BOND-FINANCED PROPERTIES FREQUENTLY ASKED QUESTIONS

The information below provides some brief guidance to many frequently asked questions. The Commission's Asset Management & Compliance Division staff frequently discusses IRS rules and interpretations with other state agencies and industry professionals. These FAQs are based on staff interpretations or understanding of IRS rules. However, other state agencies and/or IRS staff may sometimes disagree with this guidance. Ultimately, owners are responsible for making sure their properties are in compliance with all applicable rules and regulations. Owners and managers should consult their Bond legal counsel for further clarification or specific application to their properties.

CERTIFICATIONS & LEASING

Changes in Household Composition

Q: A husband and wife qualified at the time of move in. They get divorced and the wife moves out. The husband has a new roommate and their combined income now exceeds the household income limit but is still under the 140% level. Does this household still qualify?

A: Yes, because the household was initially qualified and the change in household composition does not constitute a new household since the husband is still residing in the unit.

Q: Can you explain the "totem pole" rule? It is my understanding that there must always be at least one member of the original household that remains in a unit for the unit to remain qualified. Is this correct?

A: This has always been Washington State's interpretation. The 2007 8823 Guide for Tax Credits confirms that the IRS agrees. However, you can avoid some problems with this issue by re-qualifying the household when a new person moves into the unit. Many properties have language in their leases stating that the household must be income-qualified when additions are made, and the additional person(s) must sign the lease.

If, when qualifying the new household, you find that together they exceed the income limits for that unit, you can still allow the additional resident to move in. However, if all the original household members ever move out, the new members are no longer qualified. See scenario below.

Scenario: *"A" moves in and is the initial (qualified) occupant. Eight months later, "B" moves in with "A". Manager re-qualifies "A" and "B" together as a new household and they are income-qualified.*

Q: Do "A" and "B" then become the new household, thus qualifying "B," even if "A" moves out years later, under the "once qualified, always qualified" rule?

A: Yes, if the *verified* combined income of "A" & "B" together (new household) is under the income limit at the point where "B" is added to the lease. If, however, the new household income is *over* the limit when "B" is added to the lease, the "totem pole" rule applies and the household remains qualified until "A" moves out – even if it is several years later. At that point, "B" must be income qualified as a new household.

Q: If "A" had a minor child who has since turned 18, would he or she be considered a member of the original household (under this rule), even though they were not a resident or co-resident upon move-in?

A: If "A" has a child who has since turned 18 they would be considered part of the original household but once again you might want to include something in your rental criteria that covers this situation.

140% Rule – Next Available Unit

Q: What is the 140% or "Next Available Unit" rule?

A: If a household's income exceeds 140% of the federal income limit (50 or 60% of Area Median Income) – either at recertification of upon addition of new household members, the Next Available Unit rule (NAU) must be applied. This means that the over income unit can continue to count as qualified, but only as long as the next unit rented anywhere in the building is income qualified – whether the unit is designated as "low-income" or "market".

NOTE: This is a "Building" rule for Tax Credits but a more restrictive Project rule for Bonds. Projects with Bonds and Tax Credits can abide by the less restrictive Tax Credit rule by building.

Counting Vacant Units in Bond Properties

Q: My property is required to set aside 20 units for low income residents. At the end of my property's reporting period, I had 17 units rented to qualified families, and I had 3 units vacant; can I count the vacant units toward the property's low income set-aside requirement?

A: It depends. If the vacant units were **immediately previously rented** to low income-qualified households, then you may count those vacant units toward your set-aside. If the vacant units were last rented by *market rate* households, then you **cannot** count them toward your low income set-aside. And, if any of your set-aside units are over 140% at the end of your reporting period they **DO NOT** count toward your set-aside requirement.

Q: If an income-qualified household moves from one unit to another, can I count both units towards the low-income set aside requirement?

A: No. A household can never income qualify two units at the same time.

Proportionate Lease-up in Bond Properties

Q: My bond property has just reached 10% lease-up; how long do I have to reach my property's low income set-aside?

A: For **new construction** bond properties, you must make sure that you are leasing market-rate and qualified units proportionately. For example, if you have a total of 100 units, a 20%@50% set-aside requirement, and 50 units that are occupied at the end of March, 10 of the 50 units must be rented to income-qualified households, and the remaining units can be rented to market-rate households. If your property is financed with **acquisition/rehab** bonds, the property has one year to meet its federal income set-aside(s).

Certifying 17 Year Old Residents

Q: An Owner may start a certification 120 days before the effective date (whether for initial qualification or recertification). One household resident is under 18 at the time the certification paperwork is completed, but will turn 18 during the 12 months following the certification effective date. Do I need to have the 17-year-old complete paperwork?

