and substantial rehabilitation projects Date advertising began or will begin: For existing projects, select below the reason advertising will be used: To fill existing unit vacancies: To place applicants on a waiting list (which currently has individuals): To reopen a closed waiting list (which currently has individuals):

Previous editions are obsolete Page 1 of 5 Form HUD-935.2A (12/2011)

## Chapter 4: HOME Income & Rent Limits

### Section A: Income Limits

There are three income limits utilized for the HOME Program:

- **80% (Low-Income Limit)**
- **60% (Move-in Income Limit) ( see section on income targeting below)**
- **50% (Very Low-Income Limit)**

The HOME Program income limits are published by HUD on an annual basis, and can be located on HUD’s website at: <https://www.hudexchange.info/programs/home/home-income-limits/>

U. S. DEPARTMENT OF HUD STATE: ARKANSAS		2024 ADJUSTED HOME INCOME LIMITS							
PROGRAM	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	
Fayetteville-Springdale-Rogers, AR MSA									
30% LIMITS	19850	22650	25500	28300	30600	32850	35100	37400	
VERY LOW INCOME	33050	37800	42500	47200	51000	54800	58550	62350	
60% LIMITS	39660	45360	51000	56640	61200	65760	70260	74820	
LOW INCOME	52850	60400	67950	75500	81550	87600	93650	99700	

HUD requires that every HOME-assisted unit be restricted to households with an annual income at or below the Low-Income Limit (80%).

HUD further requires that for projects with **at least five (5) or more** HOME-assisted units, **at least 20%** of the HOME-assisted units in a project be rented to households with an annual income at or below the very low-income limit (50%).

It is important to note that ADFA may designate **more** than the minimum number of required Low-HOME units in a project, but this requirement is stipulated in the written HOME agreement.

The income limit that a household must meet will depend on whether the unit being applied for is a High-HOME unit or a Low-HOME unit. ADFA requires the following:

- High-HOME Unit – HOME 60% Limit at Move-In, Low-Income (80%) at annual recertification.**
- Low-HOME Unit – Very Low-Income Limit**

HUD calculates the HOME Income Limits using the same methodology used for calculating the income limits for the Section 8 program and are based on HUD estimates of median household income, with adjustments based on household size.

Household sizes in excess of 8 household members are calculated by adding 8% of the four-person income limit for each additional family member (i.e., a 9-person limit should be 140% of the 4-person limit, the 10-person limit should be 148%).

The HOME income limit values for large households (i.e., 9-12 persons) must be rounded to the nearest \$50. Therefore, all values from 1 to 24 are rounded down to 0, and all values from 25 to 49 are rounded up to 50.

#### 60% Income Targeting at Initial Occupancy (Move-In)



For each HOME allocation received, ADFA must ensure that 90% of the households assisted through all the ADFA HOME rental housing programs combined, must have incomes at or below the HOME 60% Limit.

- ! **This means that for High-HOME Units, the household must meet the 60% limit or less in order to qualify at move-in. This applies to each new move in throughout the entirety of the affordability period.**

## Chapter 4: HOME Income & Rent Limits

### Section A: Income Limits, cont.

ADFA has elected to utilize the HTF Limits for ADFA HTF projects.



#### Housing Trust Fund (HTF) – Income Limits

The National Housing Trust Fund (NHTF) utilizes two income limits:

1. **Extremely Low-Income (30%)**
2. **Very Low-Income (50%)**

In any fiscal year in which the total amount available for allocation of HTF funds is **less than \$1 billion**, the grantee must use 100% of its HTF grant for the benefit of extremely low-income families or families with incomes at or below the poverty line (whichever is greater).

In any Fiscal year in which the total amount available for allocation of HTF funds is **greater than \$1 billion**, the grantee must use at least 75% of its grant for the benefit of extremely low-income families or families with incomes at or below the poverty line and remaining 25% for the benefit of very low-income households.

HUD Publishes the HTF Income Limits on an annual basis and can be located at HUD's website at:

<https://www.hudexchange.info/programs/htf/htf-income-limits/>

## Chapter 4: HOME Income & Rent Limits

### Section B: Rent Limits

HUD publishes the maximum HOME rent limits annually, and can be located on HUD's website at: <https://www.hudexchange.info/programs/home/home-rent-limits/>

#### High-HOME Rent Limit

The High-HOME rent limit is determined by the lesser of:

- The fair market rent; or
- 30% of the adjusted income of a household whose annual income equals 65% of the median income for the area.

The published High-HOME rent limit is the lesser of these two amounts.



#### Low-HOME Rent Limit



As previously mentioned, when a project has 5 or more HOME-assisted units, 20% of the HOME-assisted units must be designated as Low-HOME. This designation restricts the maximum rent to 50% which is based on 30% of annual household income for households who have an income at 50% of the area median income limit. A unit will be considered Low-HOME if the household has an income at 50% or below, it is classified a Low-HOME.

#### Gross Rent Restrictions

The gross rent charged for a HOME unit must not exceed the applicable HOME limit, which depends on the unit's designation as either High-HOME (60%) or Low-HOME (50%).

##### Gross rent includes the following:

- Tenant Paid Rent
- + Utility Allowance
- + Non-Optional Fees

---

- = Gross Rent

#### Utility Allowance (UA)

Utility allowances must be reviewed and approved by ADFA prior to implementation.

Acceptable Utility Allowance Calculation Methods

- ✓ HUD Utility Schedule Model
- ✓ Multifamily Housing Utility Analysis
- ✓ Utility Company Estimate
- ✓ LIHTC Agency Estimate
- ✓ Energy Consumption Model (Engineer Model)
- ✓ PHA Utility allowance

## Chapter 4: HOME Income & Rent Limits

### Section B: Rent Limits, cont.

#### Gross Rent Restrictions, cont.



#### Housing Trust Fund (HTF) – Rent Limits

HUD publishes the HTF rent limits on an annual basis, and can be located on HUD's website at:

<https://www.hudexchange.info/programs/htf/htf-rent-limits/>

#### Extremely Low-Income Tenants

The HTF rent plus utilities of an extremely low-income tenant shall not exceed the greater of 30% of the federal poverty line or 30% of the income of a family whose annual income equals 30% of the median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit.

#### Very Low-Income Tenants

The HTF rent plus utilities of a very low-income tenant shall not exceed 30% of the income of a family whose annual income equals 50% of the median income for the area, as determined by HUD, with adjustments for the number of bedrooms in the unit.

