

FDIC
AFFORDABLE HOUSING DISPOSITION PROGRAM (AHP)
GUIDE FOR DETERMINING ANNUAL INCOME

INTRODUCTION

Section 501(c) of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA), requires that owners of qualifying multifamily properties set aside a percentage of units in their property for lower income households, of which a portion must be held available for very low-income households. In addition, certain single family and condominium properties must be rented or sold to lower and, sometimes, very low-income households.

AHDP applies HUD's definition of "low" and "very low-income" to establish tenant eligibility as lower and very low-income households, respectively. Lower income households are those whose incomes do not exceed 80 percent of area median income as determined by the Secretary of HUD, with adjustments for family size. Very low-income households are defined as those whose incomes do not exceed 50 percent of area median income as determined by the Secretary of HUD, with adjustment for family size. AHDP uses the HUD-published figures for 80 percent and 50 percent of area median income.

This guide has been established to assist in calculating household income in order to determine eligibility under AHDP.

DEFINITION OF ANNUAL INCOME

Annual income is the anticipated gross income from all sources received by the head of household and each additional member of the household, including all net income derived from assets. Annual income is income that will be received during the 12 month period following the effective date of income certification/recertification.

DEFINITION OF HOUSEHOLD - The owner should define what constitutes a household. A commonly used definition is:

A household or family includes the applicant, co-applicant, and all other persons who will make the applicant's dwelling their primary residence for all or part of the next 12 months (excluding foster children or live-in aids).

HOW TO CONVERT INCOME TO ANNUAL AMOUNTS

1. To annualize full-time employment, multiply:
 - * hourly wages by 2,080 hours
 - * weekly wages by 52
 - * bi-weekly amounts by 26
 - * semi-monthly amounts by 24
 - * monthly payments by 12

2. To annualize income from other than full-time employment, multiply:
 - * hourly wages by the number of hours the family member expects to work annually
 - * average weekly amounts by the number of weeks the family member expects to work.

3. Use an annual wage without additional calculations. For example if a teacher is paid \$15,000, use this figure regardless of whether the payment is made in 12 monthly installments, 9 installments, or some other payment schedule.

GUIDELINES FOR DETERMINING ASSETS

ASSETS DISPOSED OF WITHIN TWO YEARS BEFORE DATE OF INCOME DETERMINATION - Use the following procedures in determining the value of disposed assets:

- (a) If the fair market value of the disposed assets exceeds the gross amount the family received by more than \$1,000, include the difference between the cash value and the amounts received. If the difference is less than \$1,000, ignore it.

Example: On 7/5/83, an elderly couple deeded their house to the daughter and the daughter paid them \$5,000 for it. Compute the cash value of the house as described under "valuing Assets" below, and count as an asset the difference between the cash value and \$5,000.

- (b) Do NOT consider assets disposed of for less than fair market value as a result of a foreclosure, bankruptcy, or a divorce or separation settlement.

VALUING ASSETS - In computing assets, owners must use the cash value of the asset -- the amount the family would receive if the asset were converted to cash. Cash value is the market value of the asset minus reasonable costs that were or would be incurred in selling or converting the asset to cash. Expenses which may be deducted include:

1. penalties for withdrawing funds before maturity;
2. broker/legal fees assessed to sell or convert the asset to cash; and
3. settlement costs for real estate transactions.

ASSETS OWNED JOINTLY - If assets are owned by more than one person, prorate the assets according to their percentage of ownership. If no percentage is specified or provided by State or local law, prorate the assets evenly among all owners.

ATTACHMENT A: INCOME INCLUSIONS

ATTACHMENT B: INCOME EXCLUSIONS

ATTACHMENT C: ASSET INCLUSIONS AND EXCLUSIONS

ATTACHMENT A
INCOME INCLUSIONS

Note: These definitions are based upon 1989 regulations. When future legislative changes are made to the definition of Annual Income, the change will be published in the Federal Register. Agencies will be given 60 days from the date of publication to implement the revised definition and advise owners of the changes.