A: **Yes. Since we are required to determine anticipated income, any household member** who will be an adult (18 year old or emancipated minor) within 12 months of the certification effective date needs to have complete documentation. Accordingly, you will need to complete the ***Resident Eligibility Application*** (REA) for a 17 year old household member. Have them complete an REA (pages 2, 3, 4) and obtain income verifications to support the questionnaire. Only count the anticipated income for the months after he/she will turn 18. It is acceptable to have a parent or guardian complete the REA on behalf of a minor. On the fourth page The signature line on Page 4 should read "(child's name) by (parent's name) as guardian."

Q: What if you are qualifying an adult and a 17-year-old resident at the time of initial move-in?

A: Income needs to be figured for the twelve months following move-in or re-certification. If the 17-year-old will be turning 18 within the first six months of move-in, treat him/her as an adult and have him/her fill out all applicable paperwork.

Certification Effective Date

Q: What is the effective date of the initial certification and when would re-certifications be due?

A: The effective date of the initial certification is the same date as the commencement date of the lease. This is the date when a resident can move in to the unit. The income verifications must be dated within 120 days of the commencement of the lease. Re-certifications can be done up to 120 days ahead of the certification date and must be effective on the anniversary date of the initial certification date. For example, if a household moves into a unit on April 23, 2007, their initial certification date is 4/23/07. Their recertification date is 4/23 of each year thereafter.

Verifications are only valid for 120 days. If beyond 120 days, the income verification must be re verified with the 3rd party source.

Social Security Numbers

Q: Is there any way to income-qualify household members who do not have any verifiable Social Security numbers or alternate numbers?

A: Yes. Verifying income of household members without SSN's is difficult, but not impossible. An alternate method of verifying income is to provide picture identification to employers, allowing the employer to verify the individual who works for them and how much the individual earns. The Owner ultimately is responsible for proper documentation of income and must be able to demonstrate that all income has been verified. **NOTE**: Some management companies, funders, investors or syndicators may be more restrictive than the IRS in this matter. You must follow the *more restrictive* rules, if any, that apply to your property.

Q: What if I have a household where some or all household members do not have Social Security numbers or other approved citizenship documentation?

A: This household could still be eligible. The Tax Credit and Bond programs do not require proof of citizenship or legal status. As long as the certification process confirms that a household is income-qualified, the household may reside in the property. The property may need to use alternative methods to confirm income sources for affected household members. Individuals with no social security number, no appropriate substitute number (see ***Rental Eligibility Application*** instructions), or, for privacy reasons do not wish to disclose their SSN, should fill out box #2 of the ***Identification Certification*** form.

Q: Can I ask applicants to provide proof of citizenship or immigration status?

A: Yes, but requests must be uniform (all applicants are asked the same questions) and nondiscriminatory.

Q: Is a Social Security Number the only acceptable documentation of identity?

A: No, several types of documentation are acceptable such as Work Visas, picture identification and Alien Registrations. Additional acceptable documents are listed on the last page of the ***Rental Eligibility Application.***

Acquisition / Rehab Properties Financed with Tax Credits and Bonds

Scenario: *A bond property certifies residents at bond closing to meet bond income set-aside requirements (20@50 or 40@60). During the rehabilitation, new residents move in who are also income-qualified. At completion of the rehabilitation, units are Placed-in-Service (PIS). The owner determines when to take credits. S/he may try to take acquisition credits from the bond closing date or s/he may not take any until PIS. The owner may take Acquisition and Rehabilitation credits at PIS or wait until the year after PIS to take credits. In the meantime, the owner continues to income-qualify households and re-certify at least annually during the rehab.*

Q: Do households that initially income-qualify at bond closing or during rehab remain qualified as long as they are re-certified annually?

A: Yes, households qualified at acquisition continue to qualify as long as they are re-certified annually.

Q: If the above is true, does it matter when the owner takes credits? At closing (for acquisition), at PIS or the year after PIS?

A: The bond closing isn't important. The first year for both the acquisition and rehab credits is the year the rehab is placed in service or, if the owner elects, the following year.

Q: If the owner takes acquisition credits from bond closing, do the units need to be rent-restricted in addition to being income-restricted and non-transient?

A: Yes, if the owner takes credits from the date of bond closing, the units must be rent-restricted from that date.

Q: If the owner doesn't take acquisition credits until PIS, or the year after, then can the units be income-restricted for qualification only and not rent-restricted until credits are taken?

A: There is no guidance about whether units should be rent-restricted prior to the beginning of the compliance period. However, as a matter of policy, if households are qualified at acquisition, it makes sense to limit the rents at that time as well.

Q: Does the owner initially have to sign six month leases with qualified households?