#### Rental Assistance

If the unit receives Federal or State project-based rental subsidy, and the tenant pays as a contribution toward rent not more than 30% of the tenant's adjusted income, the maximum rent is the rent allowable under the Federal or State project-based rental subsidy program.

#### Initial Rent Schedule & Utility Allowance

The grantee must establish maximum monthly allowances for utilities and services (excluding telephone, television, and Internet service).

The grantee must annually review and approve rents proposed by the owner for HTF units.

For all units for which the tenant is paying utilities, the grantee must ensure that the rents do not exceed the maximum rent minus the monthly allowances for utilities.

#### HOME/NHTF Rent Increase

Increases in rent must be approved by ADFA prior to implementation. Requests for rent increase must be made using the ADFA Form 408.

## Chapter 5: HOME Verification Requirements

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### Section A: Allowable Methods of Verification

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HOME regulations require that at least TWO CONSECUTIVE MONTHS of source documents be used to support the income determination at initial certification/move-in. Further, ADFA requires TWO CONSECUTIVE MONTHS of source documents to be used to support the income determination completed at annual recertification.

#### **Tenant Income Certification Form:**

ADFA requires that the LIHTC TIC be used for HOME funds.

#### **Timely Verifications**

Federally, verifications must be dated within 120 of the effective date of the certifications. Refer to Chapter 5 of the LIHTC Compliance manual for more information on verifications.

## Chapter 6: Student Eligibility

### Section A: Applicability of Student Eligibility Requirements

In 2013, the HOME Program adopted the HUD Section 8 Eligibility Requirements.

There is a set of criteria that must be met for certain student households in order for those households to meet the HOME student eligibility rules.

If an adult student is not considered to be “independent” from their parents or guardians, then not only does the student need to income qualify, the student’s parents/guardians must also income qualify.

If a household includes a member who is an ineligible student, the **entire household** is not eligible.

The determination of whether or not a student’s household is eligible to receive Section 8 assistance can be broken down into three steps.



# 1

#### Step 1. Determine if the Student Rules Apply to the Household.

Not all students have to meet these requirements. This student rule only applies to **full- or part-time students** who are:

- A. Between the ages of 18-23, and
- B. Are not living with their parents who are applying for the HOME-assisted units.

#### EXAMPLE #1 – STUDENT RULES “NOT APPLICABLE”

*Ashley, age 43, is the sole household member and is a part-time student in college. As Ashley is over the age of 23, the HOME student restrictions **do not apply** to her household.*

#### EXAMPLE #2 – STUDENT RULES “NOT APPLICABLE”

*Zelda, age 18, is a full-time student in college and lives with her parents, Mike and Carol who are applying for a HOME-assisted unit. As Zelda is living with her parents (who are applying for the HOME-assisted unit), the HOME student restrictions **do not apply** to her household.*

#### EXAMPLE #3 – STUDENT RULES “APPLICABLE”

*Ramona, age 19, is a part-time student in college and is applying for a HOME-assisted unit with her best friend, Wila. Since Ramona is a student between the ages of 18-23 and is not living with her parents who are applying for the Section 8 assistance, the HOME student restrictions **do apply** to her household. It would need to be determined that Ramona is “independent” from her parents or her parents would need to income qualify in order for Ramona’s household to be eligible.*

## Chapter 6: Student Eligibility

### Section B: Determination of an Independent Student

#### Step 2. Determine if the Student is “Independent”.

A student is considered “independent” if the student:

- Is Married,
- Is a Veteran,
- Has a Dependent Child, or
- Is considered a “Vulnerable Youth”.

#### Vulnerable Youth

HUD defines “vulnerable youth” when a student meets one of the following definitions, as provided by the **Higher Education Act**:

- Student is an orphan, in foster care, or a ward of the court at any time when the student was 13 years of age or older.
- The student is, or was immediately prior to attaining the age of majority, an emancipated minor.
- The student meets the McKinney-Vento Homeless Assistance Act’s definition of homeless youth or at-risk homeless youth.



**Note:** Documentation should be maintained in the tenant file demonstrating that one of the above criteria has been met.

If the student does not meet any of the above criteria, a student can also be considered “independent” if the student meets the criteria below:

1. The student is of legal contract age, **AND**
2. Has obtained certification of the amount of financial assistance that will be provided by the parent(s), signed by the individual(s) providing support, **AND**
3. Student meets the Department of Education’s definition of an independent student by meeting one of the following additional criteria:
  - a. Is a graduate or professional student, **OR**
  - b. Has a dependent parent.

**OR, in addition to criteria #1 and #2, the student must also meet the criteria below:**

- The student is not claimed as a dependent by their parents or legal guardians per the IRS regulations.
  - **Note:** Review the **student’s (not the parent’s)** prior year’s income tax return to verify that the student was not claimed as a dependent by another individual, **AND**
- The student has established a household separate from their parents or legal guardians for **at least one (1) year** prior to the application for occupancy. Dorms do not count as a separate household.
  - **Note:** Review and verify previous address information to determine evidence of a separate household from parents/guardians.

#### EXAMPLE – STUDENT “NOT INDEPENDENT”

*Pilar, age 18, is a single, full-time student in college. Pilar is applying for a HOME-Assisted Unit. Pilar is the sole household member as she does not have any dependents. Her only source of income is the financial support provided by her parents. Pilar has never lived on her own before as she has lived with her parents since birth. She is claimed as a dependent on her parent’s tax return.*

*Since Pilar does not meet any of the criteria of “independent” from parents, Pilar’s parents must be income qualified in order for Pilar to be eligible for a HOME-assisted unit.*

## Chapter 6: Student Eligibility

### Section C: Determination of Parent Eligibility



#### Step 3. If the Student is not “Independent”, Determine if the Student and the Parent(s)/Guardian(s) Are Income Eligible.

If the student is determined to not be “independent” from their parents, **BOTH** the student and the parents (individually or jointly) must be income eligible in order for the household to be eligible for a HOME-Assisted Unit.

**In order to determine the income eligibility of the parents, obtain a certification of income from the parents.**

**Note:** Additional documentation to support the certification may be obtained if the certification and declaration of income is questionable. Additional documentation may include, but is not limited to: prior year’s tax return, bank statements, consecutive and original paystubs, and benefit letters.

The parents’ income must be at, or below, the **Low (80%) Income Limit** for the parent’s household size that applies to the county where the parents live, if the parents reside in the United States. If the parents do not live in the United States, use the Low (80%) Income Limit that applies to the county where the property is located.



