

# WASHINGTON STATE HOUSING FINANCE COMMISSION TAX-EXEMPT BOND COMPLIANCE FREQUENTLY ASKED QUESTIONS

**Latest Revision Date: January 2018**

*These FAQs are based on staff interpretations or understanding of IRS rules and guidance for the Tax-Exempt Bond program. 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.*

**NOTE: The following guidance applies to properties financed ONLY with the Commission's Tax-Exempt Bonds. If your property is financed with both Bonds and Tax Credits, consult the Commission's Tax Credit Compliance FAQs for guidance.**

## **CERTIFICATIONS & LEASING**

### **Annual Re-certification of Income**

**Q:** Do I have to recertify my residents every year?

**A:** In general, yes. Most bond property Regulatory Agreements require full recertifications annually, with income and assets verified by a third party. If you are unsure what your specific recertification requirements are, please carefully review the Bond Regulatory Agreement for your property and consult with the WSHFC Portfolio Analyst who monitors your property.

### **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 or 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 property is income-qualified – whether the unit is designated as "low-income" or "market".

NOTE: This is a "Building" rule for Tax Credits but a Project rule for Bonds. Projects with Bonds and Tax Credits can abide by the 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 occupied by *market rate* households, then you **cannot** count them toward your low-income set-aside. Additionally, 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).

## **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. If documentation is older than 120 days, the income verification must be re-verified with the 3<sup>rd</sup> party source.

Recertifications can be done up to 120 days ahead of the certification date and must be effective as of the anniversary date of the initial certification date. For example, if a household moves into a unit on April 23, 2015, their initial certification date is 4/23/15 and their recertification date is 4/23/16

For administrative ease, managers may choose to make recertification dates the first day of the month for residents with move in dates within that month. Example: Mary Smith moves into Greenwood Manor on 10/15/14. Her subsequent recert effective dates can be 10/15 **or** 10/1 each year. Mike Jones moves into Greenwood Manor on 6/2/14. His subsequent recert effective dates can be 6/2 or 6/1 each year. The key is to ensure that the recertification effective date occurs within 12 months of the previous recertification effective date.

## **Certifying 17 Year Old Residents**

**Q:** We have a family applying for housing and one of the household members is 17 now, but will turn 18 within the next 12 months. Do I need to have the 17-year-old complete a **Resident Eligibility Application (REA)** and get verification of his/her income?

**A:** Yes. Since owners 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 certify their income and assets. Have the 17 year old complete the REA (pages 2, 3, 4) and obtain income verifications to support what s/he puts on the questionnaire. Only count the anticipated income of the 17-year-old for the months **after** s/he will turn 18.

**Q:** What if I'm certifying a household with a 17 year-old and the parent/guardian doesn't want the 17 year old signing the REA because they're not an adult?

**A:** You can allow the head of household to certify on behalf of the 17 year-old (e.g., signing the REA on the 17 year-old's behalf), but the 17 year-old's income and assets must be counted toward the household's gross annual income.

## **Live in Aides and Their Family Members**

**Q:** An applicant has indicated on their REA that they want to include a live-in aide. The issue is that the live-in aide is married with two kids. Are the live-in aide's spouse and kids allowed to live in the unit with this applicant?

**A:** In order to treat the live-in aide as a Live-in Aide (LIA) as defined by HUD (meaning that the LIA's income is excluded from gross income and she has no rights to the unit), the LIA's family members cannot live in the qualified unit with her and the applicant. However, if the applicant is willing to consider the LIA a member of the household, then you can qualify the LIA and her family members. In this case, the person would not be classified as a Live-in Aide according to HUD's definition - all their income would be counted and they would all have rights to the unit and be parties to the lease.

## 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.

## Leases — Co-signers

**Q:** Is it okay to have co-signers on a lease? Do we count their income for purposes of qualifying the household?

**A:** Co-signers are acceptable as long as they don't sign the lease; they are used solely for financial back-up. Co-signers are not part of the household and have no rights to the unit; their income is not counted toward the household's gross annual income.

## 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 of the household members do not have Social Security numbers, or other approved citizenship documentation?

