

### DETERMINING INCOME ELIGIBILITY

#### 4.1 BACKGROUND

One of the most critical activities in the AHP Program is determining and verifying income of tenants for Qualified Units.

The typical steps for determining income eligibility are as follows:

- ◇ Determine household size.
- ◇ Compute "annual income" (gross income plus income from assets) in accordance with the HUD Section 8 definition<sup>10</sup>.
- ◇ Verify income information obtained from each household.
- ◇ Certify the income information obtained from each household.
- ◇ Determine eligibility by comparing "annual income" to the applicable income limit for the household size.
- ◇ Designate units occupied by eligible households as QUs, if needed.
- ◇ Re-examine tenant eligibility at least annually as long as the tenant continues to reside and retains income eligibility.

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<sup>10</sup> HUD's Section 8 Program defines **annual income** to be anticipated income for the next 12 months. This principle may be unfamiliar to many owners, who more often are likely to confirm rent-paying capacity of market-rate tenants using current or past income. However, this approach is required by the FIRREA legislation, and is familiar to many government agencies and property managers who verify the income of tenants being assisted under other programs such as Tax Credits or Section 8.

These steps are described below, along with recommended practices.

**Tenant Screening and Selection Policy:  
Fair Treatment of All Applicants**

Program rules require special procedures to qualify VLI and LI applicants for the Set-Aside units, but otherwise do not specify what additional screening can or must be done in routine tenant selection.

Owners may apply standard, lawful screening practices in the selection of all tenants -- AHP and market-rate. Such practices may include, for example, landlord checks, reference checks, and credit checks.

Owners are not required to accept a VLI or LI applicant just because the applicant is income eligible, if the applicant does not meet such lawful and common screening procedures that determine whether the applicant will be a good tenant.

However, VLI and LI applicants may not be subjected to any special qualifications or screening process, except as herein prescribed to determine income eligibility, not applied to all other applicants. For example, credit history and landlord reference checks may be done for VLI and LI applicants, provided it is a policy uniformly applied to all applicants, including those for unrestricted units.

#### **4.2 DETERMINING HOUSEHOLD SIZE**

Program income limits vary by the number of persons considered to be household members. Two issues are relevant to the determination of household size:

- ◇ what constitutes a "household"; and
- ◇ who may be counted, per AHP rules, as a member of a household.

The Program does not specify who may or may not be considered a household, and does not specify or limit

households to families. Any group of persons who choose to live together in a unit is the “household”, and the income guidelines below require the inclusion of income from all adult members of the household.

AHP recognizes full-time and part-time students as households and eligible tenants as long as their income, as defined in Appendix C, is within AHP income limits.<sup>11</sup>

In determining household size, owners must follow the instructions in Exhibit 4.1 regarding who may or may not be counted as household members.

**EXHIBIT 4.1  
ESTABLISHING HOUSEHOLD SIZE**

| Count These Persons  | Do Not Count These Persons  |
|--|---|
| <ul style="list-style-type: none"> <li>◇ Year-round occupants</li> <li>◇ Absent children in cases where the parent is pursuing legal custody of the child</li> <li>◇ Members temporarily away, such as students at school, children placed in foster care, Armed Forces personnel on temporary assignment, etc.</li> </ul> | <ul style="list-style-type: none"> <li>◇ Live-in aides, attendants, or nurses</li> <li>◇ Absent children under 18</li> <li>◇ Unborn children</li> </ul> |

AHP does not specify appropriate sizes of units (i.e. number of rooms or bedrooms) in relation to family size or composition. Owners may establish their own unit density standards, in accordance with local tenant-landlord laws, local housing or health and safety codes, and other state and local occupancy codes. For example, while unborn children are not counted for purposes of household size for income eligibility, they may be counted for determining the size of unit to rent to the household in order to avoid the need to relocate in the near future.

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<sup>11</sup> Special rules have been developed for students. Scholarships or educational grants for tuition and school expenses may be excluded, as can student loans, but the portions of scholarships or grants for subsistence plus any payments from any other persons (such as parents or family members) must be included as income.