A: Since the owner is eventually taking tax credits, six month leases must be signed with all qualified households at initial move-in. Only bond-financed properties *with no tax credits* may initially sign month-to-month leases with their qualified households. Existing households who remain after bond closing do not need to sign new leases. However, they must be tax credit-qualified and sign the Commission's Tax Credit Lease Rider.

Attracting Low-Income Households to Bond Properties

Q: I am having trouble filling my low-income units at my bond property. What can I do to lease to more low income residents?

A: It is vital for you to have a comprehensive marketing strategy that includes, among other things, multi-media advertisements, open houses, and connection-making with local social service agencies, public housing authorities and other affordable housing providers. Remember that the property must meet its set-aside requirements to avoid potential taxation of the bonds or other penalties. As a result, it may take more than marketing to achieve your low income occupancy requirements; you may need to lower the rents on qualified units in order to attract and keep low income residents.

SPECIAL-NEEDS HOUSING COMMITMENTS

Elderly Commitment and Households with Children

Q: We have a property that has an Elderly Commitment for 55 and older residents. Must we allow children in our property?

A: It depends. Fair Housing laws allow Elderly properties to exclude children as long as all rental eligibility and marketing information clearly identifies the property as an "adult" elderly facility. Also, if you allow a child in one unit, you must allow children in all other units. For more information, please contact the Fair Housing agencies listed on the Compliance website at: *http://www.wshfc.org/managers/f_h_resources.htm*.

Q: Do all household members in an Elderly property (where the owner elected "55 and older") have to be 55 or older?

A: No. However, you must actively market each unit in the property to elderly households throughout the compliance period.

Q: What happens if a 55 year old and a 30 year old live together at a 55+ property and the older person leave or dies?

A: The 30 year old may remain in the unit. HUD allows up to 20% of the units to be under 55 for purposes of attrition (the 80% Elderly rule). If, at any time, the percentage of units with elderly residents falls below 80%, the property is no longer considered Elderly, and must be open to all age groups.

Q: How often must I check to ensure the 80% requirement is met?

A: HUD says you must check annually to ensure that 80% of all units in the property are still occupied by at least one resident age 55 or older. You may not count vacant units to meet the percentage.

Q: Does the 80% Elderly rule apply to 62 or older properties?

A: No, **all** residents in a 62+ property must be age 62 or older at move-in.

Q: What about Elderly properties with HUD or Rural Development financing?

A: If a property was specifically financed as a HUD or RD Elderly property, the occupancy rules of those programs apply. For instance, many of these agreements allow Elderly properties to house elderly *or* disabled persons.

Once Qualified, Always Qualified

Q: A property elected the Large Household (defined as a unit with three or more bedrooms occupied by a household of four or more) Commitment. A household is initially qualified and during the re-certification process it is found that one of the household members has moved out, would this unit still be in compliance with the three household members left?

A: Yes, as long as the next available, three-bedroom unit is rented to a qualified large household. For all Special-Needs Commitments, once the household qualifies at move in, the household remains qualified (as long as at least one member of the initially qualified household remains in the unit).

Q: Do I have to re-confirm that my Disabled residents are still disabled at recertification?

A: No.

Q: Do I need to provide proof of age each year for properties with an Elderly set-aside?

A: Yes. We suggest taking a copy of the documentation used to prove age at initial move-in and then include the same documentation each year thereafter.

Disability Verification

Q: Can Social Security and Supplemental Security Income benefits statements be used as third-party verification of disability?

A: Yes, Social Security disability payments are adequate verification of an individual's disability status. Receipt of veteran's disability payments may also qualify a person as disabled, depending on the amount of information included on the third-party document. The resident must also acknowledge that they have a disability by checking "yes" on the Disability Addendum form.

30-Day Marketing

Q: Our property made the Large Households Commitment. We met the requirement at initial rent up but now we are having a hard time filling these units. We hate leaving them vacant. Is there any thing we can do?

A: Yes, since you met your requirement at initial occupancy, if you market your unit in a rent-ready condition for a period of 30 days and you cannot find a qualified household, you may rent the unit to a household that is not considered a large household but *is* income-qualified. You must document your marketing efforts to the desired population. The next three-bedroom unit that becomes available must go through the same process. However, Elderly units must always be rented to qualified applicants from that population.

INCOME AND ASSETS

INCOME:

Tax Credits, Multifamily and HOME Income Limits - 2011

Q: Can you explain how income limits work for new and existing projects and how the limits will be applied in WBARS?

A: It is now necessary to track Placed-In-Service (PIS) Dates for all Projects. PIS dates are necessary now because existing projects will be "Held Harmless" from new, lower income limits, but will also be able to take advantage of new, higher limits. Since limits may increase and decrease from year to year it is now necessary to track PIS dates to allow existing projects to take advantage of the highest limit that applies to a project based on the first building PIS in a Site for a project.