- **If the student’s parents are married (and living with each other)...**
  - Obtain the declaration and certification of income from each parent.
- **If the student’s parent is widowed or single...**
  - Obtain the declaration and certification of income from that parent.
- **If the student’s parents are divorced or separated...**
  - Obtain the declaration and certification of income from each parent.
- **If the student has been living with one of his or her parents and has not had contact with, or does not know where to contact his or her other parent...**
  - Obtain from the student a certification addressing the circumstances and that they have not received any financial assistance (directly or indirectly) from the absent parent. Information must be collected in addition to the declaration and certification of income from the parent with whom the student has been living with or contact with. The certifications must include a “Penalty of Perjury” statement.

**IF the parents/guardians refuse to provide a declaration of their income or a statement of whether or not they provide the student financial assistance, then the student is not eligible.**

#### Parents Defined...

HUD defines “parents” to include:

- Biological or Adoptive Parents
- Guardians, such as:
  - Grandparents
  - Aunt/Uncle
  - Godparents



#### EXAMPLE – DETERMINING INCOME ELIGIBILITY FOR PARENTS OF DEPENDENT STUDENTS

*Pretty is an 18-year-old student applying for Section 8 assistance at a property in Concord, NH (Merrimack County). Pretty is applying along with her twin sister, Precious, who is not a student. The 2-person income Low (80%) Income Limit for Merrimack County is \$29,700. Pretty and Precious’s household income is \$21,000.*

*Pretty has been determined to not be “independent from her parents. Therefore, her parents must also income qualify in order for Pretty’s household to be eligible to receive Section 8 assistance. Pretty’s parents provide a certification of income declaring their household income to be \$46,800. Pretty’s parents live in Surry County, NC. The 2-person Low (80%) Income Limit for Surry County, NC is \$52,600.*

*In this example, Pretty’s parents’ income of \$46,800 would be compared to the 80% income limit for the county which the parents live (Surry County), not the county that the property is located (Merrimack County).*

*As both the student and the parents are income eligible, Pretty’s household meets the student eligibility requirements for Section 8 assistance.*

## Chapter 6: Student Eligibility

### Section D: Monitoring of Student Eligibility

Student eligibility must be evaluated:

- At move-in
- At recertification
- When there is a change in household composition
- When the household reports a change in student status



#### Ineligible Students

If a household later becomes an ineligible student household, the household is treated as an “**over-income**” unit.

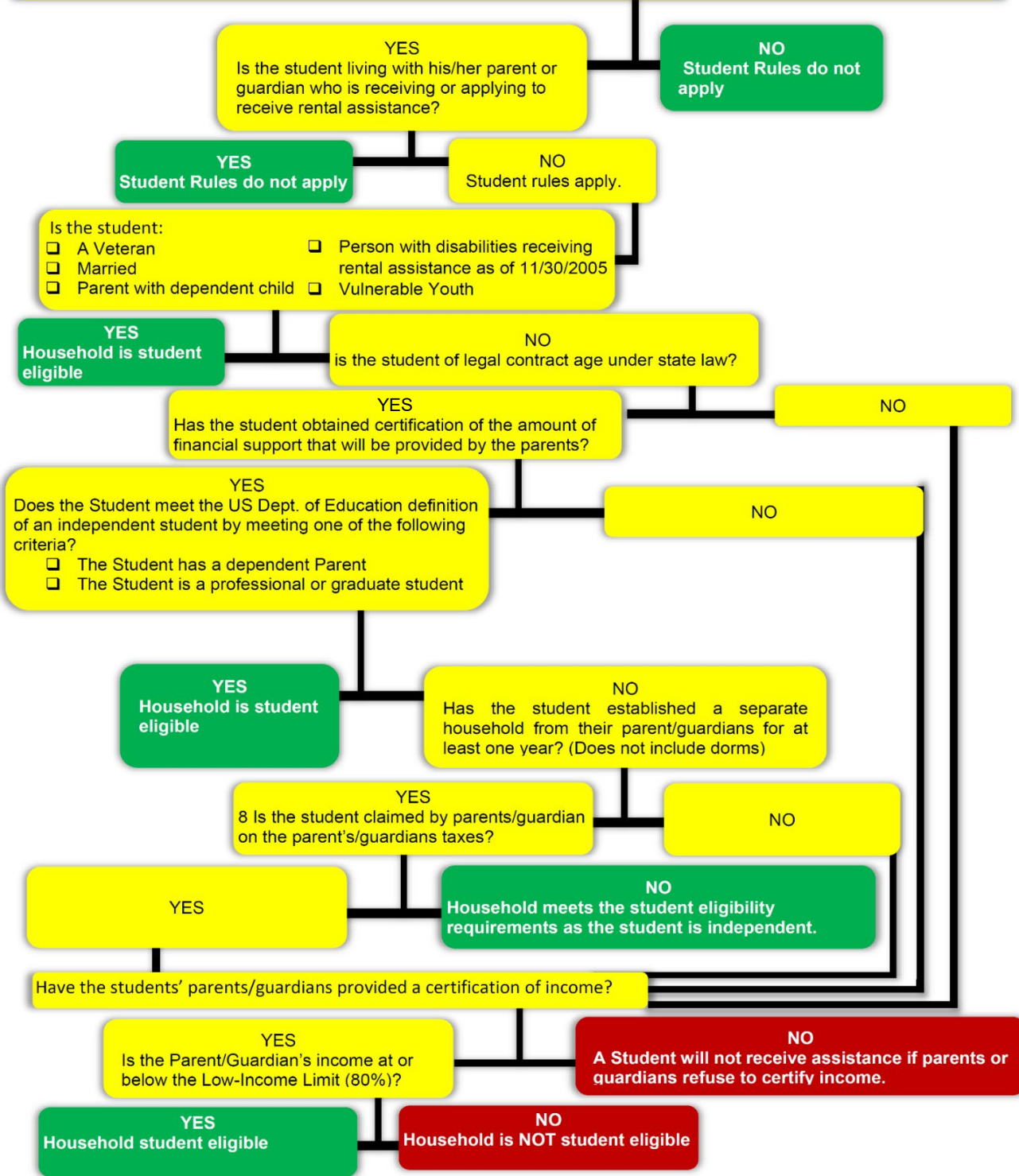


#### Housing Trust Fund (HTF) – Student Eligibility

Student Eligibility Requirements do NOT apply to HTF.