However, if a unit size standard is applied, the owner must apply it consistently to all units in the property.

### 4.3 COMPUTING ANNUAL INCOME

AHP uses the definition of "annual income" as defined in HUD's Section 8 Program. **Annual Income**, generally speaking, is the amount of gross income anticipated to be received during the 12-month period following certification (or recertification) of eligibility.<sup>12</sup> Generally, only earned income from household members ages **18 and over** is included.

Annual Income is derived from two basic categories -- regular income and asset income.

#### A. Regular Income

This category covers traditional earned income such as wages and salaries (including bonuses, overtime and other additional compensation), as well as assistance payments and benefits, such as Social Security, welfare, and pensions. It also includes payments in lieu of earnings, such as unemployment compensation, workers' compensation for injuries, and other periodic payments.

Excluded from regular income are any non-recurring payments and certain kinds of payments itemized in the "Guide for Determining Annual Income" contained in Appendix C to this manual.

#### B. Asset Income

The Program also requires income from assets to be included in annual income. Income which is generated from savings accounts, certificates of deposits, stocks and mutual funds, real estate, and other items held for investment purposes is considered **asset income**, and

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<sup>12</sup> The specific definition can be found in Chapter 3 of the HUD Handbook 4350.3 ("Occupancy Requirements of Subsidized Multifamily Housing Programs"). Annual income is NOT the same as adjusted income. Annual income generally corresponds to gross income, with no adjustments (deductions) for child care, medical expenses, dependents, etc. Adjusted income is used in some federal housing programs, such as Section 8, to determine the level of benefit provided to a household, but is not used in AHP.

added to other income for purposes of determining household eligibility.

Actual income from assets (such as interest or dividend income) is included in annual income, but if the total value of assets is *\$5,000 or greater*, owners must use the **greater** of:

- ◇ the actual annual income to be derived from these assets; or
- ◇ the "imputed income" computed by multiplying total assets times the "passbook rate" supplied by the State Monitoring Agency.

This procedure is designed for situations when a large amount of assets are not producing current income.

**Example:** A household's assets are valued at \$10,000 and the actual annual income is expected to be \$250 in interest. Suppose the current passbook rate as of this writing is 4.2 percent. Multiply  $\$10,000 \times 0.042 = \$420$ . Since \$420 is the greater of the two figures, this would be considered the amount of asset income in this instance.

A list of inclusions and exclusions from asset income are included in the "Guide for Determining Annual Income" contained in Appendix C.

## **C. Obtaining Tenant Information**

### ***Applications***

Because the definitions of income and household are specific to the Program, standard commercial application forms may not collect all the required information to determine AHP eligibility.

A sample rental application form approved by FDIC is included in Appendix A. Owners may use this form, or modify an existing application form to include all required income information. It is recommended that forms other than the approved form be submitted to the monitoring agency for approval prior to use to ensure completeness.

### **Helpful Hints on Obtaining Information**

- ◇ Some applicants will need help in completing application forms.
- ◇ Some managers find it useful to have the applicant complete the application in a face-to-face interview.
- ◇ Retain all applications for 3 years in case eligibility decisions are challenged by applicants.

Application forms should be used for incoming residents of QUs as well as in-place tenants who would like to qualify.

### ***Helpful Hints For Income Eligibility Processing***

- ◇ Owners may adopt the practice of making initial determinations of eligibility using the information supplied on the application form.
- ◇ If an initial assessment reveals a household's income to be above the AHP income limits, owners may want to inform the household at that time, and not continue with the verification and certification steps below.
- ◇ Owners should keep waiting lists to have ready applicants for any available units. Keep separate waiting lists for each of the three categories: unrestricted, VLI and LI. Follow chronological order.
- ◇ Owners may follow normal, lawful leasing procedures to rent unrestricted units to AHP-ineligible applicants.

