

Compliance FAQs: Eligibility

Q. How do we determine if a household is eligible?

A. The determination of eligibility is made by screening income, assets, and student status using the application and obtaining supporting documentation and verifications. The [Technical Guide For Determining Income And Allowances for the HOME Program – 24 CFR 5.609](#) and the current version of the [HUD Handbook 4350.3](#), Chapters 3 and 5, are used to determine eligibility.

Q. Is there a required form for applications?

A. No, there is not a required form. The Department has Compliance Forms, such as the Intake Application and Intake Supplemental for Subsidy Calculation, available for use located on the Department website here: <https://www.tdhca.state.tx.us/pmcomp/forms.htm>. These forms are optional and developments may use any application they wish, as long as, it screens for all sources of income, assets, student status and includes the veteran requirements of [§10.612\(a\)\(2\)](#).

Q. Can an applicant complete an electronic application?

A. The intent of an application is to allow an applicant to disclose how many members are in the household, student status and all sources of income and assets, so that onsite staff knows what to verify to establish eligibility. The application must be completed by the applicant. An electronic application can be used; however, it is the responsibility of the Owner to ensure that the application may not be altered in any way, once completed by the applicant. It is the responsibility of the Owner to maintain policies and procedures that mitigate fraud, waste and abuse on an ongoing basis.

Q. Can we use correction fluid/tape (Whiteout) to correct application/verification mistakes?

A. No, correction fluid/tape must not be used on applications, certifications or verifications. The erroneous information should be marked through with one line, initialed and corrected.

Q. How does the Department calculate annual income?

A. For all rental programs administered by the Department, annual income shall be determined consistent with the Section 8 Program administered by HUD, using the definitions of annual income described in 24 CFR §5.609, found here: <https://www.ecfr.gov/current/title-24/subtitle-A/part-5>, as further described in the current [HUD Handbook 4350.3](#), as amended from time to time. For the Housing Tax Credit program, where there is a conflict between the Handbook and the [IRS Guide for Completing IRS Forms 8823](#), the IRS guidance will be controlling.

Q. How does the Department calculate adjusted income?

A. The Department has adopted the definition of adjusted income as found under 24 CFR §5.611, located here: <https://www.ecfr.gov/current/title-24/subtitle-A/part-5>, as further described in the current [HUD Handbook 4350.3](#).

Q. What counts as income?

A. All amounts, monetary or not, that go to or are received on behalf of the Head of Household, Spouse, or Co-Head (even if the member is temporarily absent), or any other household member AND all earned and unearned amounts anticipated to be received from a source outside the household during the 12-month period following admission or certification. All Income inclusions and exclusions can be found in the [HUD Handbook 4350.3, Exhibit 5-2](#).

Q. Can a live-in aide be a family member/relative?

A. In accordance with Chapter 3 of the current version [HUD Handbook 4350.3](#), (pg. 3-9), a live-in aide is a person who lives with one or more elderly, disabled or handicapped individual(s) and is essential to that individual's care and well-being, not obligated for the individual's support and would not be living in the unit except to provide the support services. A relative may be considered a live-in aide if the individual meets all of the above requirements, especially the last. The live-in aide may not be the person's spouse.

Q. Do live-in aides count towards the household size?

A. In accordance with Chapter 3 of the current version [HUD Handbook 4350.3](#), a live-in aide is not included in the family size to establish income eligibility (pg. 3-8), but is included in the household for purposes of determining appropriate unit size (pg. 3-71).

Q. Is there an "expiration date" for any of the verifications or certifications used to determine eligibility?

A. Yes, all application forms, certifications and verifications (third party, first hand and oral clarifications) should be within 120 days of the certification date. Example: The Income Certification date is 10/14/2020. Verifications of income should be within 120 days and not dated prior to 6/16/2020. Additionally, lifetime stipends, such as pensions and annuities do not need to be verified annually. The Social Security Administration annual Award Letters may be used as verification of benefits for the entire year.