## Section 8 Student Flow Chart

Does the household include a member between the ages of 18-23 who is a full or part time student at an institute of higher education?



## Chapter 7: Lease Requirements

### Section A: Lease Agreement

#### Required Lease Provisions

The following provisions must be included in all lease agreements for a HOME unit.

- ✓ The lease must specify the initial allowable HOME rents.
- ✓ The lease must also clearly state that the owner/manager reserves the right to adjust tenant rents, based on changes in the HOME rent limits, or in the event a tenant's income increases above the low- or very low-income limits, for the type of unit the tenant occupies (High-HOME or Low-HOME).
- ✓ For properties that were built before 1978, the lease must include a Lead Warning Statement.
- ✓ The lease must include the VAWA Lease Addendum developed by the project's PJ.

#### Prohibited Lease Clauses

The HOME guide outlines several provisions that are prohibited from being included in a lease agreement for a HOME unit.

- ✗ **Agreement to be sued.** Agreement by the tenant to be sued, admit guilt, or consent to a judgment in favor of the owner in a lawsuit brought in connection with the lease.
- ✗ **Agreement regarding seizure of property.** Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition does not apply to an agreement by the tenant concerning disposition of personal property remaining in the unit after the tenant has moved out. The owner may dispose of personal property in accordance with state law.
- ✗ **Agreement excusing the owner from responsibility.** Agreement by the tenant not to hold the owner or the owner's agents legally responsible for actions or failure to act, whether intentional or negligent.
- ✗ **Waiver of notice.** Agreement by the tenant that the owner may institute a lawsuit without notice to the tenant.
- ✗ **Waiver of legal proceedings.** Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties.
- ✗ **Waiver of a jury trial.** Agreement by the tenant to waive any right to a jury trial.
- ✗ **Waiver of right to appeal a court decision.** Agreement by the tenant to waive the tenant's right to appeal or otherwise challenge in court a decision in connection with the lease.
- ✗ **Agreement to pay legal costs, regardless of outcome.** Agreement by the tenant to pay attorney fees or other legal costs even if the tenant wins the court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

#### Required Lease Addendum

ADFA requires the inclusion of:

- The **HOME/NHTF Lease Addendum, ADFA Form 601**, which contains specific prohibited language, to be part of all leases involving HOME and/or NHTF funding. This addendum must be included in the lease as per ADFA Form 601, at initial lease signing and at each annual renewal.
- The **VAWA Lease Addendum (Form 508)**. This must be executed at initial lease signing and each annual renewal.

## Chapter 7: Lease Requirements

### Section B: Lease Charges

#### Security Deposits

→ **Refundability & Limitations**

- Security deposits must be **fully refundable** and **cannot exceed two months' rent**.

→ **Prohibited Alternative Instruments**

- The use of **surety bonds, security deposit insurance, or similar financial instruments** in place of or in addition to a security deposit is strictly prohibited.

→ **Deductions & Refund Process**

- Upon **termination of tenancy** by either the tenant or the owner:
  - If the owner applies any portion of the security deposit to unpaid obligations, damages, or other permitted charges, they must provide the tenant with a **detailed itemized statement** listing each charge and its corresponding amount.
  - After accounting for any deductions, the **remaining balance must be promptly refunded** to the tenant.

### Section C: Lease Term

Leases must be executed for one year unless the owner/agent and the tenant have mutually agreed to a lesser term. If the tenant agrees to a lesser lease term, the term must not be for a period less than 30 days.

If a household moves in on January 15, 2024. A lease term of January 15, 2024 to December 31, 2024 is not a full year. The correct Lease Term would be January 15, 2024 to January 14, 2025.

### Section D: Lease Termination

#### Lease Termination

The tenancy of an occupant residing in a HOME-assisted unit must only be terminated for good cause.

Good cause includes:

- ✓ Serious or repeated violation of the terms and conditions of the lease;
- ✓ Violation of applicable Federal, state, or local law(s);
- ✓ Completion of the tenancy period for transitional housing; or
- ✓ Other good cause. It is a good business practice for the lease to clearly state the basis for "good cause."

An owner cannot refuse to renew the lease of a tenant occupying a HOME-assisted unit for other than good cause.

An increase in income is not considered "good cause;" therefore, owner/agents must not terminate tenancy or refuse to renew a lease for a household who is now determined to be over-income.



## Chapter 7: Lease Requirements

### Section D: Lease Termination

#### Lease Termination, cont.

##### Notice of Termination

A 30-day written notice of termination must be provided to tenants occupying HOME-assisted units.

This notice applies even as it relates to non-payment of rent.

This 30-day rule does not affect the cure period covered under a project's tenant/landlord law; it only extends that date that the lease is terminated to 30 days.

##### **Example – Notice of Termination**

*Golden Meadows is an apartment community with HOME-assisted units. Gayle resides in a HOME-assisted unit and has not paid her rent. Golden Meadows is located in a state where a landlord must wait 7 days after the rent is due to issue a 72-hour notice of non-payment.*

*The manager issues Gayle a notice on March 8<sup>th</sup>. The notice requires Gayle to pay rent by midnight on March 11<sup>th</sup>, and states that if payment is not received by midnight on March 11<sup>th</sup>, Gayle's tenancy will terminate effective April 7<sup>th</sup>.*

The **minimum 30-day notice period** is **not required** if the tenancy is being terminated or the lease renewal is refused due to:

- A **direct threat** to the safety of tenants or housing employees, or
- An **imminent and serious threat** to the property.

In such cases, the termination or non-renewal must comply with the requirements outlined in **§ 92.253(b)(10)(iii)**.

## Chapter 8 : Annual Recertification Requirements

### Section A : Annual Recertification

#### Effective Dates

The HOME Program does not require that tenant income recertifications be done at any particular time in the year. However, ADFA requires that certification be completed based on the anniversary of the initial certification to ensure that the recertification is conducted annually. Income at recertification is determined using the Part 5 Method, which is outlined in Chapter 6 and Chapter 7 of the LIHTC Compliance Manual



#### Example: Effective Dates

A household executes a lease agreement and moves into a HOME-assisted unit on 3/15/2025. The household's recertification must be completed no later than 3/15/2026, and the effective date of the tenant income certification must be 3/15/2026.

It is important to use the most recent income limits issued by HUD. If the tenant household's income is greater than the HOME income limits for the type of unit it occupies, the tenant is "over-income," and the project is temporarily out of compliance. This is permissible if the owner takes specific steps to restore compliance at the project. Refer to Chapter 8 of this HOME Manual regarding the treatment of Over-income HOME households.