Q: Are there different limits for tax credit projects, non-tax credit projects and HOME units?

A: Yes. In WBARS, there are currently three sets of income limits for 1486 projects.

1. Tax Credit MTSP limits and Tax Credit HERA limits are for any project with Tax Credit financing: currently 754 projects in the system.
2. Multifamily limits (based on Section 8 limits) are for any projects that were financed by other public funders but have no tax credits: currently 732 projects in the system.
3. HOME limits are for <u>units</u> designated by the owner as HOME assisted.

Q: Why three sets of limits – what's the difference?

A: Each set of limits has a different set of rules.

- **TC MTSP and TC HERA Limits:** new limits were effective 5/30/2011. TC projects benefit from an additional cut-off date of 12/31/2008, as a result of national 2008 HERA legislation (Housing and Economic Recovery Act of 2008). Projects PIS prior to 12/31/2008 may continue to have higher limits than those allowed for newer projects, therefore an earlier PIS date must be tracked for TC projects.
- **Multifamily Limits** (use Section 8 limits as a baseline for Multifamily)**:** new Section 8 limits were effective 5/30/2011. HUD alters Section 8 income limits for very low cost and high cost areas, particularly for 30% and 80% AMI. Tax Credit 30 and 80% limits are calculated directly from 50% TC limits – so these numbers will not always be the same as Section 8 (Multifamily.) Additionally, in the ten HERA-affected counties, most of the limits are different.
- **HOME Limits:** new limits are effective 6/26/2010. Limits prior to this date have always been held harmless. HUD has decided to continue holding ***Rent Limits harmless*** but let ***Income Limits decline*** when the area median income declines.

Q: Will Multifamily Limits be held harmless in WBARS in the same manner as Tax Credits?

A: Yes. For existing projects, income and rent limits will not decline, even if published Section 8 limits decline. Funders realize that it could be difficult financially for a project to lower rents for current or new residents.

Q: What about new projects?

A: New projects, whether Tax Credit-financed or Multifamily-financed, are expected to adhere to the current income limits in effect at the time they place the first building in service for a project. Funders will need to forecast and underwrite to potentially lower income and rent limits between application stage and PIS to ensure long-term financial feasibility of a project. HUD has agreed to restrict both TC MTSP and Section 8 income limit decreases for counties and metropolitan areas to no more than 5% annually.

Q: Are HOME limits restricted in the same manner?

A: No. HOME has agreed to hold <u>rents</u> harmless, but not incomes, even on <u>existing</u> projects.

HOME Existing Projects

Q: So for ***existing projects***, does this mean I can keep my HOME rents at current levels, even if newly published HOME rent limits go down?

A: Yes. For existing projects, it is not necessary to lower ***rents*** for current or new residents/households. However, when new households move in they must be ***income qualified*** at the new, current income limit, even if it's lower than the income limit for previously qualified households.

HOME New Projects

Q: What about newly placed-in-service projects with HOME units?

A: New projects with HOME limits must adhere to the current rent and income limits published by HOME, based on the placed-in-service date for the first building in the project. Again, funders will need to forecast potentially lower rent limits between application stage and PIS to ensure long-term financial feasibility.

Tax-Exempt Bond Projects

Q: Are the TC MTSP and TC HERA income limits the same limits that are used for tax-exempt bond projects?

A: Yes. Tax-Exempt Bond projects have no rent limits, but are subject to income limits at 50, 60 and 80% AMI. The MTSP limits posted on our website and in WBARS are the same for Tax Credit and Tax-Exempt Bond projects.

Q: If limits decline, do I use the Placed-In-Service (PIS) date for my bond project or the bond closing date to set my income limit floor?

A: For Acquisition/Rehabilitation projects, use the Bond Closing Date. For New Construction projects, use the PIS date of the first building in the project. PIS is typically the date that the project receives Certificates of Occupancy from the city building inspector.

All Projects

Q: What if I'm unsure which limits apply to my project?

A: Managers of WSHFC Tax Credit and Tax-Exempt Bond projects can find the limits that apply to their project at *www.wshfc.org/limits/map.asp*. We also update WBARS so that your project always displays the correct limits that apply.

Annual Income Limits for Nine or Ten Person Household

Q: Where can I go to find the income limits for a 9 or 10 person household?

A: Statewide income limits may be found at *http://www.wshfc.org/limits/map.asp*. The base for a household of four is 100% of median income levels. This base number is then adjusted up 8% for each additional household member. So the figure for 8 is 132% of median, 9 is 140% of median and 10 is 148% of median, etc. For example, in King County 2011 in the maximum household income for household of four @ the 60% set-aside is $52,080. Multiply that by 140% and you will see that the maximum income level for household of nine is $72,912.