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Q. What should the effective date be on the household's Income Certification form?

A. Please see the Effective Date chart here: <https://www.tdhca.state.tx.us/pmcdocs/Eligibility-EffectiveDates.pdf>

Q. What do I need to keep in the tenant file to show how I received a verification?

A. If the verification was received by mail, you should retain the envelope in which it was received. If the verification was received by fax, you should retain the cover sheet and all pages that came in the fax. If the verification was received by email, you should include the email and all attachments that accompanied the verification. If the verification was obtained on the internet, you should include all pages that pertain to the verification.

Q. Can I use the HUD *Income Verification for Households with Section 8 Certificates* in lieu of verifying income and assets?

A. The Development program(s) will determine whether or not this form may be used.

1. No, not for the first and every sixth year certifications for Multifamily Direct Loan programs, such as, HOME, TCAP-RF, NSP and NHTF or Section 811 Project Rental Assistance.
2. Yes, for Housing Tax Credit, Exchange, Bond, TCAP and SHTF. In accordance with Treasury Regulation [§1.42-5\(b\)\(1\)vii](#), an owner can rely on a statement from a public housing authority declaring that the household's income does not exceed the applicable income limit, only if the household is receiving housing assistance payments under the Section 8 Housing Choice Voucher Program. The last income certification/recertification completed by the housing authority must be within 120 days of the effective date of move-in. Chapter 4 of the [IRS Guide for Completing IRS Form 8823](#) states that verifications must be no older than 120 days before the effective date of the Tenant Income Certification. The Income Verification for Households with Section 8 Certificates form will not be valid if the last income certification/recertification was completed more than 120 days prior.

Q. Do I have to use a verification of employment or can I use pay statements?

A. Per [§10.612\(a\)\(3\)](#), "The Department permits Owners to use check stubs or other firsthand documentation of income and assets provided by the applicant or household in lieu of third party verification forms. It is not necessary to first attempt to obtain a third party verification form as required by the HUD 4350.3." Remember that you must use a consistent method for annualizing income from check stubs.

Q. How many pay statements do I need to have to determine eligibility?

A. For units assisted with Department Multifamily Direct Loan programs, 2 months (60 days) of pay statements must be collected. For all other programs, the Department does not require a specific amount. Management should collect enough to reasonably determine eligibility and always follow their policies and procedures.

Q. What are the multipliers to be used for the different pay frequencies?

A. See the following frequencies:

- Full-time Hourly: wage times 2080 hours
- Weekly: wage times 52 weekly pay periods
- Bi-Weekly: wage times 26 pay periods
- Semi-Monthly: wage times 24 pay periods
- Monthly: wage times 12 pay periods

Q. For unemployment, do I have to use the weekly amount for all 52 weeks?

A. For most Department programs, yes, you will annualize the unemployment assuming it will go for the full certification period. For the Housing Tax Credit program, there is an exception; annualized payments are not used, unless the source of funds is expected to continue throughout the certification period or for an indeterminable length of time.

Q. How do I document tips?

A. All tips included on pay statements are counted. In addition, if the applicant works in the service industry, a tip income affidavit is completed to document any undisclosed tip income.

Q. Do reimbursements included on pay statements count as income?

A. Reimbursements for out of pocket expenses, such as mileage or phone, are not counted as income.

Q. Does Social Security Income count as income?

A. Yes, this income counts for all persons, regardless of age, in the household.

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Q. If an applicant is receiving Social Security, do I use the gross amount (before deductions) or do I use the amount after deductions?

A. If the deduction is to adjust the amount for a prior overpayment, you will count the amount that is actually received after the adjustment. If the deduction is for the payment of insurance premiums, you will use the gross amount before any deductions.