**A:** This household could still be eligible. The Bond program does 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 Both Bonds and Tax Credits

**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 decide 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 following year, 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.

## **INCOME AND ASSETS**

### **INCOME LIMITS:**

**Q:** How are income limits calculated for Tax-Exempt Bond properties?

**A:** HUD annually calculates 50% and 60% limits for the tax credit program, which are also applicable to Bond-only projects. States like Washington which also have additional set-asides (30%, 35%, 40%, 45%) then calculate the limits for those set-asides based on the HUD 50% limit. Limits may go up or down from year to year based on the latest census data and other household income data HUD uses to calculate the limits. As a result of federal legislation passed in 2008, properties which placed in service prior to 2008 are safeguarded from seeing their applicable limits go down. If limits in a

particular county go down, pre-2008 properties can use higher "HERA" limits for their properties, rather than the current, lower limits.

**Q:** What if my Bond-only property was funded with assistance from other public funders in Washington State?

**A:** If your property is monitored by additional public funders, your property will be required to apply the lowest income/rent limits to each household, depending on which funder is involved, and which set-asides are shared by which funders. At this time, all other public funder agencies use HUD's Section 8 income/rent limits for their properties. HOME units use HOME income/rent limits.

**Example:** Happy Valley Apartments is funded by WSHFC, the State Housing Trust Fund, and King County. The property has three income set-asides – 30%, 40%, and 50%. The 30% and 40% set-asides are shared by all three funders, while the 50% set-aside is required only by WSHFC. For 30 and 40% households, the owner must compare the Section 8 and Bond-only limit sets and apply whichever amounts are lower. Since only WSHFC requires the 50% set-aside, the owner can apply Bond-only limits to any 50% household.

**Q:** Are the tax credit 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 applicable limits are posted on the Commission's website.

**Q:** If limits decline, what date do I use to set my income limit floor?

**A:** For Bond projects, use the Bond Closing Date.

## **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:** Income limits are found on the Commission's website. The base for a household of four is 100% of median income levels for the project's county. This base number is then adjusted up 8% for each additional household member; so, the figure for an 8 person household is 132% of median, 9 persons is 140% of median, and 10 persons is 148% of median, and so on.

## **INCOME CALCULATIONS AND VERIFICATION:**

### **Rules for Rounding**

**Q:** How/when should I round a household's income and/or assets during calculation?

**A:** Per HUD, round only the **final total** household gross income amount. Example: Mary Smith receives \$944.60 per month in pension benefits, and \$250.00 per month in gift income from her daughter. She also receives \$150.33 in asset income per year. Calculate the annual amounts as follows:

$$\begin{aligned} 944.60 \times 12 &= 11,335.20 \\ 250.00 \times 12 &= 3,000.00 \\ 150.33 \times 1 &= 150.33 \end{aligned}$$

Add all annual amounts together. In this case, the total gross annual household income is \$14,485.53. Because the final total is greater than 50 cents, the final total should be rounded to \$14,486.00.

### **Acceptable Income Verifications**

**Q:** Can we use documentation provided by the applicant/resident to verify income?

**A:** Printed statements from state or federal agencies may be used to verify income as long as they are current within 120 days of the certification date and provide all of the necessary information. (Note: we will accept statements or printouts from Social Security beyond 120 days that show the set gross benefit for the current year.)

**Q:** Can we accept pay stubs in lieu of an Employment Verification?

**A:** We will only accept pay stubs in lieu of an Employment Verification when three (3) documented attempts to obtain a verification over a 2 week period fail. Documentation of the attempts must be submitted with the pay stubs.

Note: see below for instructions on using The Work Number or other 3<sup>rd</sup> party verification companies.

## **Anticipated Social Security Income**

**Q:** If an applicant anticipates Social Security Income on their application but benefits have not been awarded yet, do we still have to verify and count the income?