Area Median Gross Income – Rural Areas (Sec. 3004 of HERA)

Q: If my property is in a "Rural Area," does the income limit change to a higher or lower number, based on the national median income level?

A: No, this allowance will not change income levels in Washington State anytime soon. In Rural Areas (as defined in Section 520 of the Housing Act of 1949), where median income is less than national median income ($51,600 in 2011 for a household of four), HERA allows the use of the greater amount to determine the median income for a property and corresponding rent and income limits. In 2011, fourteen counties in Washington State had a median income level lower than $51,600. However, those counties benefited from the statewide non-metro median income level of $56,600. Per HUD guidance, median income levels in those counties falling below the statewide non-metro "number", are calculated using the higher statewide number (a total of twelve counties benefited from this higher number in Washington State). Since the purpose of this legislation was to address the problem of abnormally low county and statewide numbers, we do not believe any adjustment downward to the nationwide number is necessary in the fourteen counties that fall below the national number. In 2012, if the national median number is higher than our Washington State non-metro average, we will use the higher median income level.

Tips

Q: Are tips included in income? If so, how should tips be verified (e.g., a resident is a waitress, hairdresser, barista or casino worker)?

A: Yes, tips are income and must be included when determining annual gross income. If tips are not included on the ***Verification of Employment*** form, and the employer cannot verify a lower tip amount, the Owner must add in 20% of the resident's verified gross annual income for those resident's working in the service industry. For casino workers that do not list tips on the ***Verification of Employment*** form, the Owner must add 40% of the resident verified annual gross income.

Zero Income

Q: How do I verify the circumstances of an adult household member with no income from any source?

A: The individual must complete the ***Certification of Zero Income*** form and provide written explanation of how they will pay their rent.

Q: A prospective resident does not currently have a job and has no other income.

However, he or she is looking for and expect to find a job soon. How do I calculate their income?

A: Generally, the owner must use current circumstances to determine anticipated income. Thus, the property owner would calculate the resident's projected annual income by annualizing the resident's current income. If the current income is zero, then the annualized income is zero. However, if written third-party verification confirms that changes are expected to occur during the upcoming year, then the property owner should use that verification to determine the total anticipated income. Thus, if the prospective resident is now earning zero, but is under contract to start a job mid-year, and anticipates receiving $12,000 in income from that job during the year, then $12,000 should be included as income. If the prospective resident is receiving unemployment, calculate it for 52 weeks or until the planned start date of another job. However, we will accept alternative calculations if your investor/syndicator has stricter requirements.

Q: When applicants/residents are using the services of check cashing companies, many are now receiving prepaid debt cards in lieu of cash. When the applicant/resident completes the REA, should the balance of the prepaid debt card be listed as a checking account or as cash on hand?

Here are some examples of the prepaid debit cards that the check cashing companies are offering:

- http://www.moneytreeinc.com/services/prepaid-cards
- http://www.thecheckcashingstore.com/faq.aspx#4
- https://www.acecashexpress.com/prepaid-debit-cards

A: Prepaid paid debit cards should be listed under "cash on hand."

Student Income

Q: Do I count all of the income from a fulltime student over 18 when calculating the households' annual income?

A: If the student is employed but ***is not*** the head, co-head or spouse, and is a dependent of the Household, you count only the first $480 of their wages for the entire

12-month period. Also, count **all unearned income** (Social Security benefits, TANF, unemployment, etc.) for any students.

For students who ***are*** the head, co-head or spouse, count all earned and unearned income.

Q: Are Educational Scholarships and Grants considered income for the Tax-Exempt Bond or Tax Credit Programs?

A: No. Per 4350.3 Rev-1, 5-6, E., "All forms of student financial assistance (grants, scholarships, educational entitlements, work study programs, and financial packages) are excluded from annual income." However, students receiving Section 8 assistance must count financial assistance, in excess of tuition, as income, unless they are living with their parents or are over the age of 23 with dependents. Loans are not counted as income.

The Work Number

Q: The Work Number no longer offers free verifications to LIHTC properties. Are we allowed to use pay stubs instead of obtaining a verification?

A: The bottom line with income verification is to strive for third-party documentation. Accordingly, when verifying wages for an employee whose employer utilizes The Work Number:

1. Send the Commission's ***Employment Verification*** form to applicant's employer.

2. If no response to ***Employment Verification*** form or employer redirects you to The Work Number, contact the employer by phone to follow up using the Commission's ***Income Verification/Clarification by Telephone*** form. At the very minimum, try to get the applicant's job start date from the employer and confirm that employer only uses The Work Number.