Q. Is hazard pay from employment included in annual income?

A. Yes, hazard pay from employment that is anticipated to be received during the certification period is included in annual income as indicated by HUD in the [HUD 4350.3 Appendix 6-C Guidance About Types of Information to Request When Verifying Eligibility and Income, pg. 2.](#)

Q. What can I use to document self-employment income?

A. The preferred source is a Form 1040/1040A tax return; however, alternate documentation is acceptable, such as a notarized statement or affidavit. (see [HUD 4350.3 Appendix 3 Acceptable Forms of Verification, pg. 14](#)).

- Example of alternate documentation: A self-employed contractor (who has not yet filed a tax return) is paid via deposits onto a cash app debit card that does not provide statements. The contractor receives texts through the app from the companies they are working with confirming the amount deposited to the card. Pictures/screen shots of the text confirmations of payments along with a self-certification explaining the situation can be accepted. The self-certification must identify what the contractor is doing, how often they are paid and the amount paid.

Q. Is child support counted as income?

A. Child support payments must be included when determining household eligibility. If a household does not receive the court ordered child support that they are entitled to, the amount must still be included, unless two requirements are met: 1) The household certifies that the support is not being received AND 2) The household provides documentation that reasonable efforts to collect the support have been made, including filing with courts or agencies responsible for enforcing payments.

Q. Do I include Cash Medical Support when calculating child support?

A. No, do not include cash medical support.

Q. Do I count the child support if it is not court ordered?

A. Yes, any amounts paid outside of a court order are counted.

Q. Do I count regular cash contributions and monetary gifts towards eligibility?

A. Yes, count any amounts received from persons not in the household that are received on a regular, recurring basis. This includes third party payments made on behalf of the applicant (car payments, bills, etc.) with the exception of groceries and childcare payments.

Q. Does all of the income for a full-time student count towards the household eligibility?

A. If the full-time student is 18 years of age or older, only count \$480 of earned income, if they are not the Head, Spouse or Co-Head and are a dependent of the household. Student status must be verified through the educational institution that the student attends. You must gather all verifications of earned income and include them in the tenant file.

Q. Does a 16-year old dependent's employment income count towards the household income?

A. No, employment income of minors is not counted.

Q. Does financial aid count as income?

A. If the household receives Section 8 assistance, then yes, as long as they are also under 23 years of age, with dependent children or living with her/her parents who are applying for or receiving Section 8 assistance. If the household does not receive Section 8 assistance, then no, Financial Aid is not included.

Q. For Section 8 households, what portion of financial aid should be included in income?

A. Anything in excess of the cost of tuition and required fees should be included. Required fees include all fixed charges required of a large proportion of students. Examples include, but are not limited to, writing and science lab fees and fees specific to a student's program (i.e. nursing school).

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Q. If a person is away on active military duty, does their income still count towards the household eligibility?

A. Income must be counted if the military member is the Head of Household, Spouse or Co-Head, or if the spouse or a dependent of the person on active military duty is a member of the household.

Q. If a person is in a nursing home or rehabilitation center, does their income count?

A. Individuals permanently confined to a nursing home or hospital may not be the Head, Spouse or Co-Head and may continue as a member at the applicant's discretion. If they are included in the household composition, all of their income will need to be included in the determination of eligibility.

Q. Are Economic Impact Payments under the CARES Act included in annual income?

A. No, these payments are advancements on tax credits that may be claimed in 2020 and are not included in annual income as indicated by HUD in the [Multifamily Housing COVID-19 Guidance](#).

Q. Is unemployment income from the Pandemic Unemployment Assistance (PUA) included in annual income?

A. Yes, PUA unemployment income, considered re-occurring, is included in annual income as indicated by HUD in the [Multifamily Housing COVID-19 Guidance](#).

Q. Is unemployment income from the Federal Pandemic Unemployment Compensation (FPUC) included in annual income?

A. No, FPUC unemployment income, being temporary and non-re-occurring, is excluded from annual income as indicated by HUD in the [Multifamily Housing COVID-19 Guidance](#).