If VLI or LI applicants also wish to apply or be placed on a waiting list for unrestricted units in addition to a VLI or LI unit, owners should not deny them access to the unrestricted units or waiting list, subject to all normal qualification criteria applied to all applicants.

## ***Tenant Release and Consent Forms***

Households seeking to become eligible under AHP must sign Release and Consent forms, which authorize property management staff to verify income and asset information. An FDIC-approved Release and Consent form is included in Appendix B.

### **4.4 VERIFYING INCOME INFORMATION**

Owners must **verify** the annual income of each household that is to be determined income eligible. All income sources must be verified, with one exception: if a household's assets total less than \$5,000, verification of the assets is not required.

In verifying household income, owners must use one of three basic types of acceptable income verifications:

- ◆ **Third-party written verifications** are preferred. This usually involves a letter from the income source, or a form letter (on management agent letterhead) on which the source certifies the amount of income. Sample verification form letters are contained in Appendix D.
- ◆ **First-hand** verification is the most useful means of verification in some cases, such as applicants who are self-employed and banks that charge for verifying deposits. Documents such as certified copies of tax returns, bank statements, or copies of legal papers (e.g., payment of court awarded child care payments, etc.) are acceptable forms of firsthand verification.
- ◆ **Oral (telephone) verifications** may be used when other forms of verification are not feasible, such as when sources refuse to provide it, or where it would excessively delay a move-in or a re-examination. The owner/manager must put signed and dated notes in the file documenting the third-party oral information.

Owners may use different methods for different sources of income. Exhibit 4.2 summarizes acceptable types and sources of verification.

## EXHIBIT 4.2

### ACCEPTABLE FORMS OF INCOME VERIFICATION

| SOURCE OF INCOME  | THIRD-PARTY   |  | FIRST-HAND DOCUMENTATION   |
|---|---|--|--|
|   | Written   | Oral   |  |
| Employment  | Verification Forms or letter from employer  | Telephone or in-person contact with employer, specifying amount to be paid, by pay period, including anticipated raises, bonuses, etc. | W-2 forms or tax returns if other sources unavailable and employee has had same employer or pay can be forecasted accurately.                          |
| Self-Employment, Tips, etc.   | N/A   | N/A  | Certified Form 1040/1040A showing amount earned and employment period  |
| Income Maintenance Payments, Benefits, Income Other than Earnings (Including Welfare, Social Security, SSI, Unemployment, etc.) | Verification Forms or letter from source  | Telephone or in-person contact with source, specifying amount of payments, deductions, if any (Medicare premiums, etc.)                | Recent check with date, amount, and period involved, and deductions, if any (Medicare premiums, etc.)  |
| Alimony or child support  | N/A   | N/A  | Copy of separation agreement or divorce decree stating the schedule and amount of payment  |
| Recurring contributions and gifts   | Notarized statement or affidavit signed by donor, or a letter from bank, attorney, or trustee administering the contributions | N/A  | N/A  |
| Scholarships, Grants, and Education Benefits  | Verification Form or letter from source   | Telephone or in-person contact with source   | Copies of latest benefit checks if amount is not expected to change over the next 12 months  |
| Net Business Income   | N/A   | N/A  | Certified Form 1040, Schedules C, E, or F, or audited financial statements, or a loan application listing business income from the preceding 12 months |
| Dividends or Interest Income, including Savings Accounts  | Verification Form or letter from source   | Telephone or in-person contact with source (but banks are not likely to provide this orally)   | Copies of current statements, CDs, etc., or Form 1099 from the institution, if amount is not expected to change over the next 12 months                |
| Interest from Sale of Real Property   | Verification Form or letter from an accountant, real estate agent, or other source including amortization table               | Telephone or in-person contact with an accountant, real estate agent, or other source including amortization table                     | Copy of amortization schedule, with information to determine the amount of interest to be earned during the next 12 months                             |



## **A. Documenting Income Verifications**

All attempts to verify tenant information should be documented. This includes:

- ◇ keeping copies of all form letters sent to third-party sources;
- ◇ maintaining telephone logs for oral inquiries; and
- ◇ making appropriate notations in the tenant file.