3. Obtain enough pay stubs from applicant to show their wage activity for at least the past 3 months.

4. From the pay stubs, determine the resident's current pay rate and YTD information. If pay stubs do not give you enough info to determine the YTD wages or you do not have the job start date, you will need to obtain a printout from The Work Number to calculate YTD wages. Once you have both current and YTD wages, use the higher amount to determine annual gross income for the applicant.

Note: It is permissible to pass the cost of obtaining The Work Number printout to the applicant.

Child Support

Q: How do you handle single parents who have dependents living with them, but receive less than a court ordered child support payment, OR, are recently separated and have no court order for support?

A: Use our Child Support Affidavit form to document 1) the amount of support owed; 2) the amount actually received and projected to receive in the next 12-months; and 3) that reasonable attempts have been made to collect support. The form must also be notarized.
Owners may have more stringent requirements regarding child support. However, we encourage owners no to deny housing simply because the parent has failed to complete or not had time to complete all possible collection efforts.

Basic Allowance for Housing ("BAH") for Military (Sec. 3005 of HERA)

Q: Is Basic Allowance for Housing (BAH) for military excluded from income for purposes of income qualifying a household?

A: Effective 1/1/14, whether or not BAH needs to be included in household income depends on the county the property is located in and when the property placed in service. **Only those properties located in Kitsap, Mason, Jefferson, Pierce, King, Island or Snohomish county that placed in service between 7/30/08 and 1/1/14 may exclude BAH.** A list of the affected properties can be found at *www.wshfc.org/managers/resources.htm*

BAH must be included in income calculations for all other properties in Washington.

History of this exclusion:

July 2008 – The exclusion of BAH in the seven counties listed above was introduced as part of federal legislation (Sec. 3005 of HERA). It applied to all LIHTC properties within the specified counties for certifications effective until January 1, 2012.

Effective January 1, 2012, the exclusion of BAH from income was **only allowed at projects in the counties listed above which placed in service between 7/30/08 and 1/1/12**. A list of the affected properties was posted on our website.

Effective December 31, 2012, as part of the American Tax Payer Relief Act of 2012, the exclusion of BAH for all properties in the selected counties was extended until January 1, 2014 (regardless of placed in service date).

Rental Assistance

Q: Should Owners include rental/housing assistance when determining household income?

A: In general, yes. However, although there is no conclusive guidance from HUD or the IRS, the Commission would not consider rental assistance from a city, county or state government source, or from the HUD Section 8 program, as income to the resident. For example, funds allocated to owners and managers from 2060 or 2163 funds that are used to supplement household rent, should not be counted as income to that household. The owner should verify that the government source also does not consider the supplement as income to the individual and would not be issuing 1099s to those individuals.

Rental assistance from a non-government source, such as a church charitable foundation, or individual, must be counted as income.

Treatment of VA Disability Income (Sec. 2608 of HERA)

Q: Do we still need to count disability income from the Veterans Administration in calculations of household income?

A: Yes. However, deferred income payments from the VA, whether received monthly or in lump sums, are excluded from income. We believe this will result in a change to the HUD Manual, 4350.3 Rev-1, page 5-81, #13, under income exclusions, by adding this exclusion to the similar exclusion of deferred payments from Social Security.
This does not apply to pension or regular, non-deferred disability payments. Lump sums are counted as assets, pg 5-32 4350.3.

ASSETS:

Asset with Multiple Owners

Q: A recent applicant had a Certificate of Deposit (worth $100,000) she divided into quarters, distributing three portions to three other people (not members of the household), and keeping one portion for herself. She did this one month prior to moving into our property. How should we value this asset?

A: Include the entire amount of the CD when determining the applicant's income, but separate it into two different asset categories. The amount the applicant currently owns ($25,000) should be counted as a regular asset and the earnings calculated accordingly. The $75,000 that was given away should be counted as ***an asset that was disposed of for less than fair market value***. It should be counted for two years from the date of disposal, so count the $75,000 at initial qualification and at the first annual recertification.

Valuing Real Estate

Q: Do I need to get a market analysis to verify the worth of real estate owned by an applicant?

A: Real estate is one of those things that can be verified in a multitude of ways. The goal is to obtain approximate market value and to document your reasonable attempts to get this information. Copies of real estate tax statements (including those obtained from online county property value tools); a realtor's record of recent comparable sales in the real estate's vicinity, and letters from realtors can all be used to establish the value of real estate. One good indicator of value is a copy of the listing agreement if the property is currently for sale. The best indicator of actual value would be a copy of the HUD-1 Statement issued at closing, showing net proceeds to the seller.

In the event that there is a significant difference between the appraised and the market value of a property, and the applicant is close to the income limit, you might want to think about a market comparison, but it is not necessarily required. If all else fails, document the file with attempts to get information, and use a self-certification as the last option.