**A:** Please be aware that if someone states on their REA or Income Asset form that they are applying for SS/SSI benefits within the next 12 months, you MUST attempt to verify what those future benefits might be. See below:

1. When someone indicates that they have or will be applying for SS/SSI benefits, you need to ask them when they expect to receive it and how much they expect to receive and document this in the file. If they know they will be receiving SS/SSI benefits of any kind in the near future, then you must count that income.
2. If they are of retirement age and have applied or plan on applying within the next 12 months for Social Security (SSA) benefits you must have them go onto the Social Security website at <http://www.ssa.gov/retire/estimator.html> and use the Benefits Estimator to estimate their benefit income.
3. If they have applied for Social Security Disability (SSI) you need to ask them if they have received anything back from SSI. If so, request a copy to see the status on their claim. If they have not been denied, then you must assume that they will be getting the full SSI benefit as income for the next 12 months. If they have been denied, ask if they have filed an appeal. If so, request anything that they have showing the status of the appeal. If there is no conclusive documentation that they may win the appeal, then you do not need to assume any SSI benefits. If they have an attorney working on the appeal for them you should request a statement from the attorney regarding the status of the appeal and likelihood that SSI will be obtained and at what amount – count this accordingly. If they indicated that they will be applying for SSI disability benefits you do not need to count any, as this process usually takes several months or longer before benefits are awarded.
4. If the household has immigrated or refugee and applied or plans on applying for SSI, you must assume that they will be getting the full SSI benefit as income for the next 12 months.

NOTE: An applicant who is widowed or divorced may be eligible to receive the higher of their own SS benefit amount or that of their deceased or ex-spouse. Therefore if an applicant is recently widowed or divorced their SS benefit amount may increase.

## **Basic Allowance for Housing (“BAH”) for Military**

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

**A:** It is at properties in the following counties that placed in service after 7/30/2008: Kitsap, Mason, Jefferson, Pierce, King, Island and Snohomish. BAH must be included in income calculations at properties in these counties that closed/placed in service before 7/30/2008 and at all properties in all

other counties in Washington. You can find the Bond closing date/Placed in service date for your property on the Commission's income and rent limits web page.

#### **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.
- Effective December 16, 2014, a one-year extension of the tax extenders bill was passed retroactively for 2014.
- Effective December 15, 2015, the PATH act made the exclusion permanent.

#### **Changes to Minimum Wage**

**Q:** If an applicant's wages might soon be affected by a minimum wage increase (either state or local), how do I verify the change?

**A:** If there is an imminent change to the minimum wage in the area where an applicant/resident is employed, a property manager should pay close attention to whether or not the employer has indicated an anticipated increase in the rate of pay on the *Employment Verification* form. If the employer says yes, then count the wage increase as of when the employer plans to implement it. If the employer indicates there will not be a change in the employee's rate of pay, then WSHFC does not require that one be added to the calculation. There are many variables in some of the minimum wage increase rules and WSHFC does not expect property management to automatically include a raise based on minimum wage publications for any particular area of the state.

If an employer indicates no anticipated change, but a property manager wishes to verify whether an imminent change to minimum wage will affect an applicant/resident's rate of pay, if the employer indicates they are not sure about a raise, or if the employer will not complete an *Employment Verification* form, the property manager should use the *Income Verification/Clarification by Telephone* form to ask the employer if they are anticipating an increase in the employee's wages due to a change in the minimum wage or for any other reason within the next 12 months.

#### **Treatment of VA Disability Income**

**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. This does not apply to pension or regular, non-deferred disability payments. Lump sums are counted as assets.

#### **HEN Program Assistance Voucher**

**Q:** Should assistance from the Washington State Housing and Essential Needs (HEN) Program be counted as income?

**A:** No. WSHFC confirmed that all funds go directly to the landlord or utility company; the recipient does not receive a cash benefit and the recipient does not have to report the assistance to the IRS.

#### **Child Support**

**Q:** How do you handle single parents who have dependents living in a unit with them, but receive less than a court ordered child support amount, 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 be received 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 not to deny housing simply because the parent has failed to complete or not had time to complete all possible collection efforts.

## **EIV System Verification**

**Q:** Can I send WSHFC EIV documentation as proof of a household's income?

**A:** No.

## **Estrangement Certification and Income**

**Q:** What is the WSHFC ***Estrangement Certification Form*** used for?

**A:** This form may be used for married individuals who are physically separated from their spouses and who receive no income or support from the spouse. This would include victims of domestic violence. To remain eligible the spouse cannot become part of the household for at least six months. In these situations it is not necessary to verify income of the absent spouse or to count the income of the spouse in total household income as they are not considered part of the household.