Verification documents associated with the completed certification should be retained in the tenant file for inspection by the monitoring agency.

Some monitoring agencies may be more restrictive in the type of verification which they will accept. The agency has the right to impose further limitations on acceptable forms of verification. The Owner should confirm with the agency if there are additional restrictions.

## **B. Timing of Verifications**

Owners must have valid verifications at the time the tenant signs a Tenant Income Certification form. Verified information is acceptable and valid for a 90 day period.

An oral update may be used to extend the life of the verification an additional 30 days up to a maximum of 120 days from the date the verification was performed. Once the life of a verification has expired, owners must obtain a new verification of the tenant's income.

### **Helpful Hints for Verification**

- ◇ Remember that income is being estimated for the coming 12 months. Be sure to ask all verification sources to estimate the anticipated income for the next 12 month period. This should include expected raises, bonuses, cost of living adjustments, and other anticipated changes.
- ◇ Be sure to impress upon the verification sources that occupancy can be delayed by delays in verifications.

#### 4.5 CERTIFYING HOUSEHOLD INFORMATION

Owners must use an FDIC or monitoring-agency-approved **Tenant Income Certification (TIC)** form to formally document tenant income and eligibility. The certification must be effective on the date the tenant signs the dwelling lease.

**GOOD PRACTICE:** Owners can avoid having to update the income certification by having tenants sign the TIC form at the same time they sign their lease.

The TIC form must be signed by the head of household, who thereby certifies that the income and household information provided is correct. The TIC form must also be signed by the property owner or designee, who certifies that the tenant has been classified properly as VLI or LI, based on the information provided.

The FDIC-approved TIC is contained in Appendix E. Use this or an approved facsimile.

#### 4.6 DETERMINING ELIGIBILITY

Once income and household size have been established and verified, tenant income must be compared to the AHP **income limits**.

AHP uses HUD's published definitions of Very Low Income and Low Income, as adjusted for household size.

Monitoring agencies will provide owners with the income limits applicable to their properties. Remember, Census and other definitions of median income may not be substituted to determine income eligibility for AHP.

To determine if a particular household is eligible, an owner/manager should:

- ◇ obtain the most recent income limits for the area in which the property is located;
- ◇ determine the appropriate household size; and

- ◇ compare the verified income of the household to the applicable limits.

**Example:** Below is a hypothetical income limit chart Hometown, USA, containing the VLI and LI limits for various household sizes. Suppose a 3 person household has a verified annual income of \$21,500. This household is above the VLI limit (\$13,750) but is below the LI limit (\$22,050), and therefore would be eligible as a Low income (LI) household.

**Sample Income Limits  
Hometown USA (1997)**

| <i>Household Size</i> | <i>VLI Limit</i> | <i>LI Limit</i> |
|-----------------------|------------------|-----------------|
| 1 person              | \$10,700         | \$17,150        |
| 2 persons             | 12,250           | 19,600          |
| 3 persons             | 13,750           | 22,050          |
| 4 persons             | 15,300           | 24,500          |
| 5 persons             | 16,500           | 26,450          |
| 6 persons             | 17,750           | 28,400          |
| 7 persons             | 18,950           | 30,350          |
| 8 persons             | 20,020           | 30,300          |

**A. Income Eligible Households**

If a household is determined to be income eligible according to the procedures outlined above, and passes all other standard and lawful screening, owners should:

- ◇ Decide whether to designate the unit as a QU, which would be appropriate any time the property is below its VLI Set-Aside or Total Set-Aside, and when a replacement is needed for an over-income (OI) or vacant unit;
- ◇ Set a rent that does not exceed program maximums (see Chapter 5);
- ◇ Execute a lease with the tenant that includes the two required provisions (see Chapter 5);

- ◇ Create a tenant file with complete documentation (see Chapter 6); and
- ◇ Reflect the status of the tenant in the appropriate Compliance Report (see Chapter 6).