Q: O.K., so does market value equal to the asset cash value?

A: No. You must deduct the total amount of mortgages plus the cost of selling the real estate to determine the cash value of the asset.

Q: What if the resident sold the real estate on a contract and receives payments on a mortgage or Deed of Trust?

A: The mortgage or Deed of Trust current value (amount owed to Resident holding the DOT) is considered an asset. If the resident receives monthly principle and interest payments, the interest portion of those payments must be counted as income.

Timeshare Properties

Q: A prospective resident has a vacation timeshare that she occasionally rents to the public. Do I include the rent that the resident will receive when determining the resident's income? Is there anything else I need to know about vacation rentals or other like assets?

A: A vacation timeshare is considered an asset. Therefore, income includes any amounts derived from assets to which household members have access. If the **total** cash value of all the household's assets is more than **$5,000**, then income includes the greater of a) the actual amount of money derived from the asset or b) 2% of the market value of all the household's assets (called the HUD imputed income amount). For example, "Sally" has an interest in a timeshare and the market value of her interest is $25,000. Two percent of $25,000, or the imputed income amount, is $500. Sally occasionally rents the timeshare out, and next year, Sally expects to receive $200 in rental income after paying all expenses. Because the imputed income amount is greater, you must include $500 in Sally's gross annual income estimation.

IRAs, 401(k) Accounts, Annuities

Q: When valuing an asset, do I still need to determine the resident's original investment?

A: No, HUD changed this rule. To determine the value of an asset, start with the current value of the asset and deduct any fees and penalties for converting to cash, plus any tax penalties.

Example:

Ms Hanson has no annuity with a current value of $68,000, earning annual interest of approximately 4.85%. If Ms. Hanson withdraws the balance, she would need to pay $7,500 in surrender fees plus $2,500 in tax penalties.

The Cash asset value of her annuity for purposes of determining her total assets is $68,000 minus $10,000 = $58,000 (added to other assets to determine the imputed interest).

The income from Ms. Hanson's annuity is $68,000 x 4.85% = 3,298.

Q: Do I need to count the Required Minimum Distribution (RMD) on an IRA account as income?

A: *No. HUD clarified for us that RMDs are not counted as income. Whether the resident spends the RMD on vacation, new household items or basic necessities, the income is not counted. If the resident decides to re-invest the money, or deposits the money into a savings or checking account, it will show up as an increase to assets.*

STUDENTS

Qualified Resident Goes Back to School

Q: An eligible resident moves in and two months later he goes back to school fulltime. Is he still qualified?

A: It is permissible for a unit to be occupied by a fulltime student where there are other residents in the household that qualify. However, when a unit becomes occupied ***entirely*** by fulltime students (defined as an individual's enrolled ***fulltime*** at an educational organization for at least ***five calendar months*** during the year), the unit becomes disqualified **unless the following exception applies**: **(1)** enrolled in a job training program receiving assistance under the Workforce Investment Act (formerly JTPA) or **(2)** receiving benefits under Title IV of the Social Security Act (e.g. TANF), or if the unit is occupied ***entirely*** by fulltime students and each of the students are **(3)** single parents and the single parents are not dependents of another individual, nor are their children dependents of another individual *except another parent of such child,* or **(4)** the students are married and eligible to file a joint return, or **(5)** one of the students was previously under the care of a state foster care program.

Bond Student Rules (Sec. 3008 of HERA)

Q: Are the Student rules now the same for properties with Tax Credits and Bonds?

A: Yes. HERA aligns Tax Credit and Tax-Exempt Bond rules that previously conflicted, for jointly funded properties. HERA allows Owners to apply the more lenient Tax Credit Student rules and exceptions. Based on the way this rule was changed in Section 142 of the Code, we believe this rule ***also applies*** to Tax-Exempt Bond properties that have no Tax Credit funding.

Verifying Student Status

Q: Regarding a current resident that is intending to start college - how often do we need to verify the fulltime or part-time status? If she goes fulltime one quarter and then part-time the next, does that allow her to continue to live here?

A: Students that are "fulltime" for more than five calendar months during the calendar year are generally prohibited from bond set-aside units unless they meet the exception described in our Bond Manual and in the previous question. Whether a student is attending school "fulltime" is determined by the school that the student is attending. Property management would need to make an initial determination of whether a household was likely to exceed the five-month rule during the calendar year, and if so, the resident should not be allowed to move in (unless the student is part of an otherwise qualified household). It is important to inform prospective residents about the student issue in their lease and ask them to inform management immediately of any student status changes.