At recertification, ADFA requires that full recertification be completed . ADFA does not permit self-certification of income at recertification for the HOME Program. The determination of income must be documented following the verification requirements outlined in Chapter 4 of this HOME Compliance Manual and Chapter 4 of the ADFA LIHTC Compliance Manual.

## Chapter 9: Over Income Households

### Section A: Treatment of Over Income Households

For a **Low-HOME unit**, a household is considered over-income if their income exceeds the Very-Low Income Limit (50%).

For a **High-HOME unit**, a household is considered over-income if their income exceeds the Low-Income Limit (80%).

When a household's income increases at recertification, the household's unit may need to be re-designated from a Low-HOME unit to a High-HOME unit or even to a non-HOME unit.

The specific action that needs to be taken will depend on whether the unit is "fixed or floating" and whether the unit is designated as a High-HOME or a Low-HOME unit.

#### Low-HOME Unit – Income Exceeds 50%

> 50%

When a household in a Low-HOME unit (fixed or floating) is determined to be over the Very-Low limit (50%), the following actions must be taken:

- The next available and comparable High-HOME unit must be re-designated as a Low-HOME unit and must be rented to a household with an income at or below Very-Low limit (50%).
- After the next available and comparable unit is rented to a Low-HOME eligible household, the over-income unit must be re-designated from a Low-HOME unit to a High-HOME unit, and the rent may be increased to the High-HOME rent, if the lease permits.

> 80%

#### Any HOME Unit – Income Exceeds 80%

When a household's income exceeds the Low-Income limit (80%), the action that must be taken will depend on whether the unit is "**Fixed**" or "**Floating**".

##### Fixed HOME Units

When a household in a fixed HOME unit (High or Low) is determined to be over the Low Income limit (80%), the following actions must be taken:

- Rent must be increased to 30% of the household's monthly adjusted income
  - ! **If the unit is LIHTC, the increase in rent is capped at the maximum LIHTC Rent**
- If the unit is a Low-HOME unit, the next available and comparable High-HOME unit must be re-designated to a Low-HOME unit and rented to a household with an income at or below the Very-Low (50%) income limit.

##### Floating HOME Units

When a household in a floating HOME unit (High or Low) is determined to be over the 80% Low Income limit, the following actions must be taken:

- Rent must be increased to 30% of the household's monthly adjusted income but must be capped at Market Rent.
  - If the unit is a Low-HOME unit, the next available and comparable non-HOME unit must be re-designated to a Low-HOME unit and rented to a household with an income at or below the Very-Low Income limit (50%)
  - If the unit is a High-HOME unit, the next available and comparable non-HOME unit must be re-designated as a High-HOME unit and rented to a household with an income at or below the HOME 60% income limit.
    - ! **If the unit is LIHTC, the increase in rent is capped at the maximum LIHTC Rent**
  - After the next available and comparable unit is rented to a HOME eligible household, the over-income unit may be re-designated to a non-HOME unit.

## Chapter 9: Over Income Households

### Section A: Treatment of Over Income Households, cont.

#### **Example #1 – Household Income in a Low-HOME unit Exceeds 50%**

A building contains 20 units. Of the 20 units, 10 units are HOME-assisted units.

The project's HOME Agreement requires that of the 10 HOME-assisted units, 8 units are High-HOME units, and 2 units are Low-HOME units.

Upon recertification it is determined that a household occupying Unit 102, a Low-HOME unit, has a household income in **excess** of the **50% income limit** but remains **under the 80% income limit**.

At the time of Unit 102's recertification there are three vacant units:

- Unit 204 – a non-HOME unit
- Unit 104 – a Low-HOME unit
- Unit 302 – a High-HOME unit



In order to maintain compliance with the HOME unit mix:

1. The owner/agent must re-designate the next available vacant High-HOME unit as a Low-HOME unit and must rent the unit to a household with an annual income at or below the Very-Low (50%) income limit.
2. The over-income unit would then be re-designated as a High-HOME unit.

In this scenario, the owner/agent should:

1. Re-designate Unit 302 (High-HOME) to a Low-HOME unit and rent Unit 302 to a household with an annual household income at or below the 50% income limit.
2. Re-designate Unit 102 as a High-HOME unit after Unit 302 is occupied by a Low-HOME eligible household.

By taking these steps, the owner has restored the number of High-HOME units and Low-HOME units to the set-asides required by the project's HOME Agreement.

#### **Example #2 – Household Income in a FIXED Low-HOME unit Exceeds 80%**

A building contains 20 units. Of the 20 units, 10 units are HOME-assisted units.

The project's HOME Agreement requires that of the 10 HOME-assisted units, 8 units are High-HOME units, and 2 units are Low-HOME units.

Upon recertification it is determined that a household occupying Unit 102, a **FIXED Low-HOME unit**, has a household income in **excess** of the **80% income limit**.

At the time of Unit 102's recertification there are three vacant units:

- Unit 204 – a non-HOME unit
- Unit 104 – a Low-HOME unit
- Unit 302 – a High-HOME unit



In order to maintain compliance with the HOME unit mix:

1. The owner/agent must increase the rent of the OI household to 30% of the household's monthly adjusted income.
2. The owner must re-designate the next available vacant High-HOME unit as a Low-HOME unit and must rent the unit to a household with an annual income at or below the Very-Low (50%) income limit.
3. The over-income unit would then be re-designated a High-HOME unit.

In this scenario, the owner/agent should:

1. The owner/agent must increase the rent for Unit 102 to reflect 30% of the household's monthly adjusted income.
2. Re-designate Unit 302 (High-HOME) to a Low-HOME unit and rent Unit 302 to a household with an annual household income at or below the 50% income limit.
3. Once Unit 302 is occupied by a Low-HOME qualified household, Unit 102 is re-designated as a High-HOME unit.

By taking these steps, the owner has restored the number of High-HOME units and Low-HOME units to the set-asides required by the project's HOME Agreement. Even though the household in Unit 102 is over 80%, the project remains in compliance as long as the above steps are followed.

## Chapter 9: Over Income Households

### Section A: Treatment of Over Income Households, cont.

#### **Example #3 – Household Income in a FLOATING Low-HOME unit Exceeds 80%**

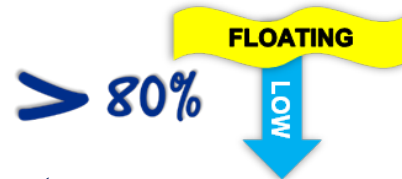
A building contains 20 units. Of the 20 units, 10 units are HOME-assisted units.