Q. Is unemployment income from the Pandemic Emergency Unemployment Compensation (PEUC) included in annual income?

A. Yes, PEUC unemployment income, considered re-occurring, is included in annual income as indicated by HUD in the [Multifamily Housing COVID-19 Guidance](#).

Q. Are amounts received through the Higher Education Emergency Relief Fund (HEERF) of the CARES Act included in annual income?

A. The inclusion or exclusion of income will be determined by whether or not the household is receiving Section 8 assistance.

1. Yes, income from HEERF is included if the student is receiving Section 8 assistance between the ages of 18 and 23. The amount to include is the amount of assistance minus tuition and other required fees and charges.
2. No, income from HEERF is not included if the student is not receiving Section 8 assistance or is receiving Section 8 assistance but is over the age of 24 with dependent children.

Q. Are amounts received through Higher Education Emergency Relief Funds of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (HEERF II) included in annual income?

A. The inclusion or exclusion of income will be determined by whether or not the household is receiving Section 8 assistance.

1. Yes, income from HEERF II is included if the student is receiving Section 8 assistance between the ages of 18 and 23. The amount to include is the amount of assistance minus tuition and other required fees and charges.
2. No, income from HEERF II is not included if the student is not receiving Section 8 assistance or is receiving Section 8 assistance but is over the age of 24 with dependent children.

Q. Are household one-time stimulus payments provided through the Consolidated Appropriations Act and income provided through the "Memorandum on Authorizing Other Needs Assistance Program for Major Declarations Related to Coronavirus Disease 2019" included in annual income?

A. No, both sources of payments are considered one-time and non-re-occurring as indicated by HUD in the [Multifamily Housing COVID-19 Guidance](#).

Q. What is an asset?

A. Assets are items of value that may be turned into cash. Items are not required to be cashed out at the time of application. Not all items of value are considered assets.

Q. What counts as an asset?

A. Asset inclusions and exclusions can be found in the [HUD Handbook 4350.3, Exhibit 5-2](#).

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Q. How do I calculate the cash value of an asset?

A. The cash value of an asset is the market value minus reasonable costs that would be incurred in selling or converting the asset to cash. The reasonable costs that may be deducted include: (1) penalties for withdrawing funds before maturity, (2) broker/legal fees assessed to sell or convert the asset to cash, (3) settlement costs for real estate transaction, and (4) loans on the asset.

Q. How do I know if an asset was disposed of for less than market value?

A. Screen the applicant/resident for assets disposed of for at least \$1000 less than market value.

Q. Do assets have any income associated with them?

A. Some assets have income, but not all assets do. Income from assets can be income from interest, dividends or any other net income from the asset.

Q. How do I determine the cash value of a whole or universal life insurance policy?

A. The cash value is the surrender value of the policy. This information is available in the policy or from the insurance company.

Q. Can I use the *Under \$5,000 Asset Certification*?

A. Yes, unless the Development has a program that requires third party verification of assets (such as MFDL and Section 811 PRA) and/or the household has more than \$5,000 in combined household assets.

Q. When calculating closing costs on real estate, can I assume a 10% standard closing cost fee?

A. No, a real estate professional should be contacted to obtain the correct closing cost percentage for the development's area.

Q. Is a 401(k) considered an asset? How do I calculate the income from this asset?

A. 401(k) accounts are counted as assets in accordance with the [HUD Handbook 4350.3, Exhibit 5-2](#). While these accounts are typically accessed at the time of retirement, the money can still be withdrawn after a penalty is assessed. If the 401(k) is not invested in something with guaranteed returns, then you cannot anticipate income from this asset. However, if there is guaranteed income in the form of an interest rate or dividends, then that amount will be calculated as the income from the asset. A rate of return is not a guaranteed interest rate. A rate of return is how much your investments earn each year and vary based on a number of factors; therefore, they fluctuate and are not guaranteed.