Exceptions

Q: If I have a written confirmation from an applicant's ob-gyn that this applicant is pregnant, and she is a full time student, may I rely on the pregnancy verification that one other person in the household is not a full time student, therefore it will be a two-person household: Mom is full time, baby is not?

A: We are uncertain how the IRS would view this. While an unborn child may be used to adjust household size, we don't think it would count as an exception to the student rule.

Q: Do married students need to actually file a joint return to qualify as an exception?

A: No. It is only necessary to verify that married students are eligible to file jointly, not that they actually did.

REPORTING

Bond Annual Reports

Q: When are bond annual reports due and what must be included?

A: Bond annual reports are due on or before January 7th of each year for the prior calendar year. Your submitted package must include the ***Certificate of Continuing Property Compliance*** (CCPC) Part A (this is sent to the property managers in December), CCPC Part B/Table 1, ***Affirmative Marketing Report*** if applicable, and household certification documentation on the units selected by the Commission for the paper review (only if your property is required to annually re-certify its qualified households). Depending on the terms of your regulatory agreement, you may be required to submit additional paperwork; check with your property's assigned Compliance Officer for further information.

Q: If more than one household occupies a unit during the reporting period, do you submit resident packages on all households?

A: No, you will only submit the most recent certification package for the most recent occupant of the unit during the reporting period.

Bond Quarterly Reports

Q: When do I have to submit quarterly reports?

A: New construction bond properties are required to report quarterly during their initial lease-up period. The first report is due when the property achieves 10% occupancy. Ensuing reports are due on the 7th of the month following every subsequent 90 day period until the property reaches 90% occupancy. For example, a property is 10%-occupied as of June 10th, and the property must make its first report immediately. The first 90 day period after the 10% mark will end September 10th, so the next report is due to the Commission as of October 7th. The reporting pattern will continue until the property reaches 90% occupancy. After this, the property will report on an annual basis. If you are unsure when your quarterly reports are due, contact your property's assigned Compliance Officer to work out the appropriate schedule.

Q: When I'm listing property units on the CCPC Part B/Table 1 form, do I only list the units occupied by qualified households?

A: If your bond property is still reporting quarterly, you must list **all** the units in the property so we can determine if you are renting units proportionately between income-qualified and market-rate households. On the CCPC Part B, denote market-rate units by typing an "M" in the Percentage column. Once your property is reporting annually, you may revert to listing only those units occupied by income-qualified households.

Q: Are resident certification packets required for quarterly reporting?

A: Yes. You must submit resident certification packets for all new move-ins that were income-qualified, plus any annual recertifications completed, during the previous 90 day period.

Q: My property is not new construction, but is financed with **acquisition/rehab** (A/R) bonds. Do I have to report quarterly?

A: No. According to the IRS, A/R bond properties have twelve months from the date of closing to meet their occupancy requirements. A/R properties must submit their first Compliance report eight months after closing, and annually thereafter.

UNIT OCCUPANCY

Turning a Unit

Q: What's a reasonable amount of time to turn a unit?

A: The IRS expects that vacant units are always rent-ready and available to the public. That said, the Commission considers no more than 15 to 30 days to be a reasonable amount of time to prepare a vacated unit for occupancy by the next household; depending on the level of repairs needed. Your Management Company or owner may have stricter expectations for this timeframe.

Using a Rental Unit for Business Purposes

Q: Is it okay for a resident to use their rental unit partly for business purposes?

A: It can be acceptable, so long as the use of the unit is not fundamentally changed from residential to commercial use. For example, a resident cannot sell goods out of their unit or hang a sign in the window about their business. However, a resident can conduct business that uses a computer, or that involves consulting, contracting, or giving lessons. It may also be helpful to have lease language that prevents residents from conducting business or other activity that results in excessive foot traffic that may bother other residents.

Move-out After Lease Signing

Q: We have an applicant who qualified for a unit at our property. They signed a six month lease, took the unit keys and gave us a rent check on Monday. On Tuesday the applicant came in, turned in the keys and told us her check would bounce and that she was not going to rent the unit. Can we count this unit as initially qualified by this applicant?

A: As long as you have thoroughly documented the circumstances leading to this vacancy, emphasizing that all signs indicated this applicant intended to rent long-term, you may count this unit as qualified.

MISCELLANEOUS

Regulatory Period

Q: How is the expiration date for the regulatory period calculated?

A: For bond properties, the period is the longest of three periods defined in each Regulatory Agreement, and is typically at least 15 to 20 years.

Selling a Bond-Financed Property

Q: What kinds of restrictions apply to the sale or transfer of a Commission-financed property?

A: Selling or transferring a property that has an existing regulatory agreement requires written approval by the Commission, and may require a regulatory agreement amendment. Transfer requirements are similar for bond-financed and tax credit properties. See the instructions in each manual for further guidance.