## **HUD & RD Income Verification**

**Q:** If a HUD-regulated or RD-regulated property uses HUD- or RD-approved forms to verify household and income/asset info, do they still need to complete Commission verification forms?

**A:** The only additional forms you need to complete are those associated with Commission Special-Needs Commitments for Homeless, Farmworker, or Disabled households, the ***Student Certification*** form, and the ***Tax Credit Lease Rider***. Proof of age would also be required on elderly properties.

**Q:** For a household whose income I verified using HUD/RD forms, can I just send WSHFC the 50058/59/RD-3560-8?

**A:** No. A HUD or RD resident certification packet must include all the following:

- HUD 50058 or 50059 or the RD 3560-8
- Income and Asset Questionnaire for all adults (HUD/RD form or WSHFC's REA)
- Third-party verifications of income (cannot come from EIV)
- Third-party verification of assets or the *Sworn Statement of Net Household Assets*, as appropriate
- WSHFC forms for any WSHFC Special Needs Commitments at the property
- WSHFC Student Certification form
- WSHFC Tax Credit Lease Rider

## **Post 9/11 GI Bill (also known as Post 9/11 VEAA)**

**Q:** Is educational assistance that is part of the Post 9/11 GI Bill counted as income? What if part of the assistance is in the form of a housing allowance?

**A:** Per HUD guidance, Post 9/11 GI benefits for tuition and books **are not counted** as income, even if the household is receiving Section 8 assistance. The housing allowance should not be counted as

income, based on IRS guidance that the benefits should be treated as a whole and not as separate components.

## Rental Assistance

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

**A:** It depends. Rental subsidy from a city, county or state government source that is sent directly to the Owner is not considered income to the resident. For example, funds allocated to Owners from municipal/State 2060 or 2163 funds that are used to supplement household rents 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, should be counted as income. Any assistance received directly by the resident is counted as income.

## Self-Employment

**Q:** How do I tell if someone is self-employed?

**A:** If someone gets a 1099 or 1099-MISC instead of a W-2, then that person is considered self-employed. If the person is unsure how their income is categorized, contact the employer to see if they will complete a **Verification of Employment** form.

**Q:** How is income for UBER or LYFT drivers categorized?

**A:** UBER/LYFT drivers (or anything similar) are considered self-employed.

**Q:** How do I verify the income of someone who is self-employed?

**A:** The applicable household member must complete a **Self-Employment Verification** form and provide required supporting documentation. If they have been self-employed long enough to have filed a tax return, then this documentation should include a signed Return along with a Schedule C. If they have not been self-employed long enough for the income to show on a tax return, they should provide a Profit and Loss Statement along with any applicable back-up documentation. For example, UBER/LYFT drivers should provide a printout showing their monthly income.

**Q:** So if someone is newly self-employed and just gives me a Profit and Loss Statement, I can call them qualified, right?

**A:** Not necessarily. For the protection of your owner's credits, you should be very careful when verifying self-employment on a new business. You may wish to ask for a previous year's tax return and/or a statement from Employment Security to confirm that the applicant's previous wages are in line with their projections for the next 12 months (since you have no third-party verification of the projected income, just the applicant's statement) and that they are not already employed elsewhere or are already running another business that may impact your income calculations.

## 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. Verification of fulltime student status is required.

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

**Q:** Is student financial assistance considered income for purposes of qualifying a household for a tax credit unit? If so, what parts do I count?

**A:** No, **unless** the tax credit unit or resident is receiving some form of Section 8 rental assistance (e.g., Project-Based Section 8, or Housing Choice Voucher).

If the student receives some form of Section 8 rental assistance, you must count as income any amount of assistance **that is in excess of** the amounts which cover tuition and any other required fees and charges. If the student is over the age of 23 and has children or the student is living with his/her parents who are receiving Section 8, **all** financial assistance is **excluded** from annual income determinations.