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the Family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the Family. Where the Family has Net Family Assets in excess of \$5,000, Annual Income shall include the greater of the actual income derived from Net Family Assets or a percentage of the value of such Assets based on the current passbook savings rate, as determined by HUD; (See page F-5)
- (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment;
- (5) Payments in lieu of earnings, such as unemployment, worker's compensation and severance pay (but see paragraph (3) under Income Exclusions);
- (6) Welfare Assistance. If the Welfare Assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the Welfare Assistance agency in accordance with the actual cost of shelter and utilities, the amount of Welfare Assistance income to be included as income shall consist of:
 - (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (ii) The maximum amount that the Welfare Assistance agency could in fact allow the Family for shelter and utilities. If the Family's Welfare Assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage;

- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
- (8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the Family, spouse, or other person whose dependents are residing in the unit (but see paragraph (7) under Income Exclusions);
- (9) Special FDIC Inclusions: In the case of a full-time student living apart from his or her family, amounts paid directly to the student or to the educational institution by any other person (other than amounts excluded under paragraph 6 of the next section) for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student, plus amounts paid to or for the benefit of the student for rent and subsistence expenses.¹

¹ Item 9 is a Special RTC income inclusion and not a requirement of the HUD Section 8 Program.

ATTACHMENT B **INCOME EXCLUSIONS**

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children;
- (3) Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (but see paragraph (5) of Income Inclusion);
- (4) Amounts received by the Family that are specifically for, or in reimbursement of, the cost of Medical Expenses for any Family member;
- (5) Income of a live-in aide;
- (6) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the Government to a veteran, for use in meeting the costs of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of the student. Any amounts of such scholarships or payments to a veteran not used for the above purposes that is available for subsistence are to be included in income;
- (7) The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire;
- (8)
 - (i) Amounts received under training programs funded by HUD;
 - (ii) Amounts received by a Disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS); or
 - (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (9) Temporary, nonrecurring or sporadic income (including gifts); or
- (10) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under the 1937 Act. The following is a list of types of income that qualify for that exclusion (9/27/89 regulations):
 - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;
 - (b) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through VISTA; Retired Senior Volunteer Program, Foster Grandparents Program, youthful offenders incarceration alternatives, senior companions);
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a));
 - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 259e);
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
 - (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act;
 - (g) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians;
 - (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-1408) or from funds held in trust for an Indian tribe by the Secretary of Interior (25 U.S.C. 117);
 - (i) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs, that are made available to cover the costs of tuition fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of a student at an educational institution (20 U.S.C. 1087 uu); and
 - (j) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f)).
 - (k) Any earned income tax credit to the extent it exceeds income tax liability.
 - (l) Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other funds established pursuant to the settlement in the In Re Agent Orange product liability litigation, MDL No. 381 (E.D.N.Y)
 - (m) Payments received under the Maine Indian Claims Settlement Act of 1980.

ATTACHMENT C

ASSETS

A. ASSETS INCLUDE:

B. ASSETS DO NOT INCLUDE:

1. Amounts in savings and average six month balance in checking accounts.
2. Stocks, bonds, savings certificates, money market funds and other investment accounts.
3. Equity in real property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.
4. The cash value of trusts that are available to the household.
5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty.
6. Contributions to company retirement/ pension funds that can be withdrawn without retiring or terminating employment.
7. Assets which, although owned by more than one person, allow unrestricted access by the applicant.
8. Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims.
9. Personal property held as an investment such as gems, jewelry, coin collections antique cars, etc.
10. Assets disposed of for less than fair market value during two years preceding certification or recertification.

1. Necessary personal property, except as noted in A.9.
2. Interest in Indian trust lands.
3. Assets that are a part of an active business or farming operation.

NOTE: Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the applicant's/tenant's main occupation.

4. Assets not accessible to the family and which provide no income for the family.
5. Vehicles especially equipped for the handicapped.
6. Equity in owner-occupied cooperatives and manufactured homes in which the family lives.

Count as income

1. Actual income from assets if total assets are \$5,000 or less;
2. If assets are more than \$5,000, the greater of
 - actual income from assets, or
 - total assets x passbook rate