The project's HOME Agreement requires that of the 10 HOME-assisted units, 8 units are High-HOME units, and 2 units are Low-HOME units.

Upon recertification it is determined that a household occupying Unit 102, a **FLOATING Low-HOME unit**, has a household income in **excess of the 80% income limit**.

At the time of Unit 102's recertification there are three vacant units:

- Unit 204 – a non-HOME unit
- Unit 104 – a Low-HOME unit
- Unit 302 – a High-HOME unit



In order to maintain compliance with the HOME unit mix, the owner/agent must:

1. Increase the rent of the OI household to the lesser of 30% of the household's monthly adjusted income or Market Rent.
2. Re-designate the next available vacant non-HOME unit as a Low-HOME unit and rent the unit to a household with an annual income at or below the Very-Low (50%) income limit.
3. Re-designate the over-income unit to a non-HOME unit.

In this scenario, the owner/agent must:

1. **Increase the rent for Unit 102** to reflect the lesser of 30% of the household's monthly adjusted income or Market Rent.
2. **Re-designate Unit 204 (non-HOME) to a Low-HOME unit** and rent Unit 204 to a household with an annual household income at or below the 50% income limit.
3. Re-designate Unit 102 as a non-HOME unit, **after** Unit 204 is occupied by a Low-HOME qualified household.

By taking these steps, the owner has restored the number of High-HOME units and Low-HOME units to the set-asides required by the project's HOME Agreement.

#### **Example #4 – Household Income in a FIXED High-HOME unit Exceeds 80%**

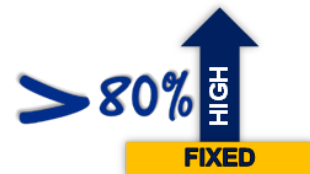
A building contains 20 units. Of the 20 units, 10 units are HOME-assisted units.

The project's HOME Agreement requires that of the 10 HOME-assisted units, 8 units are High-HOME units, and 2 units are Low-HOME units.

Upon recertification it is determined that a household occupying Unit 203, a **FIXED High-HOME unit**, has a household income in **excess of the 80% income limit**.

At the time of Unit 203's recertification there are three vacant units:

- Unit 204 – a non-HOME unit
- Unit 104 – a Low-HOME unit
- Unit 302 – a High-HOME unit



In order to maintain compliance with the HOME unit mix, the owner/agent must:

1. Increase the rent of the OI household to the lesser of 30% of the household's monthly adjusted income.

**\*\* Since the units are "Fixed," non-HOME units will never be re-designated as HOME units. In such situations, it is not possible to restore the HOME set-asides required in the HOME Agreement; however, the owner/agent is considered in compliance as long as the household's rent is raised to 30% of the household's monthly adjusted income.**

In this scenario, the owner/agent must:

1. Increase the rent for Unit 203 to reflect the 30% of the household's monthly adjusted income. Even though the HOME set-asides have not been restored the owner/agent is deemed in compliance as long as the above step is taken.

## Chapter 9: Over Income Households

### Section A: Treatment of Over Income Households, cont.

#### **Example #5 – Household Income in a FLOATING High-HOME unit Exceeds 80%**

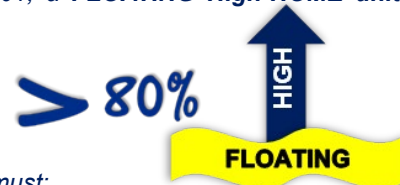
A building contains 20 units. Of the 20 units, 10 units are HOME-assisted units.

The project's HOME Agreement requires that of the 10 HOME-assisted units, 8 units are High-HOME units, and 2 units are Low-HOME units.

Upon recertification it is determined that a household occupying Unit 201, a **FLOATING High-HOME unit**, has a household income in **excess** of the **80% income limit**.

At the time of Unit 201's recertification there are three vacant units:

- Unit 204 – a non-HOME unit
- Unit 104 – a Low-HOME unit
- Unit 302 – a High-HOME unit



In order to maintain compliance with the HOME unit mix, the owner/agent must:

1. Increase the rent of the OI household to the lesser of 30% of the household's monthly adjusted income or Market Rent.
2. Re-designate the next available vacant non-HOME unit as a High-HOME unit and rent the unit to a household with an annual income at or below the HOME 60% income limit.
3. Re-designate the over-income unit to a non-HOME unit.

In this scenario, the owner/agent must:

1. **Increase the rent for Unit 201** to reflect the lesser of 30% of the household's monthly adjusted income or Market Rent.
2. **Re-designate Unit 204 (non-HOME) to a High-HOME unit** and rent Unit 204 to a household with an annual household income at or below the HOME 60% income limit.
3. Re-designate Unit 201 as a non-HOME unit, **after** Unit 204 is occupied by a High-HOME qualified household.

By taking these steps, the owner has restored the number of High-HOME units and Low-HOME units to the set-asides required by the project's HOME Agreement.

#### **Example #6 – Household Income in a FLOATING High-HOME unit Exceeds 80% - LIHTC & HOME unit**

A building contains 20 units. Of the 20 units, 10 units are HOME-assisted units.

The project's HOME Agreement requires that of the 10 HOME-assisted units, 8 units are High-HOME units, and 2 units are Low-HOME units.

Upon recertification it is determined that a household occupying Unit 201, a **FLOATING High-HOME unit**, has a household income in **excess** of the **80% income limit**. **The unit is also LIHTC, and is restricted to 60%.**

At the time of Unit 201's recertification there are three vacant units:

- Unit 204 – a non-HOME unit
- Unit 104 – a Low-HOME unit
- Unit 302 – a High-HOME unit

In order to maintain compliance with the HOME unit mix, the owner/agent must:

1. Increase the rent of the OI household to the lesser of 30% of the household's monthly adjusted income or Market Rent. The increase in Gross Rent cannot exceed the maximum LIHTC Rent applicable to the unit.
2. Re-designate the next available vacant non-HOME unit as a High-HOME unit and rent the unit to a household with an annual income at or below the HOME (60%) income limit.
3. Re-designate the over-income unit to a non-HOME unit.