For additional information about how to count a student's financial assistance, see Chapter 5 of HUD's Occupancy Handbook 4350.3. Also see HUD's PIH Notice 2015-21, published in December 2015, which provides good examples of how to define "required fees and charges."

## The Work Number for Everyone

**Q:** The Work Number no longer offers free verifications to affordable housing properties. Are we allowed to use pay stubs instead of obtaining a verification from this or other companies like it that charge a fee?

**A:** The bottom line with income verification is to show us that you attempted to obtain **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 the employer redirects you to The Work Number or other agency, 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 or other agency to calculate YTD wages. Once you have both current and YTD wages, use the higher amount to determine annual gross income for the applicant.

**Q:** Can I charge the cost of obtaining the third party verification back to the applicant/resident?

**A:** Yes, it is permissible to pass the cost of obtaining the verification back to the applicant/resident. If an Owner/Management Company does not wish to use The Work Number they must follow the steps outlined above.

**Q:** Do I have to get pay stubs if I have a verification from The Work Number or other agency?

**A:** It is always a good idea to get at least one pay stub to compare to the information provided on The Work Number or other agency verification printout. We have found that the verifications are not always complete or correct.

## VA Aid & Attendance

**Q:** Do I have to include VA Aid & Attendance Benefits in household income?

**A:** According to HUD's RHIIP Listserv Posting #284, any money received by the family that is specifically for, or in reimbursement of, the cost of medical expenses for any family member is excluded from annual income. Because of this, the owner must verify any amount provided for A&A which is used for medical expenses and exclude the verified amount. Any portion of the benefit not being used for medical expenses must be included as 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 and living expenses.

**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 next 12 months, 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.

## ASSETS CALCULATIONS AND VERIFICATION:

### Debit Cards not Associated with Checking or Savings Accounts

**Q:** We sometimes see applicants who have their government benefits or other forms of income deposited directly onto a debit card that is just a cash card, it doesn't connect to a checking or savings account. How do we verify the amount of money on these cards?

**A:** A print out from an ATM or similar machine which shows the card number and the balance on the card is sufficient for verification. Count the balance on the card as an asset. If money is being deposited on the card on a **periodic** basis (e.g., Social Security benefits, regular family cash assistance), count the periodic payments as income, and verify them based on what type of income they are.

### Different Imputed Interest Rates

**Q:** HUD recently announced it would adjust the passbook interest rate by which we determine the percentage of imputed assets to count. It may now change as often as annually. Will WSHFC change the imputed interest rate on all their forms going forward?

**A:** No, WSHFC will keep the imputed interest rate at 2% on its forms. This is because in the vast majority of cases, a fluctuation of the imputed interest rate will not cause a household to be ineligible for a Bond unit. We are fine with owners/managers using the actual HUD imputed interest rate in their asset calculations; be sure to note clearly on all calculations if you are using an amount other than 2%. Making revisions on the HEC by hand to show a different interest rate is fine.

### 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.

## **IRAs, 401(k) Accounts, Annuities**

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

**A:** No. To determine the value of an asset, start with the current value of the asset (annuity or IRS balance) and deduct any fees and penalties for converting to cash, plus any tax penalties.

Example: Ms. Hanson has an 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  $\$68,000 \times 4.85\% = \$3,298$ .

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

**A:** Not if it is taken in one lump sum annually. Regardless 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 the resident's assets. In this case, the IRA itself is counted as an asset.

If a resident chooses to take the annual RMD or any other asset as periodic payments, then the asset/RMD is counted as income. In this case, **do not** count the balance of the asset account as an asset – this would result in having counted the asset twice.

**Q:** How does WSHFC define the term "periodic"?

**A:** "Periodic payments" are those withdrawals or disbursements of income which occur at regular intervals, and occur two or more times per year.

## **Real Estate Valuation**

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

**A:** The goal is to obtain approximate market value and to document your reasonable attempts to get this information. Acceptable verification includes: Copies of real estate tax statements (including those obtained from online county property valuation or real estate valuation tools); a Realtor's record of recent comparable sales in the real estate's vicinity; letters from realtors. 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:** Does market value equal the asset's 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 an 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 also be counted as income.