## **B. Households Not Income Eligible**

If a household is determined not to be income eligible after following the procedures outlined in this Manual, owners should:

- ◇ Consider offering the applicant an unrestricted unit if one is available (and the applicant passes all other standard and lawful screening), assuming that the available unit does not need to be held open as a Next Available Unit for an eligible household; or
- ◇ Inform the applicant that they are above the applicable income limits, that there are no vacancies other than for eligible households, and place the applicant on a waiting list if one is maintained.

## **4.7 ANNUAL RE-EXAMINATIONS**

The annual income and household composition of the tenant in every QU must be re-examined at least annually.

### **A. Purpose**

The purpose of a re-examination is to ensure that, as household income changes over time, households occupying QUs continue to be eligible under AHP program rules. Changes in household composition (e.g., babies born, members moving out, etc.) or changes in annual income need to be reported only at the time of the annual re-examination. It is not necessary for tenants to notify the property management staff in the interim, unless non-AHP provisions of the lease require it.

Previously-qualified tenants can maintain their LI status at re-examination as long as their income continues to be within 140 percent of the applicable (e.g., the most current limit for the appropriate household size) LI limit for

admission. This 140% LI recertification income limit is listed as the "M-F Transition" income on the HUD/FIDC Income Limit sheets you receive annually from your monitoring agency.

However, if a tenant's income exceeds 140 percent of the applicable LI limit, the unit must be re-designated as an over-income QU. Then, the next available unit of comparable or smaller size must be designated to replace this unit.

Once the unit is declared an over-income QU, the rent for that unit is no longer restricted by an AHP rent limit. Rent increases, if any, should comply with lease provisions and local tenant-landlord laws.

## **B. Timing of the Recertification**

Re-examinations of tenant income eligibility are required at least annually. Owners may conduct them more frequently in order to have re-examinations correspond to lease periods of less than one year's duration. However, re-examinations must occur at least annually even if the lease is for a period longer than one year.

Owners must complete a tenant's re-examination by an established **recertification date**. Owners may set the recertification date at a time of their choice as long as the date falls within 12 months of the time of the most recent tenant certification. Thus, if the lease for a unit took effect during the middle of a month an owner might set the recertification date on the 1st of the same month in the succeeding year.

**Example:** If a Qualified Tenant was certified and moved in the QU on December 17, 1996, his or her recertification date could be set at December 1, 1997, but not January 1, 1998.

Each time a re-examination is conducted, owners must collect updated income information from the tenant following the procedures in Section 4.5. As was true for the initial certification, the income verification must be valid at the time the recertification is signed. Again, verifications are valid for 90 days and can be extended for 30 days with an oral update.

**Good Practice:** In planning re-examination, owners should begin early enough to allow sufficient time to complete the verification process, but not so far in advance that the verification (which are good for 90 days) will expire before the date the tenant will sign the recertification. Many owners begin the process 60 days before lease renewal and recertification.

### **C. Recertification Procedures**

The procedures for re-examinations are virtually the same as determining initial income eligibility. Specifically, owners must:

1. **Contact the tenant**, and obtain: a) a list of current household members; b) a list of income sources, including assets, for the coming year; and c) the tenant's signature on the releases for verification, as necessary, for transmittal to all of the identified income sources.
2. **Verify tenant income information** using the appropriate method(s) described above.
3. **Compare household income to the latest available income limits, and determine household status.** Any changes in household size should be reflected at this time, as staff compares the new income figures to the latest income limits. Depending on the outcome of the re-examination, the household's status as an eligible household may change.
4. **Execute the Tenant Income Certification (TIC) form** and mark the space for recertifications. The tenant's signature is required. (See Appendix E for a sample TIC form). Changes in status become effective on the date the recertification form is executed.
5. **Assemble all documentation and place it in the tenant file.**