In this scenario, the owner/agent must:

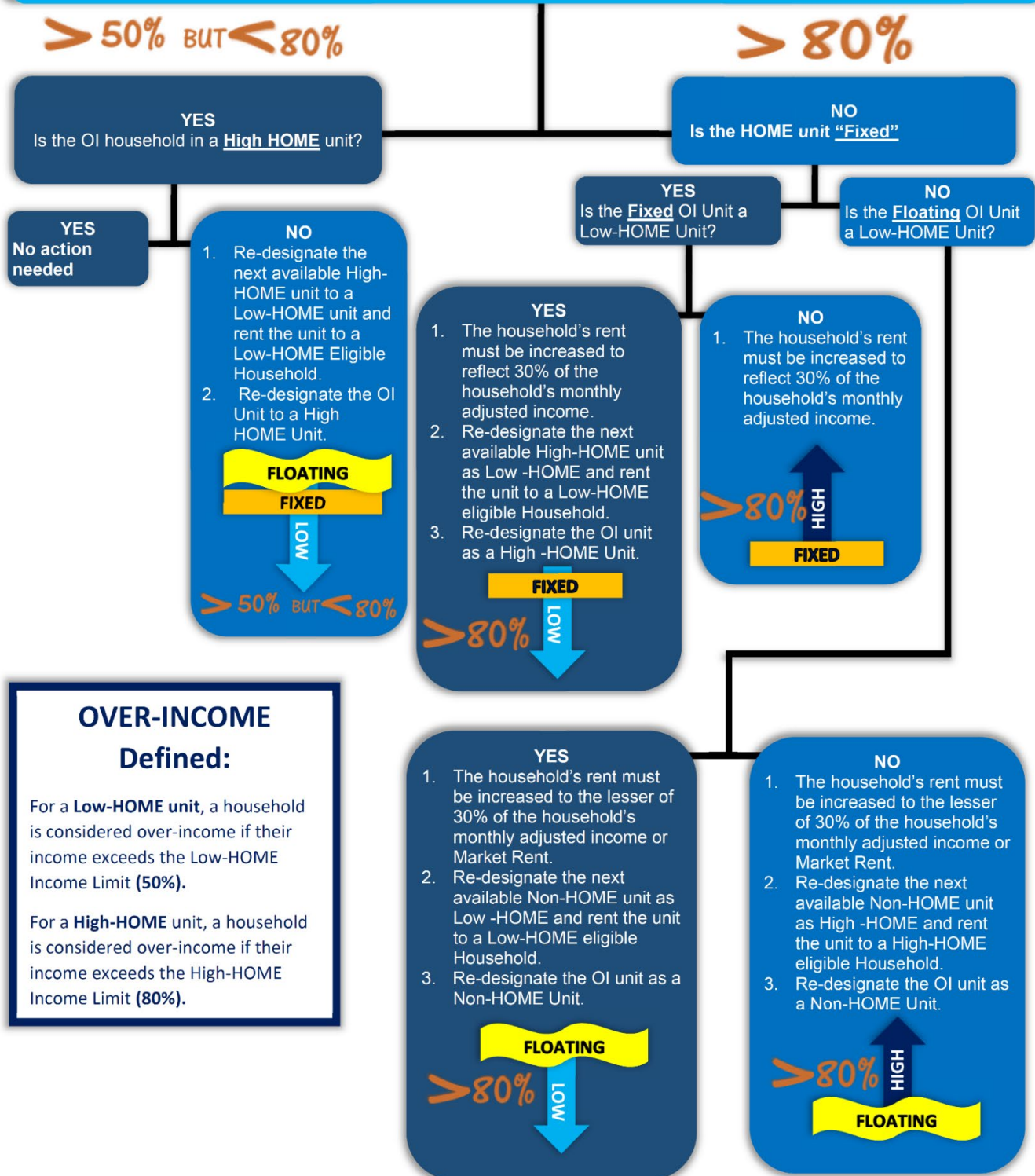
1. **Increase the rent for Unit 201** to reflect the lesser of 30% of the household's monthly adjusted income or Market Rent. The increase in gross rent cannot exceed the 60% LIHTC rent applicable to the unit.
2. **Re-designate Unit 204 (non-HOME) to a High-HOME unit** and rent Unit 204 to a household with an annual household income at or below the HOME 60% income limit.
3. Re-designate Unit 201 as a non-HOME unit, **after** Unit 204 is occupied by a High-HOME qualified household.

By taking these steps, the owner has restored the number of High-HOME units and Low-HOME units to the set-asides required by the project's HOME Agreement.

## Over-Income Households Flow Chart

Does the over-income household have an annual income that exceeds the 50%, but does not exceed the 80% limit?

\*\*\*\* Answering NO indicates that the OI Household is over 80%



**OVER-INCOME Defined:**

For a **Low-HOME unit**, a household is considered over-income if their income exceeds the Low-HOME Income Limit (**50%**).

For a **High-HOME unit**, a household is considered over-income if their income exceeds the High-HOME Income Limit (**80%**).

## Chapter 10: HOME & Other HUD Programs - Compliance Monitoring

ADFA requires compliance reporting and conducts compliance monitoring activities in order to ensure that a HOME-funded project maintains compliance with HOME regulations throughout the project’s affordability period.

### Section A: Monitoring Reviews -HOME & Housing Trust Funds

#### Timing of Monitoring Reviews

→ **First Monitoring Review:**

The first monitoring review must be conducted within 12 months after project completion.

→ **Ongoing Reviews:**

Ongoing reviews are conducted at least once every three (3) years.

#### Sample Size

A random sample of HOME-assisted units must be inspected, covering a mix of unit sizes (e.g., one-, two-, and three-bedroom units) as specified in the inspection chart. Each inspection must include all inspectable areas within buildings that contain HOME-assisted units. For projects with one to four HOME-assisted units, 100% of the units and associated inspectable areas must be inspected.

Number of HOME-assisted units in the HOME project	Number of units that must be selected in the random sample (i.e., minimum unit sample size)	Number of HOME-assisted units in the HOME project	Number of units that must be selected in the random sample (i.e., minimum unit sample size)
1-20	4	91-95	19
21-25	5	96-100	20
26-30	6	101-105	21
31-35	7	106-110	22
36-40	8	111-115	23
41-45	9	116-120	24
46-50	10	121-125	25
51-55	11	126-130	26
56-60	12	131-166	27
61-65	13	167-214	28
66-70	14	215-295	29
71-75	15	296-455	30
76-80	16	456-920	31
81-85	17	921+	32
86-90	18		

#### 48-Hour Written Notice Requirement

- Landlords must provide tenants with at least 48 hours' written notice before entering their unit for routine inspections, maintenance, or repairs.
- The notice must specify the date, time, and purpose of entry.
- The notice can be delivered to the dwelling unit rather than directly to the tenant.