**Q:** What do I need to get to prove that a house is in foreclosure? Is a notice on a credit report enough?

**A:** No. Foreclosures are handled by a trustee. The type of proof that you need depends upon the type of foreclosure.

<b>TYPE</b>	<b>Proof Required</b>
1. Regular Foreclosure	Notice of Sheriff Sale
2. Deed in Lieu of Foreclosure	Copy of the Deed
3. Judicial Foreclosure	Notice of Sheriff's Sale
4. Short Sale (before foreclosure for less than what is owed)	HUD1 Settlement Statement (Agreement from lender)

**Q:** Do I subtract the amount the household lost in the foreclosure from the Adjusted Gross Income?

**A:** No, you would not subtract the amount lost in a foreclosure when figuring income. Provided the foreclosure can be documented, no adjustment to income should be made for the house--positive or negative.

## **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 amount 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.

## **SPECIAL-NEEDS HOUSING COMMITMENTS**

### **Persons with Disabilities Commitment**

**Q:** What is the definition of a Disabled person for purposes of meeting my projects' commitment to serve persons with disabilities?

**A:** WSHFC follows HUD's definition of Disabled or Disability which is described as a physical or mental impairment that substantially limits one or more major life activities. Disabilities are typically long-term or permanent in nature.

### **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.

**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 making multiple copies of the documentation used to prove age at initial move-in and placing them in the residents folder, then include a copy of 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.

## Initial Occupancy

**Q:** If I elected the Large Household, Disabled, or Farmworker Special-Needs Commitment and my property cannot fill the units with the required population at initial occupancy, can management rent the units to the general population?

**A:** No, for new construction, the **initial occupant(s)** of a unit **must** meet the specified Special-Needs Commitment or the unit must be held vacant until it can be rented to a Special-Needs household. For acquisition/rehab properties, Special Needs Commitments may be met through attrition.

## Marketing: 30-Day Requirement

**Q:** Our property made the Persons with Disabilities 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 anything 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 3-bedroom unit that becomes available must go through the same process. The 30-day recruitment procedure applies to all Special Needs Commitments **except** Elderly, Homeless or Transitional. Elderly, Homeless or Transitional units must always be rented to qualified applicants from those populations.

## Marketing Vacant Units

**Q:** Do I need to advertise our vacant units in newspapers or can I advertise them through other media?

**A:** There are many ways to advertise units that will meet your marketing requirement. At least annually, the Owner must notify (1) the relevant public housing authority, (2) at least two agencies in the area of the Project, and (3) the general public. To satisfy requirement number three, Owners may use the Internet and/or other media. You should be able to demonstrate that the media method chosen is an effective method of marketing to your property's targeted population in the general area of your property and is in compliance with the Fair Housing Act and state and local law.

## Double Counting

**Q:** A property has elected the Large Households and Disabled Special-Needs Commitments. If a household of four, one of whom is disabled, moves in, can this household be used to meet the Special-Needs Commitment in **both** categories?

**A:** In this case, the answer is no. The same household cannot be used for more than one of these Special-Needs Commitments, regardless of whether the household is eligible for both. These Commitments are based on a minimum of 10% or 20% of the Total Housing Units for each category.

The exception would be if the property has two Commitments, one for 100% Elderly or one for 75% or greater Farmworker or Homeless/Transitional housing. Under these scenarios, a household could qualify for more than one set-aside. Contact your Portfolio Analyst if you are unsure whether or not a household can qualify under two Special-Needs Commitments.

## STUDENTS

### Qualified Resident Goes Back to School

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

**A:** It is permissible for a unit to be occupied by a full-time student where there are other residents in the household that qualify. However, when a unit becomes occupied **entirely** by full-time students (defined as individuals enrolled **full-time** at an educational organization for at least **five calendar months** during the year), the unit becomes disqualified unless one of the following exceptions applies: The unit is occupied by at least **one** individual who is:

1. Enrolled in a job-training program receiving assistance under the Workforce Investment and Opportunity Act (formerly WIA and JTPA) or other similar program funded by a state or local government agency.
2. Receiving benefits under Title IV of the Social Security Act (e.g. TANF).
3. A single parent and the single parent is not a dependent of another individual, nor are their children dependents of another individual except another parent of such children.
4. Married and eligible to file a joint return.
5. A student that was previously under the care of a state foster care program.

### **International Students**

**Q:** We have an international student who attends school full-time but receives zero credits. Schools generally confirm student status by the number of credit hours taken, so it is possible that the college may verify their status as part-time. Should we consider these students full-time or part-time?

**A:** International Students are almost **always considered** full-time Students. This is because their Student Visa specifically requires these students to attend school full-time to remain in the United States. Households with International Students would need to have at least one other household member who is **not** a full-time student to remain a qualified household.

### **Married Students**

**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.

**Q:** Can legally married same-sex couples qualify for the “married, filing jointly” student exception?

**A:** Yes.

### **Student Status and Foster Care**

**Q:** Is there now another exception to the full-time student household for those persons who previously received foster care assistance?

**A:** Yes. If you have a household composed entirely of income-qualified full-time students and one of those students was previously under the care of a state foster care program, the household remains qualified.

The Owner must obtain written verification from a state foster care administrative entity (DSHS in Washington State) that the student was previously in a foster care program. Washington State DSHS has informed us that residents could obtain this information with a Social Security number. It's not clear whether the Owner agent, acting as a third party, could obtain documentation. If the Owner agent is unable to obtain written verification directly from DSHS, the Commission will allow copies of documentation directly from the resident as proof of this exception to the full-time student rule.

### **Students with Unborn Children**

**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 can be counted toward household size when determining the income limit (or determining qualification for the Large Household Commitment), we don't think it would count as an exception to the student rule.

## Verifying Student Status

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

**A:** Students that are "full-time" for more than five calendar months during the calendar year are generally prohibited from housing unless they meet one of the exceptions described above. Whether a student is attending school "full-time" 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 that they inform management immediately of any student status changes. Many management agencies are checking quarterly to prevent a recapture problem, but there is no requirement to check any more often than annually at recertification.

## Bond Student Rules

**Q:** Do the Student rules for the tax credit program also apply to Tax-Exempt Bond projects?

**A:** Yes. The 2008 HERA federal legislative changes allow Owners to apply the more lenient Tax Credit Student rules and exceptions to Bond-only properties.

## 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 (Excel spreadsheet), **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 Portfolio Analyst for further information.

**Q:** If more than one household occupies a unit during the reporting period, do we 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-only 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 7<sup>th</sup> 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 10<sup>th</sup>, and the property must make its first report immediately. The first 90 day period after the 10% mark will end September 10<sup>th</sup>, so the next report is due to the Commission as of October 7<sup>th</sup>. 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 Portfolio Analyst 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 the Commission's **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.

**Q:** My property is financed with bonds, but the bonds did not come from the Commission, do we have to report on the status of our bond units to the Commission?

**A:** No. Reporting requirements only apply to those projects with bonds issued by the Commission.

**Q:** My new property is financed with bonds and also tax credits. Do we have to report quarterly until we reach 90% occupancy?

**A:** No. Because your property is going to convert to tax credit status at some point, we will use your first Tax Credit Annual Report to determine if your property met its bond regulatory requirements. Keep in mind that if you did not meet your bond requirements during the initial leasing period, any bond-related noncompliance could jeopardize the status of your bonds, even after you start claiming credits for this property.

## **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 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.

### **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**

### **When Applicant/Resident signs with an "X"**

**Q:** Is something special required when an applicant or resident signs his or her name on a WSHFC form with an "X" or is physically unable to sign?

**A:** We recommend that managers add a simple attestation (by the person witnessing the signature) or a notary acknowledgement below the resident signature block. The attestation should state something like "On (insert date) I witnessed (insert full name) make an "X". Or, "On (insert date), (insert name) reviewed this REA with me and acknowledged it to be accurate and complete. He/she is physically unable to sign the form and asked that I sign on his/her behalf."

### **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 Tax-Exempt Bond property?

**A:** Selling or transferring a property that has an existing Regulatory Agreement requires written approval by the Commission, and will require a Regulatory Agreement amendment. Transfer requirements for Tax-Exempt Bond properties can be found in the **Bond Compliance Manual**, Chapter 5.