#### Exceptions for Emergency Entry

- No advance notice is required if there is a reasonable belief that an emergency exists (e.g., fire, water leak, gas leak, or life-threatening hazard). However, if an emergency entry occurs, the owner must provide a written statement after entry specifying the date, time, and reason for entry

#### Physical Inspections

ADFA will conduct a physical inspection to ensure that the project is being maintained with the National Standards for the Physical Inspection of Real Estate (NSPIRE) standards.

#### Deficiencies Discovered During Inspection

When ADFA cites deficiencies in the property standards during an inspection, HOME regulations require that ADFA conduct a follow-up inspection within 12 months to verify that health and safety issues have actually been addressed.

**! Health and safety deficiencies must be corrected immediately.**

ADFA reserves the right to adopt a more frequent inspection schedule for properties that have been found to have health and safety deficiencies.



## Chapter 10: HOME & Other HUD Programs - Compliance Monitoring

### Section A: Monitoring Reviews -HOME & Housing Trust Funds, cont.

#### File Reviews



In addition to conducting a physical inspection, a PJ will also review the files of HOME-assisted tenants to ensure that the owner is complying with the income and rent requirements applicable to the program.

The audit will include, at minimum, a review of the following:

- ✓ Review of income certifications for HOME-assisted households
- ✓ Review of tenant lease and addenda
- ✓ Tenant selection policies
- ✓ Waiting Lists
- ✓ Rent Roll
- ✓ Affirmative Marketing procedures including review of marketing materials
- ✓ Utility Allowances
- ✓ Unit mix

## Chapter 10: HOME & Other HUD Programs - Compliance Monitoring

### Section B: Monitoring Reviews -HOME ARP Program

#### On-site Monitoring Activities

On-site visits will include the following activities:

- Interviews with property owners and staff
- Property and unit inspections
- Review HOME-ARP tenant files
- Interviews with HOME-ARP-assisted tenants to assess if their needs are being met
- Review of the following records and documentation:
  - Accounts receivable/payable and property bank records
  - Documentation of any code violations
  - Lead-based paint compliance (if applicable—pre-1978 structures)
  - Certifications (elevator, fire alarm, sprinkler system, building, etc.)
  - Property tax records (as applicable)

#### Monitoring Process: On-Site Visits

ADFA will conduct on-site monitoring visits biennially (every two years). However, if issues related to unit conditions or previous noncompliance are identified, monitoring may occur annually.

Key components of the on-site visit process include:

→ **Advance Notice:**

ADFA will send a notification letter to the property owner 14 days prior to the scheduled visit. In some cases, a phone call may be made before the written notice at ADFA's discretion.

→ **Entrance and Exit Interviews:**

At the conclusion of the site review, ADFA will meet with the property owner and key staff to discuss any preliminary findings or concerns. This meeting allows the owner to clarify issues and collaboratively identify solutions.

→ **Written Notice of Findings:**

The owner will receive a formal letter summarizing any findings, concerns, or deficiencies. The letter will specify the corrective actions required. **Life-threatening deficiencies will require an on-site follow-up visit to verify that the issue has been properly resolved.**

→ **Follow-Up Documentation:**

The owner must submit documentation demonstrating that all findings have been corrected. Required documentation includes:

- ✓ A written response from the owner
- ✓ Detailed work orders signed by the person completing the work
- ✓ Photographs confirming correction of each deficiency

#### Correction Timeframes:

- ! Standard deficiencies: Must be corrected within 30 days of the notice. Owners may request an extension if needed.
- ! Life-threatening deficiencies: Must be corrected within 24 hours and will require a follow-up on-site verification visit by ADFA.

#### Close-Out Letter:

Once all deficiencies are resolved and verified, ADFA will issue a Close-Out Letter, officially concluding the monitoring cycle.

## Chapter 11: HOME & Other HUD Program Compliance Reporting

### Section A: HOME and Housing Trust Funds Annual Reporting

#### Annual Reporting

##### Annual Owner Certification Required Document List

The following documents must be uploaded through the ADFA Property Management Portal. Each item listed will have a designated upload location in the Portal. This upload process will replace the traditional "Required Project Binders" and will provide ADFA and Management Users with access to up-to-date project documents.

Items marked with (A) indicate your Annual Upload Requirement, which must be submitted each year by February 1st or the anniversary of your last upload.

##### Required Management Document Uploads

- Advertisements Completed Jan through Dec of Certification Year
- Audited Financials
- Bank Statements for December of Certification Year for:
  - Operating Account
  - Reserve Account, and
  - Security Deposit Account
- Budgets for Upcoming Year
- Building Certifications for Certification
  - Year-Smoke Alarms, Elevators, etc.
- Evictions for previous year
- Move Out Reason for previous year
- Property Insurance Policy – Current
- Property Paid Tax Receipt (example 2022 we should see 2020 paid receipt)
- Rent Roll (Mang. with set aside designations)
- Rent Schedules – (per bedroom/bath/set aside)
- Rent Special Notices for Certification Year
- Social Services Provided for Certification Year – (requirements in LURA)
- Utility Allowance Verification documents and Chart
- Waiting List Jan through Dec of Certification Year

! All documents uploaded to the portal must follow the naming convention [Year] [Document Name][Project Name] i.e 2024 HOME AOC – Ruby River Court

## Chapter 11: HOME & Other HUD Program Compliance Reporting

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### Section B: HOME ARP Program Annual Reporting

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#### Annual Reporting Requirements

In addition to on-site monitoring, ADFA will conduct **annual reviews** through the **Property Management Portal** to ensure ongoing compliance with HUD CPD-21-10.

**By February 1 of each year**, owners must submit the following through the MITAS portal:

- HOME-ARP NCS **Annual Owner Certification (AOC)**
- Required annual documentation
- Third-party audits from a certified public accountant (CPA)
- Elevator, fire alarm, sprinkler, and building system certifications (as applicable)
- Property tax documentation (as applicable)
- Physical inspection reports completed by the owner or staff
- Occupancy reports showing client entry and exit dates from **January 1 through December 31**

ADFA will review all submitted documentation and notify the owner of any concerns or deficiencies. Additional documentation may be requested to resolve any outstanding issues.